

Calendar No. 591

116TH CONGRESS }
2d Session }

SENATE

{ REPORT
116-298 }

GAO DATABASE MODERNIZATION ACT

REPORT

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 4222

TO AMEND CHAPTER 8 OF TITLE 5, UNITED STATES CODE,
TO REQUIRE FEDERAL AGENCIES TO SUBMIT TO THE
COMPTROLLER GENERAL OF THE UNITED STATES A REPORT
ON RULES THAT ARE REVOKED, SUSPENDED, REPLACED,
AMENDED, OR OTHERWISE MADE INEFFECTIVE



NOVEMBER 17, 2020.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

19-010

WASHINGTON : 2020

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

RON JOHNSON, Wisconsin, *Chairman*

ROB PORTMAN, Ohio
RAND PAUL, Kentucky
JAMES LANKFORD, Oklahoma
MITT ROMNEY, Utah
RICK SCOTT, Florida
MICHAEL B. ENZI, Wyoming
JOSH HAWLEY, Missouri

GARY C. PETERS, Michigan
THOMAS R. CARPER, Delaware
MAGGIE HASSAN, New Hampshire
KAMALA D. HARRIS, California
KYRSTEN SINEMA, Arizona
JACKY ROSEN, Nevada

GABRIELLE D'ADAMO SINGER, *Staff Director*
JOSEPH C. FOLIO III, *Chief Counsel*
DANIEL J. SPINO, *Professional Staff Member*
DAVID M. WEINBERG, *Minority Staff Director*
ZACHARY I. SCHRAM, *Minority Chief Counsel*
YOGIN J. KOTHARI, *Minority Professional Staff Member*
LAURA W. KILBRIDE, *Chief Clerk*

Calendar No. 591

116TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 116-298

GAO DATABASE MODERNIZATION ACT

NOVEMBER 17, 2020.—Ordered to be printed

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

R E P O R T

[To accompany S. 4222]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 4222), to amend chapter 8 of title 5, United States Code, to require Federal agencies to submit to the Comptroller General of the United States a report on rules that are revoked, suspended, replaced, amended, or otherwise made ineffective, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	2
III. Legislative History	2
IV. Section-by-Section Analysis	3
V. Evaluation of Regulatory Impact	3
VI. Congressional Budget Office Cost Estimate	3
VII. Changes in Existing Law Made by the Bill, as Reported	4

I. PURPOSE AND SUMMARY

The purpose of S. 4222, the GAO Database Modernization Act, is to ensure that the Government Accountability Office’s (GAO) Congressional Review Act (CRA) database reflects the most up to date rules that agencies promulgate. For any rules already required by the CRA to be reported to GAO, the bill requires agencies to also provide to GAO with updated information if it is later re-

voked, suspended, replaced, amended, or for any reason no longer effective.

II. BACKGROUND AND THE NEED FOR LEGISLATION

Congress passed the CRA in 1996 to establish an expedited process for the Senate to review and possibly disapprove of a Federal agency's final rules.¹ Before a rule can take effect, the CRA requires the implementing agency to submit a report containing the rule, a general description, and a proposed effective date to Congress and the Comptroller General.² If Congress passes by majority vote a joint resolution disapproving of the rule within 60 days, the rule is overturned and the agency is prohibited from attempting to issue a substantially similar rule.³

In addition to creating a rule review process, the CRA also improved oversight and transparency. The CRA requirement that agencies submit new rules to Congress acts as a notification system, ensuring that Members and committee staff are aware of an agency's rulemaking activities.⁴

The CRA's provision requiring that agencies submit rules to the Comptroller General has resulted in GAO creating a publicly-accessible database tracking all major and non-major rules that have been submitted to them.⁵ GAO has consistently posted a record of receipt of the rules agencies submit to the GAO CRA database website.⁶ Agency rules can be found in GAO's database by searching by title, agency, date of enactment, etc.⁷ The database also hosts GAO reports on major rules to add supplemental information on the rules' purpose, impact, and compliance.⁸ Currently, agencies do not report updates, suspensions, or alterations of rules to GAO unless any modifications are part of a newly promulgated regulation, which is required to be submitted to both Congress and the Comptroller General under the CRA.

S. 4222 amends the CRA to require agencies to submit a report to GAO on rules which are revoked, suspended, amended, or otherwise made ineffective. S. 4222 will ensure GAO has the ability to keep its voluntary database as current and accurate as possible. In doing this, the bill increases agency transparency and oversight of the rulemaking process.

III. LEGISLATIVE HISTORY

S. 4222 was introduced on July 20, 2020, by Senator Rick Scott (R-FL). The bill was referred to the Committee on Homeland Security and Governmental Affairs. The Committee considered S. 4222 at a business meeting on July 22, 2022. The legislation passed by

¹ Contract with America Advancement Act of 1996, Pub. L. No. 104-121, Subtitle E, 104th Cong. (1996); Curtis W. Copeland & Richard S. Beth, Gov't and Finance Division, Congressional Research Service, *Congressional Review Act: Disapproval of Rules in a Subsequent Session of Congress* (Sep. 3, 2008), available at <https://fas.org/sgp/crs/misc/RL34633.pdf>.

² 5 U.S.C. § 801.

³ 5 U.S.C. § 802.

⁴ Cong. Research Service, *The Congressional Review Act (CRA): Frequently Asked Questions*, Jan. 14, 2020 available at <https://fas.org/sgp/crs/misc/R43992.pdf>.

⁵ U.S. Gov't Accountability Off., Bid Protest, Appropriations Law, & Other Legal Work, *Congressional Review Act, 2020*, available at <https://www.gao.gov/legal/other-legal-work/congressional-review-act#database>.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

voice vote *en bloc* with Senators Johnson, Portman, Paul, Lankford, Romney, Scott, Enzi, Hawley, Peters, Carper, Hassan, Harris, and Rosen present.

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

Section 1. Short title

This section establishes the short title of the bill as the “GAO Database Modernization Act.”

Section 2. Rules no longer in effect

This section amends the CRA to require that an agency notify the Comptroller General if it updates, revokes, or suspends a rule or section of a rule submitted under the CRA. This notification must include the Federal Register citation, the submission date, and a description of the rule or section of the rule subject to change.

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 ESTIMATES

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 10, 2020.

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. 4222, the GAO Database Modernization Act.

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. 4222, GAO Database Modernization Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on July 22, 2020			
By Fiscal Year, Millions of Dollars	2021	2021-2025	2021-2030
Direct Spending (Outlays)	*	*	*
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	*	*	*
Spending Subject to Appropriation (Outlays)	*	*	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 2031?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

S. 4222 would require federal agencies to report to the Government Accountability Office (GAO) whenever the agency revokes, suspends, replaces, amends, or makes ineffective a rule. Such reports must include a description of the provisions of the rule.

Because the bill would not impose a significant additional administrative burden on federal agencies or GAO, CBO estimates that implementing the legislation would cost less than \$500,000 over the 2021–2025 period; any spending would be subject to the availability of appropriated funds.

Enacting S. 4222 could affect direct spending by some agencies that are allowed to use fees, receipts from the sale of goods, and other collections to cover operating costs. CBO estimates that any net changes in direct spending by those agencies would be negligible because most of them can adjust amounts collected to reflect changes in operating costs.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of 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 the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italics*, and existing law in which no change is proposed is shown in *roman*):

UNITED STATES CODE

* * * * *

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

* * * * *

PART I—THE AGENCIES GENERALLY

* * * * *

CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

* * * * *

SEC. 801. CONGRESSIONAL REVIEW

(a)(1)(A) * * *

* * * * *

(D) For any rule submitted under subparagraph (A), if the Federal agency promulgating the rule, in whole or in part, revokes, suspends, replaces, amends, or otherwise makes the rule ineffective, or the rule is made ineffective for any other reason, the Federal agency shall submit to the Comptroller General a report containing—

- (i) the title of the rule;*
- (ii) the Federal Register citation for the rule, if any;*
- (iii) the date on which rule was submitted to the Comptroller General; and*
- (iv) a description of the provisions of the rule that are being revoked, suspended, replaces, amended, or otherwise made ineffective.*

* * * * *