

115TH CONGRESS }  
*1st Session* }

SENATE

{ REPORT  
115-28

ELIMINATING GOVERNMENT-FUNDED  
OIL-PAINTING ACT

REPORT

OF THE

COMMITTEE ON HOMELAND SECURITY AND  
GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

TO ACCOMPANY

S. 188

TO PROHIBIT THE USE OF FEDERAL FUNDS FOR THE COSTS OF  
PAINTING PORTRAITS OF OFFICERS AND EMPLOYEES OF THE  
FEDERAL GOVERNMENT



APRIL 24, 2017.—Ordered to be printed

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## Calendar No. 37

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### ELIMINATING GOVERNMENT-FUNDED OIL-PAINTING ACT

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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. 188]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 188) to prohibit the use of Federal funds for the costs of painting portraits of officers and employees of the Federal Government, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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#### I. PURPOSE AND SUMMARY

Following reports of taxpayer dollars being spent on extravagant portraits for government officials, the Eliminating Government-funded Oil-painting Act, S. 188, would prohibit Federal funds from being used to pay for the costs of painting portraits of officers and employees of the Federal Government, including the President, the

Vice President, a Member of Congress, the head of an Executive agency, and the head of an office of the Legislative Branch.<sup>1</sup>

## II. BACKGROUND AND THE NEED FOR LEGISLATION

Federal outlays for fiscal year 2017 are projected to be \$4.0 trillion, with revenues projected to be \$3.4 trillion.<sup>2</sup> That equates to a projected deficit of \$559 billion for the Federal Government.<sup>3</sup> As of the fourth quarter of 2016, public debt as a percent of gross domestic product was 105.9 percent.<sup>4</sup> By the end of fiscal year 2017, the debt held by the public is expected to reach \$14.8 trillion.<sup>5</sup> These figures demonstrate that the Federal Government continues to live outside of its means.

Congress has a responsibility to taxpayers to ensure that Federal dollars are spent effectively and efficiently. In 2013, reports emerged that since 2010, Federal agencies have spent more than \$400,000 on portraits that are displayed within agency buildings, often in secure locations that are not open to the public.<sup>6</sup> However, the expensive practice has a long history of criticism dating back to at least the Carter Administration.<sup>7</sup> Although portraits are a minor piece of the Federal budget, every dollar the government spends on vanity projects for federal officials is a dollar that is not spent improving the lives of everyday Americans. These paintings signal the greater problem of Congress failing to prioritize spending and wasting taxpayer dollars. For example, the \$30,500 spent on former Agriculture Secretary Ed Schafer's portrait could have paid for over 9,000 free school lunches under the U.S. Department of Agriculture's School Lunch Program.<sup>8</sup>

According to reports, in recent years Federal agencies have authorized lavish spending on portraits ranging in cost from \$19,000 to \$50,000 each. Examples include:

- \$38,350 by the Environmental Protection Agency (EPA) for a portrait of former Administrator Lisa Jackson;<sup>9</sup>
- \$22,500 by the Department of Commerce for a portrait of John Bryson, who served as Secretary for only eight months;<sup>10</sup>

<sup>1</sup> On June 24, 2015, the Committee approved S. 310, the Eliminating Government-funded Oil-painting Act. That bill is identical to S. 188. Accordingly, this committee report is in large part a reproduction of Chairman Johnson's committee report for S. 310, S. Rep. No. 114-93 (2015).

<sup>2</sup> Congressional Budget Office, *The Budget and Economic Outlook: 2017 to 2027* (Jan. 2017) available at <https://www.cbo.gov/topics/budget>.

<sup>3</sup> *Id.*

<sup>4</sup> FRED, St. Louis, *Federal Debt: Total Public Debt as Percent of Gross Domestic Product* (4th Quarter 2016), available at <https://fred.stlouisfed.org/series/GFDEGDQ188S> (last updated Mar. 31, 2017).

<sup>5</sup> Congressional Budget Office, *The Budget and Economic Outlook: 2017 to 2027* (Jan. 2017) available at <https://www.cbo.gov/topics/budget>.

<sup>6</sup> Boyle, Katherine, *The government pays tens of thousands of dollars for portraits of high officials. Should it?*, Washington Post, June 20, 2013, available at <http://www.washingtonpost.com/blogs/wonkblog/wp/2013/06/20/the-government-pays-tens-of-thousands-of-dollars-for-portraits-of-high-officials-should-it/>.

<sup>7</sup> *Id.*

<sup>8</sup> McElhatton, Jim, *Picture this: Cabinet portraits for big bucks*, Washington Times, Nov. 11, 2012, available at <http://www.washingtontimes.com/news/2012/nov/11/picture-this-cabinet-portraits-for-big-bucks/?page=all>; United States Department of Agriculture, School Programs, Meal, Snack, and Milk Payments to States and School Food Authorities, Effective from July 1, 2016–June 30, 2017, available at: <https://www.fns.usda.gov/sites/default/files/cn/SY2015-16table.pdf>. Calculation based on National School Lunch Program maximum rate for free lunch in the contiguous states.

<sup>9</sup> Kerley, David, *Taxpayer Dollars Spent on Official Government Portraits*, ABC News, Mar. 4, 2013, available at <http://abcnews.go.com/blogs/politics/2013/03/taxpayer-dollars-spent-on-official-government-portraits/>.

<sup>10</sup> *Id.*

- \$41,200 by the Department of Defense (DoD) for a portrait of former Air Force Secretary Michael B. Donley;<sup>11</sup>
- \$22,500 by the United States Department of Agriculture (USDA) for a portrait of Secretary Thomas J. Vilsack;<sup>12</sup>
- More than \$40,000 by the United States Department of Justice for a portrait of former Attorney General John Ashcroft;<sup>13</sup>
- \$30,500 by the USDA for a portrait of former Secretary Ed Schafer;<sup>14</sup>
- \$34,425 by the USDA for a portrait of former Secretary Mike Johanns;<sup>15</sup>
- \$19,500 by the Department of Housing and Urban Development for a portrait of Steve Preston, who served as Secretary for only seven months;<sup>16</sup>
- \$46,790 by the DoD for a portrait of the former Secretary of Defense, Donald H. Rumsfeld, his second official portrait bought by the American taxpayers;<sup>17</sup>
- \$23,500 by the Department of Homeland Security for a portrait of former Commandant Adm. Thomas H. Collins;<sup>18</sup>
- \$25,000 by the National Aeronautics and Space Administration for a portrait of former Administrator Daniel S. Goldin;<sup>19</sup>
- \$29,500 by the EPA for a portrait of the former Administrator Stephen L. Johnson;<sup>20</sup>
- \$19,000 by the National Institute of Health for a portrait of former National Cancer Institute Director Andrew C. von Eschenbach.<sup>21</sup>

Typically, official portraits for the President, the First Lady, and certain Members of Congress (including committee chairs) are commissioned with private funding,<sup>22</sup> though the House of Representatives has traditionally allowed appropriation of funds for portraits of the Speaker of the House.<sup>23</sup> By prohibiting Federal spending on official portraits, the bill would encourage Congress as well as Federal agencies to adopt this same fiscally responsible approach of relying on private donations.

In response to concerns raised by sponsors of the legislation and reports about excessive spending on portraits, for the last several years Congress has enacted a ban on taxpayer support for official

<sup>11</sup> McElhatton, Jim, *Picture this: Cabinet portraits for big bucks*, Washington Times, Nov. 11, 2012, available at <http://www.washingtontimes.com/news/2012/nov/11/picture-this-cabinet-portraits-for-big-bucks/?page=all>.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> Lee, Christopher, *Official Portraits Draw Skeptical Gaze*, Washington Post, Oct. 21, 2008, available at <http://www.washingtonpost.com/wp-dyn/content/article/2008/10/20/AR2008102003627.html>.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> Siddons, Andrew, *A Casualty of the Spending Truce: Official Portraits*, New York Times, Dec. 11, 2014, available at <http://www.nytimes.com/politics/first-draft/2014/12/11/a-casualty-of-the-spending-truce-official-portraits/>.

<sup>23</sup> Resnick, Brian, *Why Doesn't Nancy Pelosi Have an Oil Painting? John Boehner Has One*, National Journal, January 19, 2013, available at <http://www.nationaljournal.com/congress/why-doesn-t-nancy-pelosi-have-an-oil-painting-john-boehner-has-one-20130109>.

portraits as part of the appropriations process.<sup>24</sup> S. 188 would make that ban permanent.

### III. LEGISLATIVE HISTORY

Senator Bill Cassidy introduced S. 188 on January 23, 2017 with Senators Ron Johnson, Claire McCaskill, and Deb Fischer. The bill was referred to the Committee on Homeland Security and Governmental Affairs. Senator Joni Ernst joined as a cosponsor on March 21, 2017.

The Committee considered S. 188 at a business meeting on March 15, 2017. The Committee ordered the bill reported favorably *en bloc* by voice vote. Members present for the vote were Senators Johnson, Portman, Lankford, Daines, McCaskill, Carper, Tester, Heitkamp, Peters, Hassan, and Harris.

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

#### *Section 1. Short title*

This section provides the bill’s short title, the “Eliminating Government-funded Oil-painting Act” or “EGO Act.”

#### *Section 2. Prohibition on use of funds for portraits*

Subsection (a) states that no funds appropriated or otherwise made available to the Federal Government may be used to pay for the painting of a portrait of an officer or employee of the federal government, including the President, the Vice President, a Member of Congress, the head of an Executive agency, or the head of an office of the Legislative Branch.

Subsection (b) defines “executive agency” and “Member of Congress.”

### 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

MARCH 24, 2017.

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. 188, the EGO Act.

<sup>24</sup>See, e.g., Pub. L. No. 114–113, Sec. 736 (“None of the funds made available in this or any other Act may be used to pay for the painting of a portrait of an officer or employee of the Federal government, including the President, the Vice President, a member of Congress (including a Delegate or a Resident Commissioner to Congress), the head of an executive branch agency (as defined in section 133 of title 41, United States Code), or the head of an office of the legislative branch.”).

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.

Enclosure.

*S. 188—EGO Act*

S. 188 would amend federal law to prohibit the use of federal funds to pay for official painted portraits of any officer or employee of the federal government, including the President, Vice President, Cabinet members, and Members of Congress. The legislation would not apply to the judicial branch.

Appropriation laws have prohibited the use of federal funds for such portraits since fiscal year 2014. CBO is unaware of any comprehensive information on spending for official portraits before 2014, but we expect that most portraits of federal officials are for those in the line of succession to the presidency, members of the legislative branch, and military service personnel. The cost of such portraits appears to be about \$25,000 per portrait, based on contract awards for a few federal portraits.

Implementing S. 188 could reduce future discretionary costs because the prohibition on using appropriated funds for such portraits is not in permanent law. However, those effects would be less than \$500,000 annually because CBO expects that fewer than 20 portraits would be purchased with federal funds in most years. Enacting S. 188 could affect direct spending by some agencies not funded through annual appropriations; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any net changes in spending by those agencies would be negligible. Enacting the bill would not affect revenues.

CBO estimates that enacting S. 188 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

S. 188 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

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

Because S. 188 would not repeal or amend any provision of current law, it would make no changes in existing law within the meaning of clauses (a) and (b) of paragraph 12 of rule XXVI of the Standing Rules of the Senate.