



Legislative Bulletin.....November 12, 2014

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Concur in the Senate Amendment to H.R. 4194 - Government Reports Elimination Act of 2014 — (Issa, R-CA)

Order of Business: This [bill](#) is scheduled for consideration on Wednesday, November 12, 2014, under a suspension of the rules, which requires a two-thirds majority vote for passage.

Summary: This bill eliminates the requirements for 17 federal entities to prepare 66 reports, which are currently required under law. The agencies which would be affected include: the Departments of Agriculture, Commerce, Defense, Education, Energy, Homeland Security, Interior, Labor, State, Transportation, Treasury, and Veterans Affairs, and the Corporation for National and Community Service, the Environmental Protection Agency, the Executive Office of the President, the Government Accountability Office, and the Office of the Director of National Intelligence.

CBO estimates 50 of these reports are either “duplicative, obsolete, or would remain available online.”

Major Changes Since the Last Time This Legislation was Before the House: H.R. 4194, as passed by the House, [eliminated](#) more than 85 federal agency reports from 18 different federal entities. The Senate Amendment to H.R. 4194 [reduces](#) the number of reports which would be eliminated to 66, as well as the number of government entities affected to 17. Read the RSC legislative bulletin for the House passed version of H.R. 4194 [here](#).

Additional Background: Changes in technology, program requirements, and policy often cause agency reporting requirements to Congress to become outdated, unnecessary, or duplicative. The Government Performance and Results Modernization Act of 2010, ([P.L. 111-352](#)), requires each agency’s chief operating officer to annually assemble a list of all congressionally mandated

reports and highlight those which are outdated. In January 2013, the Office of Management and Budget published a [list](#) of 376 reports from 29 agencies that are either redundant or unnecessary. Since these reports are mandated by law, eliminating these requirements requires Congressional action. Read the Senate Committee Report [here](#).

Committee Action: This bill was introduced on March 11, 2014, by Representative Issa and was referred to the House Committee on Oversight and Government Reform. The committee held a mark-up on March 12, 2014 where the bill was ordered to be reported by voice vote. This bill was brought before the full House under a suspension of the rules on April 28, 2014, and was passed by voice vote. The Senate passed the bill, with an amendment in the nature of a substitute, by unanimous consent on September 16, 2014.

Administration Position: No statement of administration policy is available at this time.

Cost to Taxpayers: [CBO](#) estimates that implementing this legislation would reduce costs that are subject to appropriation by less than \$1 million over the next five years. Enacting H.R. 4194 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

Does the Bill Expand the Size and Scope of the Federal Government?: No

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H.R. 4194 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local or tribal governments.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: According to the sponsor, "Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8, Clause 18." "To make all Law which shall be necessary and proper for carrying into Execution the foregoing powers . . ." Read the statement [here](#).

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Concur in the Senate Amendment to H.R. 1233 - Presidential and Federal Records Act Amendments of 2014 — (Cummings, D-MD)

Order of Business: This [bill](#) is scheduled for consideration on Wednesday, November 12, 2014, under a suspension of the rules, which requires a two-thirds majority vote for passage.

Summary: This bill makes changes to the Presidential and Federal Records Keeping Act with the goal of modernizing federal record keeping procedures and requirements in order to keep up with the government's use of electronic and digital communications. In addition, this bill codifies and expands previous Executive Orders which have directed the National Archives and Records Administration (NARA). Below is a summary of each section:

Section 2: Presidential Records

- This bill establishes a process for a former or incumbent President to make a claim of executive privilege over records that have yet to be released to the public.
- The process for which the Archivist decides to make Presidential records available is outlined, and the steps which must be taken if a former or incumbent President personally asserts a privilege claim.
- A requirement is established for federal employees who create or send a Presidential record from a non-official electronic messaging account to forward a complete copy of the record to an official electronic messaging account within 20 days. In cases of intentional violation of this disclosure requirement, the section authorizes disciplinary action

Section 3: National Archives and Records Administration

- This allows the Archivist to accept for deposit within the National Archives records deemed to have historical value. It also authorizes the Archivist to accept early transfers of records with instructions on the disclosure of such records.
- Materials the Archivist may accept include: the papers and other historical materials of a President or former President, or papers and historical materials from other officials or former officials of the Government and other papers relating to a President or former President.
- Amends current law to modernize terminology addressing the audio and visual records that National Archives and Records Administration is likely to receive for deposit.

Section 4: Records Management by Federal Agencies

- Outlines the unlawful removal or destruction of records and expands the types of destruction that can be carried out to destroy federal records. According to the House committee report, these changes are intended to list damage actions that are specific to electronic records.

Section 5: Disposal of Records

- Defines the term 'records' which includes all recorded information, regardless of form or characteristics made or received by a Federal agency under Federal law or in connection with the transactions of public business.
- This section makes changes to current law to take into account technological advancements in record keeping.

Section 6: Procedures to Prevent Unauthorized Removal of Classified Records from National Archives

- Directs the Archivist to prescribe internal procedures to prevent the unauthorized removal of classified records.

Section 7: Repeal of Provisions Related to the National Study Commission on Records and Documents of Federal Officials

- Repeals provisions of current law which governed the National Study Commission on Records and Documents which is now defunct, per the committee report.

Section 8: Pronoun Amendments

Section 9: Records Management by the Archivist

- Directs the Archivist to promulgate regulations regarding all Federal agencies transferring digital and electronic records.

Section 10: Disclosure Requirement for Official Business Conducted using Non-Official Electronic Messaging Account

- Requires federal employees who create or send a federal record from a non-official electronic messaging account to forward a complete copy of the record to an official electronic messaging account within five days.
- In the event there is an intentional violation, it shall be a basis for disciplinary action.

Major Changes Since the Last Time This Legislation was Before the House: The Senate amendment slightly alters the disclosure requirements for official business conducted using non-official electronic messaging accounts. In the event of an intentional violation, disciplinary action will be taken in accordance with [5 U.S. Code Chapter 75](#).

Read the RSC Legislative Bulletin from the House-passed version of H.R. 1233 [here](#).

Additional Background: In 1978, Congress passed the Presidential Records Act (PRA) which gave the Archivist custody over a former President's records. The PRA presumes the records of a President will ultimately be released to the public; however, it allows the President the discretion to limit access to their records for up to twelve years. The law does not address Presidential privilege claims, or requests to limit access to certain presidential records. As a result, sitting Presidents have offered Executive Orders to authorize the withholding of Presidential records or delay their release indefinitely. Section 2 of this bill addresses this matter.

Read the Senate Committee Report [here](#).

Committee Action: H.R. 1233, the Presidential and Federal Records Act Amendments of 2013, was introduced on March 18, 2013, and referred to the House Committee on Oversight and Government Reform. At a business meeting on March 20, 2013, the Committee considered H.R.

1233 and ordered the bill to be [reported](#) by voice vote. This bill was brought to the Floor on January 14, 2014, and passed with a vote of [420-0](#).

Administration Position: No statement of administration policy is available at this time.

Cost to Taxpayers: [CBO](#) estimates that implementing H.R. 1233 would have no significant cost over the next five years. The legislation could affect direct spending by agencies not funded through annual appropriations; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any net increase in spending by those agencies would not be significant. Enacting H.R. 1233 would not affect revenues. On September 10, 2014, the Senate passed the bill, as amended by the Committee on Homeland Security and Governmental Affairs, by Unanimous Consent.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H.R. 1233 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on the budgets of state, local, or tribal governments.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: According to the sponsor, “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 18 of the Constitution of the United States grants the Congress the power to enact this law.”

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H.R. 5266 — To reauthorize the National Estuary Programs, and for other purposes (LoBiondo, R-NJ)

Order of Business: H.R. 5266 is expected to be considered on November 12, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority for passage.

Summary: H.R. 5266 would reauthorize grants under the National Estuary Program for the development and implementation of conservation and management plans.

H.R. 5226 would also establish a new program that would require the Environmental Protection Agency (EPA) to make competitive grants to “State, interstate, and regional water pollution

control agencies and entities, State coastal zone management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals” to “address urgent and challenging issues that threaten the ecological and economic well-being of coastal areas.” The “urgent and challenging issues” include “extensive seagrass habitat losses,” “recurring harmful algae blooms,” “invasive exotic species,” jellyfish proliferation,” “flooding which may be related to sea level rise or wetland degradation or loss,” or “low dissolved oxygen conditions.” This new grant program would be funded with not less than 15 percent of the total appropriations for the National Estuary Program. Assuming full funding of the National Estuary Program, the new grant program would receive a minimum of \$4.05 million per year.

H.R. 5266 would authorize \$27 million in appropriations for each fiscal year 2014 through 2018 for these programs.

Additional Background: The National Estuary Program was previously authorized at \$35 million for each fiscal year 2001 through 2010. Although the authorization had expired, \$25 million was appropriated in FY 2014.

Committee Action: H.R. 5266 was introduced on July 30, 2014, and referred to the Committee on Transportation and Infrastructure. The Committee marked up and reported H.R. 5266 with an amendment by voice vote on [September 17, 2014](#).

Cost to Taxpayers: According to [CBO](#), H.R. 5266 would “cost \$104 million over the 2015-2019 period, assuming appropriation of the authorized amounts.”

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, H.R. 5226 establishes a new grant program.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: Some conservatives may believe that the programs authorized in H.R. 5266 would be more appropriately funded by state or local governments.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: “Congress has the power to enact this legislation pursuant to the following: Article 1, Section 8, Clause 18 of the Constitution of the United States of America.”

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S. 1934 — Clifford P. Hansen Federal Courthouse Conveyance Act (Barrasso, R-WY)

Order of Business: S. 1934 is expected to be considered on November 12, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority for passage.

Summary: S. 1934 would convey the Clifford P. Hansen Federal Courthouse located at 145 East Simpson Street, Jackson, Wyoming to Teton County, Wyoming. The County shall pay a fair market value for the building.

Committee Action: S. 1934 was introduced on January 15, 2014 and referred to the Senate Committee on Environment and Public Works. The Committee marked up and reported S. 1934 on [April 3, 2014](#). S. 1934 was approved by the Senate by unanimous consent on September 9, 2014. The bill was then referred to the House Committee on Transportation and Infrastructure, which took no further action.

Cost to Taxpayers: According to [CBO](#), S. 1934 would “increase offsetting receipts, which are collections that are treated as reductions in direct spending... However, we estimate that net offsetting receipts from the sale would be negligible.”

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: A constitutional authority statement is not available at this time.

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**S. 898 — Albuquerque, New Mexico, Federal Land Conveyance Act of 2013
(Udall, D-NM)**

Order of Business: S. 898 is expected to be considered on November 12, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority for passage.

Summary: S. 898 would authorize the General Services Administration to transfer, at fair market value, a historic post office in Albuquerque, New Mexico to the Amy Biehl High School Foundation. The Amy Biehl High School is a public charter school that has occupied the building since 2006 and pays the GSA a nominal rent.

Additional Background: S. 898 is identical to [H.R. 3998](#), legislation that passed the House by a voice vote on June 17, 2014.

Committee Action: S. 898 was introduced on May 8, 2013 and referred to the Senate Committee on Environment and Public Works. The Committee marked up and approved S. 898 on [February 6, 2014](#). S. 898 was approved by the Senate by unanimous consent on September 9, 2014.

Cost to Taxpayers: According to CBO, “the net offsetting receipts from the sale would be negligible,” as a result of enacting S. 898.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10th Amendment?: No.

Does the Bill Delegate Any Legislative Authority to the Executive Branch?: No.

Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: A constitutional authority statement is not available at this time.

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