

Calendar No. 79

117TH CONGRESS }
1st Session }

SENATE

{ REPORT
117-25

PROVIDING ACCOUNTABILITY THROUGH
TRANSPARENCY ACT OF 2021

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 522

TO REQUIRE EACH AGENCY, IN PROVIDING NOTICE OF A
RULE MAKING, TO INCLUDE A LINK TO A 100-WORD
PLAIN LANGUAGE SUMMARY OF THE PROPOSED RULE



JUNE 21, 2021.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

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

R E P O R T

[To accompany S. 522]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 522) to require each agency, in providing notice of a rule making, to include a link to a 100-word plain language summary of the proposed rule, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

The Providing Accountability Through Transparency Act of 2021 requires Federal agencies to include, as part of a notice of proposed rule making (NPRM), a link to a 100-word-or-less plain-language

summary of the proposed rule. The summary itself will be made available on the website [regulations.gov](https://www.regulations.gov).¹

II. BACKGROUND AND THE NEED FOR LEGISLATION

The Administrative Procedure Act (APA) forms the procedural basis by which Federal agencies issue most regulations and other policies.² The APA, which has been called the result of a “fierce compromise,” is intended to enable agencies to engage in policy-making while promoting the interests of those nongovernmental parties affected.³ Specifically, the procedure outlined in Section 553 of the APA for so-called “informal” rule making “establishes the minimum procedural requirements” that agencies must observe for most regulations.⁴ Because regulations issued through such a process are generally considered legally binding, the APA formalizes a notice to the public of a forthcoming rule, and at that point, establishes an early opportunity for the general public to submit comments.

However, the public’s ability to offer useful feedback through comments is dependent upon the clarity and simplicity of the proposal, especially for parties who may not be experts in the particular subject of the rule. Therefore, this bill offers a uniform and universally accessible standard for agencies to better communicate their intended policies to the public: a plain-language summary of 100 words or less made available by agencies at [regulations.gov](https://www.regulations.gov).

III. LEGISLATIVE HISTORY

Senator James Lankford (R–OK) introduced S. 522 on March 2, 2021, with Senators Kyrsten Sinema (D–AZ), James E. Risch (R–ID), and Ron Johnson (R–WI) as cosponsors. The bill was referred to the Committee on Homeland Security and Governmental Affairs. Senator Gary C. Peters (D–MI) joined as a cosponsor on March 9, 2021.

The Committee considered S. 522 at a business meeting on March 17, 2021. The Committee ordered S. 522 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 provides the bill’s short title, the “Providing Accountability Through Transparency Act of 2021.”

¹ On February 13, 2019, the Committee approved S. 395, Providing Accountability Through Transparency Act of 2019, which is substantially similar to S. 522. Accordingly, this Committee report is in large part a reproduction of the Committee report for S. 395, S. Rep. No. 116–14.

² Pub. Law 79–404, 60 Stat. 237.

³ George B. Shepherd, *Fierce Compromise: The Administrative Procedure Act Emerges from New Deal Politics*, Northwestern University Law Review, Vol. 90, No. 4 (1996).

⁴ Emily S. Bremer, *A Primer on the Informal Rulemaking Process*, Administrative Fix (blog), Administrative Conference of the United States (May 10, 2013) (<https://www.acus.gov/newsroom/administrative-fix-blog/primer-informal-rulemaking-process>); 5 U.S.C. § 553.

Section 2. Requirement to post a 100-word summary to regulations.gov

This section amends the list of information required for inclusion when agencies issue a notice of proposed rule making to add that they also include a link to a 100-word-or-less plain-language summary of the proposed rule. The summary shall be posted to regulations.gov.

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, March 29, 2021.

Hon. GARY C. PETERS,
Chairman, Committee on Homeland Security and Governmental Affairs, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 522, the Providing Accountability Through Transparency 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. 522, Providing Accountability Through Transparency 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
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	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. 522 would require agencies to post an Internet address link for any proposed rule published in the *Federal Register* that would take the reader to a concise summary of not more than 100 words posted on regulations.gov. The Presidential Memorandum on Plain Language issued on June 1, 1998, and Executive Order 13563 already require agencies to use plain language in all proposed and final rules. CBO expects that preparing the short summary of proposed rules under S. 522 would not significantly increase agencies' administrative costs. Thus, CBO estimates that implementing S. 522 would have no significant cost over the 2021–2026 period.

Enacting the bill 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 S. 522 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, 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 5—ADMINISTRATIVE PROCEDURE

* * * * *

Subchapter II—Administrative Procedure

* * * * *

SEC. 553. RULE MAKING

(a) * * *

* * * * *

(b) * * *

(1) * * *

(2) reference to the legal authority under which the rule is proposed; **[and]**

(3) either the terms or substance of the proposed rule or a description of the subjects and issues involved~~["."]; and~~

(4) *the Internet address of a summary of not more than 100 words in length of the proposed rule, in plain language, that shall be posted on the Internet website under section 206(d) of the E Government Act of 2002 (44 U.S.C. 3501 note) (commonly known as regulations.gov).*