Calendar No. 283

117TH CONGRESS *2d Session* }	SENATE	{ REPORT 117–82

GOOD AI ACT OF 2021

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 3035

TO ESTABLISH THE ARTIFICIAL INTELLIGENCE HYGIENE
WORKING GROUP, AND FOR OTHER PURPOSES

FEBRUARY 28, 2022.—Ordered to be printed

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

GARY C. PETERS, Michigan, *Chairman*

THOMAS R. CARPER, Delaware
MAGGIE HASSAN, New Hampshire
KYRSTEN SINEMA, Arizona
JACKY ROSEN, Nevada
ALEX PADILLA, California
JON OSSOFF, Georgia

ROB PORTMAN, Ohio
RON JOHNSON, Wisconsin
RAND PAUL, Kentucky
JAMES LANKFORD, Oklahoma
MITT ROMNEY, Utah
RICK SCOTT, Florida
JOSH HAWLEY, Missouri

DAVID M. WEINBERG, *Staff Director*
ZACHARY I. SCHRAM, *Chief Counsel*
MICHELLE M. BENECKE, *Senior Counsel*
PAMELA THIESSEN, *Minority Staff Director*
ANDREW C. DOCKHAM, *Minority Chief Counsel and Deputy Staff Director*
SAM J. MULOPULOS, *Minority Professional Staff Member*
LAURA W. KILBRIDE, *Chief Clerk*

Calendar No. 283

117TH CONGRESS *2d Session*	SENATE	REPORT 117–82

GOOD AI ACT OF 2021

FEBRUARY 28, 2022.—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. 3035]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 3035) to establish the Artificial Intelligence Hygiene Working Group, 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.

CONTENTS

I. PURPOSE AND SUMMARY

S. 3035, the Government Ownership and Oversight of Data in Artificial Intelligence Act, or the "GOOD AI Act," requires the Office of Management and Budget (OMB), in consultation with a newly established Artificial Intelligence (AI) Hygiene Working Group, to develop acquisition guidance to protect privacy and civil liberties, address data ownership, and secure AI systems against misuse. Such risk mitigation measures will allow the federal government to realize the benefits of these technologies in improving

operations while better securing the United States' economy and national security and protecting Americans from harm.[1]

II. BACKGROUND AND THE NEED FOR LEGISLATION

Recent executive orders have promoted the use of AI across the federal government.[2] Currently, however, there is little guidance for agencies on appropriate acquisition and use of AI. This presents a risk of misuse and the potential for discrimination impacting individuals and groups.[3] One concern is the ownership and security of data held by the federal government, including Americans' personally identifiable information. For example, there have been reports that certain contractors are uploading and storing data they handle while supporting federal agencies into their own databases.[4] Unlike contracts for cybersecurity support, government contracts for AI services generally do not include technology-specific clauses to protect the ownership and security of government data and systems. The GOOD AI Act addresses this gap by creating an AI Hygiene Working Group to develop and implement such policies for AI acquisition.

III. LEGISLATIVE HISTORY

Chairman Gary Peters (D–MI) introduced S. 3035, the GOOD AI Act, on October 21, 2021, with Ranking Member Rob Portman (R–OH) as cosponsor. The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 3035 at a business meeting on November 3, 2021. The bill, as amended by the Peters Substitute Amendment, was ordered reported favorably *en bloc* by voice vote with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Portman, Johnson, Lankford, Romney, Scott, and Hawley 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 "GOOD AI Act of 2021."

Section 2. Principles and policies for use of artificial intelligence in government

Subsection (a) provides definitions for the terms "agency," "appropriate Congressional committees," "artificial intelligence," "artificial intelligence system," and "Director."

Subsection (b) directs the Director of OMB to consider recent recommendations of the National Security Commission on Artificial Intelligence, principles articulated in Executive Order 13960 on promoting trustworthy AI in the federal government, and the input of relevant interagency bodies and governmental and non-governmental experts when updating guidance for federal agencies on the use of AI required by the AI in Government Act of 2020. This requirement will sunset four years after date of enactment.

---

[1] National Security Commission on Artificial Intelligence, *Final Report* (Mar. 1, 2021), at 9.
[2] Exec. Order No. 13960, 85 Fed. Reg. 78939 (Dec. 3, 2020); see also Exec. Order No. 13859, 84 Fed. Re. 3967 (Feb. 11, 2019).
[3] Brookings Institution Report, *Protecting Privacy in an AI-driven World* (Feb. 10, 2020).
[4] *The Secretive Company That Might End Privacy as We Know It*, New York Times (Jan. 18, 2020).

Subsection (c) of Section 2 instructs the OMB Director to establish and consult with an AI Hygiene Working Group comprised of members from appropriate interagency councils. The Working Group must create, and the Director must implement, contract requirements for: securing AI systems against misuse, unauthorized alteration, degradation, or being rendered inoperable; ensuring the protection of privacy, civil rights, and civil liberties; and addressing the ownership and security of data and other information created. The OMB Director and the Working Group are permitted to develop more than one approach to these requirements to take into account differing levels of risk or other relevant factors, and the requirements must be updated every two years, with a sunset ten years after enactment. This subsection also requires the OMB Director to brief Congress periodically on the implementation of this Act until the requirements are fully implemented, and annually thereafter, with a ten-year sunset.

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, January 13, 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. 3035, the GOOD AI Act of 2021.

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

Sincerely,
PHILLIP L. SWAGEL,
Director.

Enclosure.

S. 3035, GOOD AI Act of 2021 As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on November 3, 2021			
By Fiscal Year, Millions of Dollars	2022	2022-2026	2022-2031
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.

Artificial Intelligence (AI) allows computer systems to perform tasks that typically would require human intelligence. S. 3035 would require the Office of Management and Budget (OMB) to issue guidance to federal agencies on how to safely and securely acquire AI technology. Under the bill, OMB also would report to the Congress on the effectiveness of its efforts.

Based on the costs of similar efforts, CBO estimates that publishing guidance and satisfying the reporting requirement would cost less than $500,000 over the 2022–2026 period. Such spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Aldo Prosperi. The estimate was reviewed by Leo Lex, Deputy Director of Budget Analysis.

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

Because S. 3035 would not repeal or amend any provision of current law, it would make no 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.

○