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SENATE

REPORT
113–217

RESPONSIBLE USE OF TAXPAYER DOLLARS FOR PORTRAITS ACT OF 2013

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 1820

TO PROHIBIT THE USE OF FEDERAL FUNDS FOR THE COSTS OF OFFICIAL PORTRAITS OF MEMBERS OF CONGRESS, HEADS OF EXECUTIVE AGENCIES, AND HEADS OF AGENCIES AND OFFICES OF THE LEGISLATIVE BRANCH



JULY 23, 2014.—Ordered to be printed

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JULY 23, 2014.—Ordered to be printed

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

R E P O R T

[To accompany S. 1820]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1820) to prohibit the use of Federal funds for the costs of official portraits of Members of Congress, heads of executive agencies, and heads of agencies and offices of the legislative branch, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

I. PURPOSE AND SUMMARY

In response to lavish spending on portraits for government officials, S. 1820 prohibits the use of federal funds to pay for official portraits of Members of Congress, heads of executive agencies, and heads of agencies and offices of the legislative branch. S. 1820 offers one very narrow exception: the government may pay for portraits of those officials who are in the line of succession for the presidency, which includes the Speaker of the House, President Pro Tem of the Senate, and members of the Cabinet. However, the bill sets strict limits on the amount allowed for each portrait. The bill also clarifies that private funding may be used to pay for portraits.

II. BACKGROUND

When the heads of federal agencies leave government service, the agencies routinely commission oil paintings to commemorate their

service. While this practice has a long tradition, it also carries costs that are unjustified in the context of the need for fiscal restraint.[1]

S. 1820 places significant limits on this practice. At a time when vital services and programs are facing cuts, S. 1820 would ensure that the practice is done in a way that protects taxpayers from excessive spending and that portraits are only commissioned for a small, appropriate set of federal officials.

Reports indicate that official portraits for the President, the First Lady and certain Members of Congress (including Committee Chairs) are commissioned with private funding,[2] though House practice has traditionally allowed appropriation of funds for portraits of the Speaker of the House.[3] By placing limits on the amount of federal funding that can support commissioned portraits, the bill would encourage Congress as well as federal agencies to adopt this same fiscally responsible approach of relying on private donations.

S. 1820 provides a general prohibition on the use of federal funds for the production of portraits of a Member of Congress, the head of an executive agency, or the head of an agency or office of the legislative branch. The bill allows federal funds to be provided for portraits of officials in line for the presidency[4] but limits taxpayer support for allowable portraits to $20,000 per portrait. The bill also clarifies that non-federal funds may be used for portraits. This combination of provisions would limit taxpayer support for portraits while encouraging federal agencies to leverage private dollars to pay for the portraits.

In response to concerns raised by sponsors of the legislation and reports about excessive spending on portraits, Congress enacted a ban on taxpayer support for official portraits as part of the Consolidated Appropriations Act of 2014 (PL 113–76).[5] Since this restriction applies only to funds made available through that Act, it is not clear whether this prohibition will be continued in future years. S. 1820 makes a permanent change in statute to ensure that, should Congress choose not to enact a total ban in future years through the appropriations process, there will be common-sense limits in place on an ongoing basis.

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[1] See Washington Post, *The government pays tens of thousands of dollars for portraits of high officials. Should it?* June 20, 2013 at http://www.washingtonpost.com/blogs/wonkblog/wp/2013/06/20/the-government-pays-tens-of-thousands-of-dollars-for-portraits-of-high-officials-should-it/.

[2] See Christian Science Monitor, *George W. Bush Presidential Portrait is Unveiled. Who Paid for it?* May 31, 2012 at http://www.csmonitor.com/USA/DC-Decoder/Decoder-Buzz/2012/0531/George-W.-Bush-presidential-portrait-is-unveiled.-Who-paid-for-it-video.

[3] See National Journal, *Why Doesn't Nancy Pelosi Have an Oil Painting? John Boehner Has One,* January 19, 2013 at http://www.nationaljournal.com/congress/why-doesn-t-nancy-pelosi-have-an-oil-painting-john-boehner-has-one-20130109.

[4] Pursuant to (3 U.S. Code § 19), the following individuals are in the line of succession for the presidency: the Speaker of the House, President pro tempore of the Senate, Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of Health and Human Services, Secretary of Housing and Urban Development, Secretary of Transportation, Secretary of Energy, Secretary of Education, Secretary of Veterans Affairs, Secretary of Homeland Security.

[5] Sec. 736. The provision states: "None of the funds made available in this or any other Act may be used to pay for the painting of a portrait of an officer or employee of the Federal government, including the President, the Vice President, a member of Congress (including a Delegate or a Resident Commissioner to Congress), the head of an executive branch agency (as defined in section 133 of title 41, United States Code), or the head of an office of the legislative branch."

III. LEGISLATIVE HISTORY

Senator Shaheen introduced S. 1820, the Responsible Use of Taxpayer Dollars for Official Portraits Act, on December 11, 2013. The bill was referred to the Committee on Homeland Security and Governmental Affairs. Senators Coburn, Fischer, Roberts and Ayotte cosponsored the bill. The Committee considered S. 1820 at a business meeting on May 21, 2014.

The committee ordered the bill reported favorably without amendment by a voice vote on May 21, 2014. Senators present for the vote were Senators Carper, Pryor, Landrieu, McCaskill, Tester, Begich, Coburn, Johnson, Portman, and Enzi. Senator Landrieu requested to be recorded as voting no on the bill.

IV. SECTION-BY-SECTION ANALYSIS

Section 1 provides that the short title of the bill is the "Responsible Use of Taxpayer Dollars for Portraits Act of 2013."

Section 2(a) defines the term "executive agency" as having the meaning given that term in section 133 of title 41, United States Code, which includes the major departments of the executive branch, the military departments, other government agencies (other than the United States Postal Service or the Postal Regulatory Commission) and wholly owned government corporations. The section defines the term "Members of Congress" as including a Delegate or Resident Commissioner to Congress, and the term "portrait" as a painting.

Section 2(b)(1) prohibits any federal funds from being used to pay for the production of a portrait of a Member of Congress, head of an executive agency, or head of an agency or office of the legislative branch, except as provided by section 2(b)(2).

Section 2(b)(2) allows not more than $20,000 in federal funds to be used to pay for the production of a portrait of an individual who is in the line of succession to the Presidency.

Section 2(c) provides a rule of construction to clarify that nothing in the Act shall be construed to prohibit (1) the use of federal funds to publicly display these portraits and (2) the use of funds other than federal funds to produce a portrait of individuals described in sections 2(b)(1) or 2(b)(2), including the use of other funds to pay the entire cost of a portrait.

V. ESTIMATED COST OF LEGISLATION

JUNE 11, 2014.

Hon. TOM CARPER,
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. 1820, the Responsible Use of Taxpayer Dollars for Portraits Act of 2013.

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

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

S. 1820—Responsible Use of Taxpayer Dollars for Portraits Act of 2013

CBO estimates that implementing S. 1820 would have no significant effect on the federal budget. The legislation would amend federal law to prohibit the use of federal funds to pay for official portraits for members of Congress, heads of executive agencies, and any leader of an agency or office of the legislative branch other than those in the line of succession to the presidency. The legislation would not apply to the judicial branch. It would limit spending on such portraits to a maximum of $20,000 per portrait.

Current appropriation law prohibits the use of federal funds for portraits in fiscal year 2014. CBO is unaware of any comprehensive information on past spending on official portraits, but we expect that most portraits painted of federal officials not in the line of succession to the presidency are probably in the legislative branch and the Department of Defense. The cost of such portraits appears to be in the neighborhood of $25,000, based on contract awards for a few federal portraits.

CBO estimates that any savings from S. 1820 would be less than $500,000 annually because we expect fewer than 20 portraits are purchased for federal officials not in the line of succession to the presidency in most years. Enacting S. 1820 could affect direct spending by agencies not funded through annual appropriations; therefore, pay-as-you-go procedures apply. CBO estimates, however, that any net changes in spending by those agencies would be negligible. Enacting the bill would not affect revenues.

S. 1820 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.

The CBO staff contact for this estimate is Matthew Pickford. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

VI. 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 that would be incurred in carrying out this legislation 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 constrains 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. The legislation contains no other regulatory impact.

VII. CHANGES IN EXISTING LAW

Because this legislation 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.

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