

TENNESSEE VALLEY AUTHORITY SALARY TRANSPARENCY
ACT

OCTOBER 26, 2023.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. GRAVES of Missouri, from the Committee on Transportation
and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 4693]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 4693) to provide that the Federal Reports Elimination and Sunset Act of 1995 does not apply to certain reports required to be submitted by the Tennessee Valley Authority, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

	Page
Purpose of Legislation	2
Background and Need for Legislation	2
Hearings	3
Legislative History and Consideration	3
Committee Votes	4
Committee Oversight Findings and Recommendations	4
New Budget Authority and Tax Expenditures	4
Congressional Budget Office Cost Estimate	4
Performance Goals and Objectives	5
Duplication of Federal Programs	5
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ...	5
Federal Mandates Statement	5
Preemption Clarification	6
Advisory Committee Statement	6
Applicability to Legislative Branch	6
Section-By-Section Analysis of The Legislation	6
Section 1. Short Title	6
Section 2. Salary Disclosure; Exception to Report Elimination	6
Changes in Existing Law Made by the Bill, as Reported	6

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Tennessee Valley Authority Salary Transparency Act”.

SEC. 2. SALARY DISCLOSURE; EXCEPTION TO REPORT ELIMINATION.

Section 9 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831h) is amended—

(1) in subsection (a), by striking “a financial statement” and all that follows through “\$1,500 a year” and inserting “a report of the total number of employees at the management level or above, to include all executives and board members, that shall include the names, salaries, and duties of such employees, that are receiving compensation at or greater than the maximum rate of basic pay for grade GS–15 of the General Schedule”;

(2) by striking all that precedes “The Board shall” and inserting the following:

“SEC. 9. FINANCIAL REPORTING.

“(a) REPORT ON COMPENSATION.—

“(1) IN GENERAL.—”; and

(3) in subsection (a), by adding at the end the following:

“(2) EXEMPTION.—The information concerning salaries of employees of the Corporation contained in, or filed with, the report described in paragraph (1) is exempt from—

“(A) disclosure under section 552(b)(3) of title 5, United States Code; and

“(B) the requirements of the Access to Congressionally Mandated Reports Act (Public Law 117–263).”.

PURPOSE OF LEGISLATION

The purpose of H.R. 4693, as amended, is to maintain effective Congressional oversight over entities within the Federal Government by reinstating a requirement for the Tennessee Valley Authority (TVA or Authority) to annually report information to Congress on senior-level employees of TVA, while seeking to balance government transparency and individual privacy considerations.

BACKGROUND AND NEED FOR LEGISLATION

TVA is an independent government corporation that provides power generation, flood control, and land management services to the Tennessee River Valley region.¹ TVA was originally authorized in the *Tennessee Valley Authority Act of 1933 (TVA Act)*.² Section 9 of the *TVA Act* required the Authority to file with Congress and the President, “a financial statement and complete report as to the business of [TVA],” including an itemized statement on the number, duties, and salaries of employees making “\$1,500 or more.”³ At the time of its creation, Federal appropriations funded all TVA operations. However, direct funding for the TVA power program ended in 1959, and TVA appropriations have not been received since 1999.⁴ Today, TVA is fully self-financed, reporting \$12.5 billion in total operating revenues on 163 billion kilowatt-hours of electricity sales for the year ended September 30, 2022.⁵

¹H. COMM. ON TRANSP. & INFRASTRUCTURE, JURISDICTION AND ACTIVITIES OF THE SUBCOMM. ON WATER RES. AND ENVIRONMENT, 118th CONG., (2023) (on file with Comm.) [hereinafter JURISDICTION AND ACTIVITIES REPORT].

²*Tennessee Valley Authority Act*, 16 U.S.C. 831.

³*Id.*; *Inflation Calculator*, available at <https://www.dollartimes.com/inflation/> (last accessed Sept. 11, 2023) (Calculating that \$1,500 in 1933 is the equivalent to \$33,984).

⁴See JURISDICTION AND ACTIVITIES REPORT, *supra* note 1.

⁵See TENNESSEE VALLEY AUTHORITY, *TVA Reports Fiscal Year 2022 Financial Results*, (Nov. 15, 2022), available at <https://www.tva.com/newsroom/press-releases/tva-reports-fiscal-year-2022-financial-results>.

TVA's obligation to file the report to Congress under Section 9 of the TVA Act was eliminated as part of the *Federal Reports Elimination and Sunset Act of 1995*.⁶

H.R. 4693, as amended, would reinstate a modified TVA reporting requirement to Congress on its employment structure, superseding the change made by the *Federal Reports Elimination and Sunset Act of 1995*. Specifically, H.R. 4693 amends Section 9 of the *TVA Act* to require the Authority to file a report with the President and Congress on TVA employees at the management level or above, including all TVA executives and members of the TVA Board of Directors, that are also being compensated at a rate at least equivalent to GS-15 on the General Schedule. H.R. 4693, as amended, specifies that this modified report shall include the total number of employees that meet this new, narrower threshold, as well as the names, salaries, and duties of such employees.

H.R. 4693, as amended, improves transparency at TVA by reinstating a modified Congressional reporting requirement, while protecting employee privacy with focused reporting on upper-level managers only.

HEARINGS

For the purposes of rule XIII, clause 3(c)(6)(A) of the 118th Congress, the following hearing was used to develop or consider H.R. 4693, as amended:

On Thursday, June 22, 2023, the Subcommittee on Water Resources and Environment held a hearing entitled, "*Review of Fiscal Year 2024 Budget Request: Agency Perspectives (Part I)*." This hearing provided Members with an opportunity to conduct oversight and review the President's Fiscal Year 2024 Budget Request, as well as the Administration's program priorities within the jurisdiction of the Subcommittee on Water Resources and Environment. At the hearing, the Subcommittee received testimony from the Honorable Michael L. Connor, Assistant Secretary of the Army for Civil Works, Department of the Army; Major General William "Butch" H. Graham, Deputy Chief of Engineers and Deputy Commanding General, United States Army Corps of Engineers; Mr. Jeff Lyash, President and Chief Executive Officer, Tennessee Valley Authority; and Mr. Adam Tindall-Schlicht, Administrator, Great Lakes St. Lawrence Seaway Development Corporation.

LEGISLATIVE HISTORY AND CONSIDERATION

H.R. 4693, the "*Tennessee Valley Authority Salary Transparency Act*", was introduced in the United States House of Representatives on July 18, 2023, by Mr. Cohen of Tennessee and Mr. Burchett of Tennessee and referred to the Committee on Transportation and Infrastructure. Within the Committee on Transportation and Infrastructure, H.R. 4693 was referred to the Subcommittee on Water Resources and Environment. The Subcommittee on Water Resources and Environment was discharged from further consideration of H.R. 4693 on July 27, 2023.

⁶ *Federal Reports Elimination and Sunset Act*, Pub. L. No. 104-66 § 3003, 109 Stat. 734.

The Committee considered H.R. 4693 on July 27, 2023, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by voice vote.

The following amendment was offered:

An Amendment in the Nature of a Substitute to H.R. 4693, offered by Mr. Cohen (ANS 2) was AGREED TO by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against.

No recorded votes were requested during consideration of H.R. 4693, as amended.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act of 1974* has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the enclosed cost estimate for H.R. 4693 from the Director of the Congressional Budget Office:

H.R. 4693, Tennessee Valley Authority Salary Transparency Act			
As ordered reported by the House Committee on Transportation and Infrastructure on July 27, 2023			
By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	*	*	*
Revenues	<u>0</u>	<u>0</u>	<u>0</u>
Increase or Decrease (-) in the Deficit	*	*	*
Spending Subject to Appropriation (Outlays)	0	0	0
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	*	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	*	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 4693 would require the Tennessee Valley Authority (TVA) to report to the Congress annually with the names, compensation, and duties of employees at or above the GS-15 pay grade of the General Schedule. Currently the Federal Reports Elimination and Sunset Act of 1995 exempts TVA from having to report such information. H.R. 4693 also would exempt salary information from public disclosure requirements.

Under current law, TVA sells electricity at prices sufficient to recover any costs it incurs in lieu of receiving annual appropriations. On that basis, CBO expects that any increase in spending stemming from the reports would be treated as an operating expense and recovered quickly in TVA's rates for electricity. Thus, CBO estimates that the net effect on direct spending would be negligible.

The CBO staff contact for this estimate is Willow Latham-Proença. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to maintain effective Congressional oversight over entities within the federal government by requiring TVA to file a report to Congress on TVA employees at the management level or above making the maximum rate for GS-15, or more.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 4693, as amended, establishes or reauthorizes a program of the Federal government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the *Unfunded Mandates Reform Act* (Public Law 104-4).

PREEMPTION CLARIFICATION

Section 423 of the *Congressional Budget Act of 1974* requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee finds that H.R. 4693, as amended, does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the definition of Section 5(b) of the appendix to Title 5, United States Code, are created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the *Congressional Accountability Act* (Public Law 104–1).

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This section provides the short title of the bill as the “*Tennessee Valley Authority Salary Transparency Act*.”

Section 2. Salary disclosure; exception to report elimination

This section directs TVA to file an annual report to Congress that includes the names, salaries, and duties of all employees at management level or above, including all executives and board members, receiving compensation at GS–15 level, or more, on the General Schedule. It also includes a limited exemption for information concerning the salaries of individual TVA employees contained in, or filed with, the Congressional report from the disclosure requirements of the Freedom of Information Act (FOIA) and the electronic publishing requirements of the *Access to Congressionally Mandated Reports Act* (P.L. 117–263). All of the remaining information contained in the report to Congress would be unaffected by the limitation in paragraph 9(a)(2).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

TENNESSEE VALLEY AUTHORITY ACT OF 1933

* * * * *

[SEC. 9. (a)]

SEC. 9. FINANCIAL REPORTING.

(a) REPORT ON COMPENSATION.—

*(1) IN GENERAL.—*The Board shall file with the President and with the Congress, in March of each year, [a financial statement and a complete report as to the business of the Corporation covering the preceding governmental fiscal year. This report shall include an itemized statement of the cost of power at each power station, the total number of employees and the names, salaries, and duties of those receiving compensation at the rate of more than \$1,500 a year] *a report of the total number of employees at the management level or above, to include all executives and board members, that shall include the names, salaries, and duties of such employees, that are receiving compensation at or greater than the maximum rate of basic pay for grade GS-15 of the General Schedule.*

*(2) EXEMPTION.—*The information concerning salaries of employees of the Corporation contained in, or filed with, the report described in paragraph (1) is exempt from—

(A) disclosure under section 552(b)(3) of title 5, United States Code; and

(B) the requirements of the Access to Congressionally Mandated Reports Act (Public Law 117-263).

*(b) All purchases and contracts for supplies or services, except for personal services, made by the Corporation, shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Board shall determine to be adequate to insure notice and opportunity for competition: *Provided*, That advertisement shall not be required when, (1) an emergency requires immediate delivery of the supplies or performance of the services; or (2) repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or (3) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed \$25,000 in which cases such purchases of supplies or procurement of services may be made in the open market in the manner common among businessmen: *Provided further*, That in comparing bids and in making awards the Board may consider such factors as relative quality and adaptability of supplies or services, the bidder's financial responsibility, skill, experience, record of integrity in dealing, ability to furnish repairs and maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications.*

*(c) AUDITS.—*The Comptroller General of the United States shall audit the transactions of the Corporation at such times as he shall determine, but not less frequently than once each governmental fiscal year, with personnel of his selection. In such connection he and his representatives shall have free and open access to all papers, books, records, files, accounts, plants, warehouses, offices, and all other things, property, and places belonging to or under the control of or used or employed by the Corporation, and shall be afforded full facilities for counting all cash and verifying transactions with

and balances in depositories. He shall make report of each such audit in quadruplicate, one copy for the President of the United States, one for the chairman of the Board, one for public inspection at the principal office of the Corporations, and the other to be retained by him for the use of the Congress: *Provided*, That such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors therein, explain or answer the same, and to file a statement which shall be submitted by the Comptroller General with his report. The expenses for each such audit shall be paid from any appropriation or appropriations for the General Accounting Office, and such part of such expenses as may be allocated to the cost of generating, transmitting, and distributing electric energy shall be reimbursed promptly by the Corporation as billed by the Comptroller General. Nothing in this Act shall be construed to relieve the Treasurer or other accountable officers or employees of the Corporation from compliance with the provisions of existing law requiring the rendition of accounts for adjustment and settlement pursuant to section 236, Revised Statutes, as amended by section 305 of the Budget and Accounting Act, 1921 (42 Stat. 24), and accounts for all receipts and disbursements by or for the Corporation shall be rendered accordingly: *Provided*, That, subject only to the provisions of the Tennessee Valley Authority Act of 1933, as amended, the Corporation is authorized to make such expenditures and to enter into such contracts, agreements, and arrangements, upon such terms and conditions and in such manner as it may deem necessary, including the final settlement of all claims and litigation by or against the Corporation; and, notwithstanding the provisions of any other law governing the expenditure of public funds, the General Accounting Office, in the settlement of the accounts of the Treasurer or other accountable officer or employee of the Corporation, shall not disallow credit for, nor withhold funds because of, any expenditure which the Board shall determine to have been necessary to carry out the provisions of said Act.

(d) ADMINISTRATIVE ACCOUNTS AND BUSINESS DOCUMENTS.—The Corporation shall determine its own system of administrative accounts and the forms and contents of its contracts and other business documents except as otherwise provided in the Tennessee Valley Authority Act of 1933, as amended.

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