

Calendar No. 435

116TH CONGRESS }
2d Session }

SENATE

{ REPORT
116-220 }

BILLION DOLLAR BOONDOGGLE ACT OF
2019

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 565

TO REQUIRE THE DIRECTOR OF THE OFFICE OF MANAGEMENT
AND BUDGET TO SUBMIT TO CONGRESS AN ANNUAL REPORT
ON PROJECTS THAT ARE OVER BUDGET AND BEHIND SCHED-
ULE, AND FOR OTHER PURPOSES



MARCH 2, 2020.—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. 565]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 565) to require the Director of the Office of Management and Budget to submit to Congress an annual report on projects that are over budget and behind schedule, 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

S. 565, the Billion Dollar Boondoggle Act of 2019, requires Federal agencies to include in one of several relevant annual reports to Congress a list of all projects that are \$1 billion or more over budget or five years or more behind schedule. The purpose of this bill is to increase oversight with respect to projects that are over budget and behind schedule.

II. BACKGROUND AND THE NEED FOR LEGISLATION

According to the Bureau of Fiscal Service, as of December 3, 2019, the total public debt outstanding is over \$23 trillion.¹ The Federal deficit for Fiscal Year 2020 is projected to exceed \$1 trillion.² It is the responsibility of Congress to oversee the use of taxpayer dollars, and greater transparency strengthens the ability of Congress to reduce unnecessary costs.

On May 21, 2019, Senator Joni Ernst (R-IA), Chairman Ron Johnson (R-WI), and Ranking Member Gary Peters (D-MI) sent letters to the ten Federal agencies with the highest annual spending on contracts to gather information about projects that are \$1 billion or more over budget or five years or more behind schedule.³ The information provided by the agencies demonstrated that only a few agencies have projects this severely over-budget or behind schedule.⁴

In their responses, agencies discussed a number of projects that are severely beyond budget or behind schedule.⁵ The list included computer systems funded by the Department of Homeland Security, new aircraft and weapons systems funded by the Department of Defense, clean-up projects funded by the Department of Energy, and renovation projects funded by the Department of Veterans Affairs, among others. In at least one case, a Department of Transportation project to establish a new bullet train, which was estimated to be over \$1 billion over-budget and 13 years behind schedule, was cancelled in May 2019.⁶

Not all projects meeting these requirements should be discontinued. For instance, there could have been funding delays, miscalculations or unforeseen challenges arising for an innovative project, or even expansions to a project to meet emerging needs. However, if a project is missing deadlines or costing significantly more than originally estimated, Congress should be updated so the members can assess if mismanagement or fraud is taking place. Congress may also respond by passing legislation to address the underlying causes of the cost overruns and delays.

The Nunn-McCurdy Act, included as part of the Department of Defense Authorization Act for Fiscal Year 1983, required the Department of Defense (DOD) to report to Congress whenever a Major Defense Acquisition Program (MDAP) experiences significant cost overruns.⁷ There were 37 cases reported to Congress between

¹ U.S. Dep't of Treasury, *The Debt to the Penny and Who Holds It* (Dec. 4, 2019), <https://www.treasurydirect.gov/NP/debt/current>.

² Budget and Economic Data, Congressional Budget Office, <https://www.cbo.gov/about/products/budget-economic-data#3> (last visited Dec. 10, 2019, 5:51 PM).

³ Letter from Joni Ernst, U.S. Senator, Ron Johnson, Chairman, S. Comm. on Homeland Sec. and Gov'l Affairs, and Gary Peters, Ranking Member, to the Department of Justice, Department of Health and Human Services, National Aeronautics and Space Administration, Department of Transportation, Department of Homeland Security, Department of Agriculture, Department of Energy, Department of State, Department of Defense, and Department of Veterans Affairs (May 21, 2019) (on file with the Committee).

⁴ Various responses from Fed. agencies to S. Comm. on Homeland Sec. and Gov'l Affairs (on file with the Committee).

⁵ Responses on file with Comm. staff.

⁶ Press Release, U.S. Dep't of Transportation, Federal Railroad Administration, "Statement of Federal Railroad Administration on Termination of FY '10 Grant Agreement with California High-Speed Rail Authority" (May 16, 2019) (on file with author).

⁷ Department of Defense Authorization Act for Fiscal Year 1983 (P.L. 97-252) (1982), codified at 10 U.S.C. § 2433 (1982).

2007 and 2015.⁸ The Congressional Research Service noted, “As a result of the Nunn-McCurdy process, Congress has substantial visibility into the cost performance of the acquisition stage of MDAPs that experience certain levels of cost growth. To the extent that Nunn-McCurdy increases visibility into—and an understanding of what causes—cost growth, the act can help efforts to improve weapon system acquisitions,” and, in a few cases, even resulted in a program being canceled.⁹ That cost transparency principle is equally important for other Executive agencies.

The Billion Dollar Boondoggle Act of 2019, as amended, requires Federal agencies to report annually a list of all projects that are \$1 billion or more over budget or five years or more behind schedule. Additionally, this bill specifies that the term “project” refers to time-limited endeavors, such as major acquisitions or clean-up efforts, and does not include mandatory spending. This bill allows agencies to simply include the requested information in one of several relevant annual reports in lieu of publishing an entire separate report to Congress. With the requirement to report to Congress, agencies will more easily identify projects which are severely over budget or behind schedule. Therefore, both Congress and agencies will be better suited to manage taxpayer dollars.

III. LEGISLATIVE HISTORY

Senator Joni Ernst (R-IA) introduced S. 565, the Billion Dollar Boondoggle Act of 2019, on February 26, 2019, with Senator Mike Braun (R-IN) and Senator Rand Paul (R-KY). The bill was referred to the Committee on Homeland Security and Governmental Affairs. Senator James Lankford (R-OK), Ranking Member Peters (D-MI), and Senator Rick Scott (R-FL) later joined as cosponsors.

The Committee considered S. 565 at a business meeting on November 6, 2019. During the business meeting, a substitute amendment was offered by Chairman Johnson and Ranking Member Peters and adopted by unanimous consent. The bill, as amended, was ordered reported favorably by voice vote *en bloc*. Senators Johnson, Portman, Paul, Lankford, Romney, Scott, Enzi, Hawley, Peters, Carper, Hassan, Sinema, and Rosen were present for the vote.

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

Section 1. Short title

This section establishes short title of the bill as the “Billion Dollar Boondoggle Act of 2019.”

Section 2. Annual report

This section requires the Director of the Office of Management and Budget to provide guidance to agencies for reporting annually on projects which are more than five years behind schedule or more than \$1 billion over their original budget. The terms “covered agency,” “covered project” and “project” are defined here. The section further specifies the annual reporting requirements, including a

⁸ Moshe Schwartz and Charles V. O’Connor, Cong. Research Serv., R41293, The Nunn-McCurdy Act: Background, Analysis, and Issues for Congress (May 12, 2016).

⁹ *Id.*

brief description of a covered project and other required contents of each annual report.

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, November 18, 2019.

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. 565, the Billion Dollar Boondoggle Act of 2019.

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

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

S. 565, Billion Dollar Boondoggle Act of 2019			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on November 6, 2019			
By Fiscal Year, Millions of Dollars	2020	2020-2024	2020-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	not estimated
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

* = between zero and \$500,000.

S. 565 would require agencies to report on any government project that is \$1 billion or more over budget or more than five years behind schedule. The report would include a description of the project, any changes to the project's requirements, the original

due date and expected completion date, and some financial information. The bill also would require the Office of Management and Budget to issue guidance on the reporting requirements. Because the information is already available for those projects, CBO estimates that implementing S. 565 would have no significant effect on the federal budget.

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

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

Because this legislation would not repeal or amend any provision of current law, it would not make 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.