

Calendar No. 127

114TH CONGRESS }
1st Session }

SENATE

{ REPORT
114-71

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. 282

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



JUNE 24, 2015.—Ordered to be printed

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

R E P O R T

[To accompany S. 282]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 282), 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.

I. PURPOSE AND SUMMARY

The purpose of S. 282, the Taxpayers Right-To-Know Act of 2015, is to provide the public with better and more useful information on the breadth, cost, and performance of programs administered by the federal government. It does 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 and performance data about programs, S. 282 will give the American taxpayers a much better sense of the programs they are paying for and how those programs are performing.

II. BACKGROUND AND THE 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 report-

ing of how government programs are working will help those programs 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 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

GPRA has led to some improvements in the federal government's performance, but the implementation of GPRA has also shown that the law's mandates need refinement. For example, in 2010, Congress passed the Government Performance and Results Modernization Act (GPRA Modernization Act).⁵ The GPRA Modernization Act required the Office of Management and Budget (OMB) to provide government-wide priority goals, required increased frequency and enhanced quality of agency reporting, and required improved transparency of performance reporting.⁶ Additionally, the GPRA Modernization Act required OMB to publish information about programs identified by agencies.⁷ 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 report the amount the program cost for the current and two previous fiscal years.⁸

The goal of the GPRA Modernization Act's program inventory requirement was 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 comparing 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

¹See 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.

²31 U.S.C. § 1101 note, P.L. 103-62 § 2(a)(3) and 2(b)(5).

³This 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).

⁴Government Accountability Office, *Results-Oriented Government: GPRA Has Established a Solid Foundation for Achieving Greater Results*, GAO-04-38, 25 (Mar. 10, 2004).

⁵P.L. 111-352.

⁶31 U.S.C. § 1115 (a)-(b), P.L. 111-352.

⁷31 U.S.C. § 1122 (a).

⁸*Id.*

difficult to predict.”⁹ 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.”¹⁰

The first program inventory was published in May 2013 on www.performance.gov, a website established by OMB.¹¹ GAO immediately expressed concern that the program inventory did not meet the requirements of 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.¹² 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.

Instead of requiring OMB to provide agencies with guidance on how to define a program for the purposes of the program inventory, S. 282 defines the term “program,” thereby providing for uniformity of reporting. The Act also requires agencies to identify and publish the specific statute authorizing each program and any major 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 GAO for the preceding five years. For any program that provides grants or other financial assistance to individuals or entities, agencies are also required, to the extent practical, to publish 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 who administer or assist in administering the program whose salary is paid in part or in full by the federal government through a grant, contract, cooperative agreement, or another form of financial award or assistance.

In addition to having a defined program list, the Committee believes it is important for Congress and the public to have a link to the program’s performance information with its financial information. To that end, the bill builds upon the Federal Funding Ac-

⁹ Government Accountability Office, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, GAO-11-318SP (Washington, D.C.: March, 2011) p. 3.

¹⁰ *Id.*

¹¹ Office of Management and Budget, *OMB Circular No. A-11, Section 280—Federal Program Inventory* (2014), available at https://www.whitehouse.gov/sites/default/files/omb/assets/a11_current_year/s280.pdf.

¹² 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*, GAO-14-436T, 7 (Mar. 12, 2014).

countability and Transparency Act (FFATA), landmark legislation authored by then-Senators Tom Coburn and Barack Obama and signed into law in 2006 by President George W. Bush that fundamentally changed the way that federal spending was reported to the public,¹³ as well as the 2014 Digital Accountability and Transparency Act (DATA Act).¹⁴ The DATA Act requires the federal government to increase the availability, accuracy, and usefulness of online 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 object class required to be reported under the DATA Act. When fully enacted, the Taxpayers Right-to-Know Act will result in detailed financial and performance information for most federal programs, all in one place.

The Taxpayers Right-To-Know Act was first introduced by Senator Tom Coburn and then-Representative James Lankford in 2011 to ensure that future program inventories will reflect what this Committee and Congress envisioned when GPRA Modernization was passed.¹⁵ The bill was reintroduced in 2013 by Senator Coburn, and a companion bill was offered by then-Representative James Lankford.

III. LEGISLATIVE HISTORY

Senator James Lankford and six original cosponsors, Senators Ayotte, Enzi, Heitkamp, Johnson, McCain, and McCaskill, introduced S. 282, the Taxpayers Right-To-Know Act of 2015, on January 28, 2015. The bill was referred to the Committee on Homeland Security and Governmental Affairs. Senators Gary Peters and Rob Portman joined as cosponsors on February 5, 2015. Senator Rand Paul joined as a cosponsor on April 30, 2015.

The Committee considered S. 282 at a business meeting on May 6, 2015. During the meeting, one amendment was offered. Senator Lankford offered a substitute amendment that delayed implementation of the bill to accommodate OMB's ongoing implementation of the DATA Act; set a one million dollar threshold for inclusion of a program in an agency's program inventory; modified the cost data provisions to reconcile them with the DATA Act, which reports financial data under a "program activity" definition; and modified the provisions dealing with estimates of the number of beneficiaries and full-time equivalents to allow for exceptions where such estimates are not practical. The amendment was adopted by voice vote with Senators Johnson, McCain, Portman, Lankford, Ernst, Sasse, Carper, McCaskill, Baldwin, Heitkamp, and Peters present.

The Committee ordered the bill, as amended, reported favorably by voice vote en bloc on May 6, 2015. Senators present for the vote on the bill were Senators Johnson, McCain, Portman, Lankford, Ernst, Sasse, Carper, McCaskill, Baldwin, Heitkamp, and Peters.

¹³ 31 U.S.C. § 6101 note, P.L. 109–282.

¹⁴ 31 U.S.C. § 6101, P.L. 113–101.

¹⁵ S. 1957 (112th Congress).

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.”

Section 2: Inventory of government programs

Definition of Program. This section adds a new paragraph to Section 1122(a) of title 31, United States Code that 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 amends Section 1122(a) of title 31, United States Code. It directs the OMB Director to publish a program inventory that identifies each program of the federal government for which there is more than one million dollars in annual budget authority 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 by a Federal agency in communications with Congress, including any activity identified as a program in a budget request; (2) any activity that is commonly referred to as a program by a Federal agency in communications with the public, including each program for which financial awards are made on a competitive basis; and (3) any activity referenced in law as a program after June 30, 2018.

The listing for each program must include an identification of the program activities that are aggregated, disaggregated, or consolidated as part of identifying each program, the amount of funding for the current and preceding two fiscal years for each of the associated program activities, and to the extent practicable, the amount of funding for the program based on a pro rata share of its associated program activities. The listing for each program must also state the specific statute that authorizes the program and any major regulations specific to the program.

Any program that provides grants or other financial assistance to individuals or entities is also required to include: a description of the individuals served by the program and beneficiaries who received financial assistance under the program, including an estimate of the number of individuals and beneficiaries, to the extent practicable; a description of the federal employees who administer the program, including the number of full time equivalents who administer the program with a pro rata estimate for full-time equivalents associated with multiple programs and, to the extent practical, a description of other individuals 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, including the number of full-time equivalents, to the extent practicable.

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 GAO that was issued in the preceding five years.

Programs listed in the program inventory must also include, to the extent practicable, financial and other information for each program activity that is required to be reported under the Federal Funding Accountability and Transparency Act of 2006.¹⁶

At the end of each fiscal year, the Director of the Office of Management and Budget shall archive and preserve the information included in the program inventory relating to that fiscal year.

Finally, no later than February 1 of each fiscal year, the Director of OMB must make publically available the total amount of undisbursed grant funding remaining in expired grant accounts for which the period of availability to the grantee has expired.

Section 3: Guidance and implementation

Guidance. This section requires the OMB Director, not later than June 30, 2017, 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 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. Finally, the OMB Director may, after submitting a notification to Congress, exempt non-CFO Act agencies that have less than \$10 million in budget authority from the requirements of this Act.

Implementation. This section requires the provisions in this legislation to be implemented no later than June 30, 2018.

V. 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 and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 22, 2015.

Hon. RON JOHNSON,
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. 282, the Taxpayers Right-To-Know Act.

¹⁶31 U.S.C. § 6101 note, P.L. 109–282.

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

Sincerely,

KEITH HALL,
Director.

Enclosure.

S. 282—Taxpayers Right-To-Know Act

Summary: S. 282 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. 282 would cost \$82 million over the 2016–2020 period, assuming appropriation of the necessary amounts. Enacting S. 282 could affect direct spending by some agencies (such as the Tennessee Valley Authority) because they are authorized to use receipts from the sale of goods, fees, and other collections to cover their operating costs. Therefore, pay-as-you-go procedures apply. Because most of those agencies can make adjustments to the amounts collected, CBO estimates that any net changes in direct spending by those agencies would not be significant. Enacting the bill would not affect revenues.

S. 282 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. 282 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—					
	2016	2017	2018	2019	2020	
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	0	3	30	30	20	83
Estimated Outlays	0	2	30	30	20	82

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the end of fiscal year 2015, 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 performance. Under the Government Performance and Results Act (GPRA) agencies are required to describe every program they administer. Under the Digital Accountability and Transparency Act of 2014 (DATA Act) agencies are required to make information on all federal spending more accessible and transparent to the public. Consequently, CBO expects that some of the provisions in S. 282 would slightly modify current requirements.

However, the legislation also would expand the definition of a federal program and require agencies to list all the programs, their funding levels, the number of beneficiaries of the programs, and link each program to all related evaluations, assessments, performance reviews, or government reports (including GAO and Inspectors General reports). 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.

Based on information from OMB and selected agencies about the costs to implement GPRA and the DATA Act, CBO estimates that assembling such information about each government activity that provides benefits or services to the public would cost each of the 26 major agencies about \$1 million a year plus a few million dollars a year to cover such costs for the many smaller federal agencies. Those costs would not begin until after OMB provided guidance to agencies to identify the programs and develop the necessary information for posting. CBO estimates that OMB would spend \$3 million to develop that guidance. CBO expects that agency costs to comply with the bill's requirements would decline soon after the initial reports were developed.

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. 282 could affect direct spending by some agencies (such as the Tennessee Valley Authority) because they are authorized to use receipts from the sale of goods, fees, and other collections to cover their operating costs. Therefore, pay-as-you-go procedures apply. Because most of those agencies can adjust the amounts collected, CBO estimates that any net changes in direct spending by those agencies would not be significant. Enacting the bill would not affect revenues.

Intergovernmental and private-sector impact: S. 282 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Matthew Pickford; Impact on State, Local, and Tribal Governments: Paige Piper/Bach; Impact on the Private Sector: Jon Sperl.

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

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

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 282 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman).

TITLE 31—MONEY AND FINANCE

* * * * *

Subtitle II—The Budget Process

* * * * *

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

* * * * *

SEC. 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.*

~~[(1)]~~(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.]~~

~~(C) include on the website—~~

~~(i) a program inventory that shall identify each program of the Federal Government for which there is more than \$1,000,000 in annual budget authority, which shall include—~~

~~(I) any activity that is commonly referred to as a program by a Federal agency in communications with Congress, including any activity identified as a program in a budget request;~~

~~(II) any activity that is commonly referred to as a program by a Federal agency in communications with the public, including each program for which financial awards are made on a competitive basis; and~~

~~(III) any activity referenced in law as a program after June 30, 2018; and~~

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

~~[(2)]~~(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;]~~

~~(A) an identification of the program activities that are aggregated, disaggregated, or consolidated as part of identifying programs;~~

(B) for each program activity described in subparagraph (A), the amount of funding for the current fiscal year and previous 2 fiscal years;

(C) to the maximum extent practicable, the amount of funding for each program, determined using the pro rata share of the program activities that are aggregated, disaggregated, or consolidated as part of identifying programs;

~~[(B)]~~(D) 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.;

(E) an identification of the statutes that authorize the program and any major regulations specific to the program;

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

(i) a description of the individuals served by the program and beneficiaries who received financial assistance under the program, including an estimate of the number of individuals and beneficiaries, to the extent practicable;

(ii) for each program for which the head of an agency determines it is not practicable to provide an estimate of the number of individuals and beneficiaries served by the program—

(I) an explanation of why data regarding the number of such individuals and beneficiaries cannot be provided; and

(II) a discussion of the measures that could be taken to gather the data required to provide such an estimate; and

(iii) a description of—

(I) the Federal employees who administer the program, including the number of full-time equivalents with a pro rata estimate of full-time equivalents associated with multiple programs; and

(II) other individuals 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, including the number of full-time equivalents, to the extent practicable;

(G) 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

(H) to the extent practicable, financial and other information for each program activity required to be reported under the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note).

(4) ARCHIVING.—After the end of each fiscal year, the Director of the Office of Management and Budget shall archive and preserve the information included in the program inventory required under paragraph (2) relating to that fiscal year.

* * * * *

