

117TH CONGRESS }
1st Session }

SENATE

{ REPORT
117-22

BILLION DOLLAR BOONDOGGLE
ACT OF 2021

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 636

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



MAY 10, 2021.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE
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Calendar No. 56

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MAY 10, 2021.—Ordered to be printed

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

R E P O R T

[To accompany S. 636]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 636) 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 and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

S. 636, the Billion Dollar Boondoggle Act of 2021, 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.¹

¹On March 2, 2020, the Committee approved S. 565, the Billion Dollar Boondoggle Act of 2019, which is substantially similar to S. 636.

II. BACKGROUND AND THE NEED FOR LEGISLATION

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), Senator Ron Johnson (R–WI), and Senator 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.²

In their responses, agencies discussed a number of projects that are severely over budget or behind schedule. 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.³ In at least one case, a Department of Transportation project to establish a new bullet train, which was estimated to be more than \$1 billion over budget and 13 years behind schedule, was cancelled in May 2019.⁴

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.⁵ There were 37 such cases reported to Congress between 2007 and 2015.⁶ The Congressional Research Service (CRS) 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.”⁷ CRS further noted that, while uncommon, in a few cases Nunn-McCurdy reports have re-

²Letter from Joni Ernst, Senator, Ron Johnson, Chairman, Senate Committee on Homeland Security and Governmental 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).

³Responses on file with Committee staff.

⁴U.S. Department 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) (<https://railroads.dot.gov/newsroom/statement-federal-railroad-administration-termination-fy-%E2%80%9810-grant-agreement-california>) (accessed Apr. 20, 2021).

⁵Department of Defense Authorization Act for Fiscal Year 1983, Pub. L. No. 97 252 (1982), codified at 10 U.S.C. § 2433 (1982).

⁶Congressional Research Service, *The Nunn-McCurdy Act: Background, Analysis, and Issues for Congress* (R41293) (May 12, 2016).

⁷*Id.*

sulted in a program being cancelled.⁸ That cost transparency principle is equally important for other executive and independent agencies.

The Billion Dollar Boondoggle Act of 2021, as amended, requires the Office of Management and Budget (OMB) to issue guidance requiring Federal agencies to annually report a list of all projects that are \$1 billion or more over their original budget or five years or more behind schedule, including information on each contractor, subcontractor, grantee, and subgrantee involved. 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 include the requested information in one of several relevant annual reports in lieu of publishing a separate report to Congress. With the requirement to report to Congress, agencies will more easily identify projects that 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. 636, the Billion Dollar Boondoggle Act of 2021, on March 9, 2021, with Chairman Gary Peters (D-MI) and Senator Mike Braun (R-IN). The bill was referred to the Committee on Homeland Security and Governmental Affairs. Senator Rick Scott (R-FL), Senator James Lankford (R-OK), Senator Margaret Hassan (D-NH), and Senator Marsha Blackburn (R-TN) later joined as cosponsors.

The Committee considered S. 636 at a business meeting on March 17, 2021. During the business meeting, an amendment was offered by Chairman Peters and adopted en bloc by voice vote. The bill, as amended, was ordered reported favorably by voice vote en bloc. Senators Peters, Rosen, Padilla, Portman, Johnson, Lankford, Romney, Scott and Hawley were present for the vote.

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 “Billion Dollar Boondoggle Act of 2021.”

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 that are more than five years behind schedule or more than \$1 billion over their original budget. The section defines the terms “covered agency,” “covered project,” and “project.” The section further specifies the annual reporting requirements, including a brief description of the covered project and other required information.

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

⁸*Id.*

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, April 5, 2021.

Hon. GARY C. PETERS,
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. 636, the Billion Dollar Boondoggle Act of 2021.

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. 636, Billion Dollar Boondoggle Act of 2021			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on March 17, 2021			
By Fiscal Year, Millions of Dollars	2021	2021-2026	2021-2031
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

S. 636 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. 636 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 Director of 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.

