

Calendar No. 67

116TH CONGRESS }
1st Session }

SENATE

{ REPORT
116-31

ACCESS TO CONGRESSIONALLY MANDATED
REPORTS ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 195

TO REQUIRE THE DIRECTOR OF THE GOVERNMENT PUBLISHING
OFFICE TO ESTABLISH AND MAINTAIN A WEBSITE ACCESSIBLE
TO THE PUBLIC THAT ALLOWS THE PUBLIC TO OBTAIN
ELECTRONIC COPIES OF ALL CONGRESSIONALLY MANDATED
REPORTS IN ONE PLACE, AND FOR OTHER PURPOSES



APRIL 10, 2019.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

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WASHINGTON : 2019

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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. 195]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 195) to require the Director of the Government Publishing Office to establish and maintain a website accessible to the public that allows the public to obtain electronic copies of all congressionally mandated reports in one place, and for other purposes, having considered the same, reports favorably thereon with amendment and recommends that the bill as amended do pass.

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I. PURPOSE AND SUMMARY

The purpose of S. 195, Access to Congressionally Mandated Reports Act, is to increase transparency of Federal Government operations by requiring the Government Publishing Office (GPO) to publish online all congressionally-mandated government reports issued by Federal agencies.

II. BACKGROUND AND NEED FOR THE LEGISLATION

Congress often mandates in legislation for an agency to provide it with a report of particular information or policies. From 2014–2015, Congress expected to receive 4,291 written reports from 466 Federal agencies and nonprofit groups.¹ However, the reports are typically only provided to congressional offices in hard copy, and “stored in the abyss.”² Agencies expend taxpayer-funded time and resources to produce these reports which are intended to inform legislation or congressional oversight of agency operations, yet the general public and Congress itself faces obstacles to locate and review these reports.

Agencies are not always required to publicly post congressionally-mandated reports. Without such a requirement, agencies decide whether or not to make them accessible to the public. Moreover, there is no central database for the public to locate congressionally-mandated reports. If an individual or organization sought to compile congressionally-mandated reports, they would have to manually search through each Federal agency’s website to determine what is publicly available.

S. 195 facilitates the public’s access to congressionally-mandated reports by requiring all Federal agencies to send any such reports to the GPO for publication on its website.

III. LEGISLATIVE HISTORY

S. 195 was introduced on January 19, 2019, by Senators Rob Portman (R–OH), Margaret Hassan (D–NH), and Amy Klobuchar (D–MN). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 195 at a business meeting on February 13, 2019. S. 195 passed by voice vote *en bloc* with Senators Johnson, Portman, Paul, Lankford, Romney, Scott, Enzi, Hawley, Peters, Carper, Hassan, Harris, Sinema, 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 “Access to Congressionally Mandated Reports Act”.

Sec. 2. Definitions

This section provides definitions for the terms “congressionally mandated report,” “Director,” “Federal agency,” “open format,” and “reports website.”

Sec. 3. Establishment of website for congressionally mandated reports

This section establishes a website for the public to access congressionally-mandated reports.

Subsection (a) requires GPO to establish and maintain a website for publication of electronic copies of all congressionally-mandated

¹David Fahrenthold, *Unrequired Reading*, Washington Post (May 3, 2014), https://www.washingtonpost.com/sf/national/2014/05/03/unrequired-reading/?utm_term=.44fe005eb16e. See also U.S. House of Representatives, Office of the Clerk, Reports to be Made to Congress, House Document No. 116–4 (Jan. 3, 2019).

²*Id.*

reports. This subsection requires GPO to consult with the Clerk of the House of Representatives, the Secretary of the Senate, and the Librarian of Congress on the maintenance and collection of congressionally-mandated reports.

Subsection (b) describes the requirements for the website required under subsection (a). This subsection requires GPO to ensure that each report has a citation to the statute, conference report, or resolution requiring the report. Each electronic copy must be easily accessible and available to the public. This subsection requires that reports on the website are searchable by title, Federal agency, date of publication, receiving congressional committee, legislation requiring the report, subject tags, an alpha-numeric identifier for each report, key words, and full text searches. A congressionally-mandated report must be published on the GPO website a month after it is submitted to Congress. All reports on the GPO website must be downloadable either individually or in bulk. The website must also indicate whether an agency submitted a congressionally mandated report by the required deadline or whether an agency did not submit such a report.

Subsection (c) requires GPO to maintain a list of congressionally-mandated reports that Federal agencies fail to submit along with their due dates. If an agency fails to provide a report in an open format, GPO must attempt to convert it to an open format.

Subsection (d) prohibits GPO from charging a fee, requiring registration, or imposing any other limitation for access the reports website.

Subsection (e) requires GPO to update the website as necessary.

Sec. 4. Federal agency responsibilities

This section establishes protocols for agencies to submit congressionally mandated reports to GPO.

Subsection (a) requires Federal agencies to submit an electronic copy of each congressionally mandated report to GPO, as well as other information required under this bill. This subsection does not remove any requirement for a Federal agency to publish the report on its agency website.

Subsection (b) requires OMB to issue guidance to agencies within 240 days of the implementation of this bill.

Subsection (c) requires agencies to submit the reports in an open format.

Subsection (d) requires each agency to designate a point of contact for congressionally-mandated reports.

Subsection (e) requires the Librarian of Congress and the Clerk of the House of Representatives to annually submit to GPO a list of Federal agency reports mandated by Congress that year. All such reports must be submitted to GPO by April 1 of the following year and can be submitted on a rolling basis.

Sec. 5. Removing and altering reports

Section 5 allows a Federal agency to change or remove a congressionally-mandated report on the GPO website only if the agency consults with each congressional committee that received the report and if Congress enacts a joint resolution authorizing the change or removal. This section exempts technical corrections from this requirement.

Sec. 6. Relationship to the Freedom of Information Act

This section establishes procedures for exempting certain information in congressionally-mandated reports from disclosure on the GPO website.

Subsection (a) clarifies that compliance with the provisions in the bill does not interfere with an agency's requirements under the Freedom of Information Act (FOIA) nor does the bill require GPO to review congressionally-mandated reports for identifying and redacting information exempt from disclosure under FOIA.

Subsection (b) requires Federal agencies to redact information from a congressionally-mandated report only if the information is exempt from disclosure under FOIA before submitting the report to GPO. Agencies must identify each redaction from the report and the exemption under which the redaction is made.

Subsection (c) allows a Federal agency to withhold information from publication on the GPO website only if the agency reasonably foresees that disclosure violates a privacy interest under FOIA or is prohibited by law. In such circumstances, the agency must consider whether a partial disclosure of information is permissible, and if so, take the necessary steps to separate and release non-exempt information.

Sec. 7. Implementation

Section 7 requires implementation of this bill within one year of enactment. This section applies the requirements of this bill to all congressionally-mandated reports submitted to Congress on or after the implementation deadline.

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, March 8, 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. 195, the Access to Congressionally Mandated Reports Act.

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

Sincerely,

KEITH HALL,
Director.

Enclosure.

S. 195, Access to Congressionally Mandated Reports Act				
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on February 13, 2019.				
Millions of Dollars	Direct Spending	Revenues	Net Deficit Effect	Spending Subject to Appropriation
2019	0	0	0	0
2019-2024	*	0	*	2
2019-2029	*	0	*	n.a.
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	
n.a. = not available; * = between \$0 and \$500,000.				

S. 195 would require the Government Publishing Office (GPO) to establish and maintain a website for the public to obtain electronic copies of all Congressionally mandated reports. Under S. 195, all federal agencies would be required to provide GPO with electronic copies of reports required by law each year. The Library of Congress (LOC) would be required to submit to GPO a list of Congressionally mandated reports that must be submitted during a year.

Using information from GPO, LOC, and federal agencies that produce thousands of Congressionally mandated reports, CBO estimates that implementing the bill would cost \$400,000 a year or \$2 million over the 2019–2024 period. Those costs primarily consist of the salaries and expenses associated with four employees who would establish and maintain the website. In addition, there would be some costs for the agencies to collect and submit Congressionally mandated reports. Any spending would be subject to the availability of appropriated funds.

Enacting S. 195 could affect direct spending by some agencies (such as the Tennessee Valley Authority) because they are authorized to use receipts from fees, the sale of goods, and other collections to cover their operating costs. Because most of those agencies can adjust the amounts they collect as operating costs change, CBO estimates that any net changes in direct spending by those agencies would be negligible.

The CBO staff contact for this estimate is David Hughes. This 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.