

118TH CONGRESS }
1st Session }

SENATE

{ REPORT
118-120

REUSE EXCESS PROPERTY ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2685

TO MAKE DATA AND INTERNAL GUIDANCE ON EXCESS
PERSONAL PROPERTY PUBLICLY AVAILABLE, AND FOR
OTHER PURPOSES



DECEMBER 5, 2023.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

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DECEMBER 5, 2023.—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. 2685]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 2685) to make data and internal guidance on excess personal property publicly available, 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.

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I. PURPOSE AND SUMMARY

S. 2685, the *Reuse Excess Property Act*, would amend existing statutory reporting requirements on excess personal property owned by federal agencies, in order to increase transparency and help reduce waste. Agencies currently report to the General Services Administration (GSA) on excess personal property, which refers to physical (non-real estate) items owned by an agency. This bill would require GSA and executive agencies to report to Congress and the public on its internal guidance and data regarding disposal and repurposing of excess personal property. It would also require agencies to designate an employee responsible for searching

through data on available excess personal property, in order to maximize agencies' reuse of items that meet their needs. To further increase transparency, the bill requires GSA's interagency working group on personal property to make its findings publicly available. This bill would also direct the Government Accountability Office (GAO) to submit a report to the congressional oversight committees on the acquisition of federal personal property from entities based in China.

II. BACKGROUND AND NEED FOR THE LEGISLATION

The federal government is the largest single purchaser of goods and services in the world.¹ As of 2022, the federal government managed and owned approximately \$2 trillion in personal property assets, such as office supplies, computers, furniture, heavy machinery, and government vehicles. At the same time, federal agencies annually identify billions of dollars of personal property that is excess, or no longer needed at the agency.² This property is then made available to other federal agencies at no cost, other than necessary transportation or shipping expenses. This provides a significant opportunity to reduce new expenditures.

In June 2022, GAO released a report finding that agencies have not used excess property as a significant source for obtaining the goods they need.³ Agencies are statutorily required to obtain excess property from other agencies, to the extent practical, to fill agency needs.⁴ Similarly, agencies are required to consider excess property before buying new products under guidelines in the Federal Management Regulation.⁵ However, GAO reported that from 2016 to 2020, agencies obtained just \$3.9 billion (based on original cost) in excess property from other agencies, while an additional \$28.9 billion worth of excess property remained unused. During the same period, agencies acquired \$206 billion in new property.⁶

GAO found that agencies lacked sufficient guidance governing the reuse of excess personal property. GAO concluded that without adequate guidance, agencies could be squandering opportunities to save money by obtaining excess personal property at reduced or no costs.⁷ While not all excess property will be suitable to meet agency needs, GAO found that existing policy is not sufficient. GAO concluded that additional guidance, transparency and accountability is needed to allow agencies to better leverage excess personal property and save taxpayer dollars.⁸

The *Reuse Excess Property Act* would make guidance and data on excess personal property publicly available, in order to hold agencies accountable for efficiently using and reusing personal property. Specifically, the bill would require GSA to share annual agency reports on excess personal property with Congress and the public.

¹U.S. Small Business Administration Contracting Guide (<https://www.sba.gov/federal-contracting/contracting-guide#:text=The%20U.S.%20government%20is%20the,consider%20buying%20from%20small%20businesses.>) (accessed October 26, 2023).

²Government Accountability Office, *Federal Personal Property: Better Internal Guidance and More Action from GSA Are Needed to Help Agencies Maximize Use of Excess* (GAO-22-104626) (June 2022).

³Government Accountability Office, *supra* note 2.

⁴40 U.S.C. § 524(b).

⁵41 CFR § 102-36.65.

⁶Government Accountability Office, *supra* note 2.

⁷Government Accountability Office, *supra* note 2.

⁸Government Accountability Office, *supra* note 2.

The bill also would require agencies to publish the internal guidance they use to consider obtaining excess personal property. At minimum, this guidance must include essential components from the Federal Management Regulation, including the requirement to consider other agencies' excess property before buying new personal property. Each agency must also designate an employee who will be responsible for searching through available sources on excess personal property for items that meet the agency's needs.

This legislation would ensure agencies have fundamental guidance in place to maximize the reuse of excess personal property. Additionally, this bill would provide the public with essential data, helping decision-makers and taxpayers better understand the extent to which agencies are working to cut wasteful spending through the use of excess property. Shining a light on agency practices would provide transparency and may incentivize a more efficient use of excess personal property, saving taxpayer dollars.

III. LEGISLATIVE HISTORY

Senator Gary Peters (D–MI) introduced S. 2685, the *Reuse Excess Property Act*, on July 27, 2023, with original cosponsor Senator James Lankford (R–OK). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 2685 at a business meeting on October 25, 2023. At the business meeting, Chairman Peters offered a substitute amendment to the bill, as well as a modification to that amendment. The Peters amendment, as modified, deleted a word for clarity and added Senate and House oversight committees to existing public reporting requirements. The modification directed GAO to submit a report to the Senate Committee on Homeland Security and Governmental Affairs and the House Committee on Oversight and Accountability on the acquisition of federal personal property from Chinese entities. The modification also added a 5-year sunset to the bill and required that no additional funds be used to carry out the bill. The Committee adopted the modification to the Peters substitute amendment and the Peters substitute amendment, as modified, by unanimous consent, with Senators Peters, Hassan, Sinema, Rosen, Ossoff, Blumenthal, Butler, Paul, Lankford, Romney, Scott, and Hawley present. The bill, as amended by the Peters substitute amendment as modified, was ordered favorably by roll call vote of 11 yeas to 0 nays, with Senators Peters, Hassan, Sinema, Rosen, Ossoff, Blumenthal, Butler, Paul, Lankford, Romney, and Scott voting in the affirmative. Senators Carper, Johnson, Hawley, and Marshall voted yea by proxy, for the record only.

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 “Reuse Excess Property Act.”

Section 2. Reporting on excess personal property

Subsection (a) amends existing reporting requirements on excess personal property (section 529 of title 40, United States Code), to require each executive agency to submit its annual report on excess

personal property to congressional oversight committees (the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Oversight and Accountability) in addition to GSA.

Subsection (a) adds a new subsection (c) to section 529 to require GSA to compile data from these annual reports and submit the data to the congressional committees. Within 180 days after the end of the each fiscal year, GSA must also publish a report on a centralized public website, which must include: (1) the complete data from each annual agency report, in a user-friendly format; (2) a summary of the findings of each report, including the aggregate dollar amount of personal property determined to be no longer required; and (3) any recommendations from GSA.

Subsection (a) also adds a new section 530 to title 40, United States Code, regarding internal agency guidance on excess personal property. The new section requires each executive agency to submit to GSA the agency's internal guidance on considering the use of excess personal property, and also make this guidance publicly available on the agency's website. The internal guidance must include: (1) a requirement to consider excess personal property before buying new; (2) when it is practicable to check for and obtain excess personal property; (3) how to evaluate the suitability of excess personal property for use; and (4) defined roles and responsibilities relevant to considering the use of excess personal property, including the designation of an employee as responsible for searching through available data on excess personal property for items that meet the needs of the executive agency.

Subsection (b) of the new section 530 requires each executive agency to submit updates to its internal guidance to GSA and update its agency website accordingly.

Subsection (b) requires GSA to publish a report on a centralized public website that includes a summary of findings from the inter-agency working group on personal property, which first convened in February 2023 to examine the acquisition of personal property and ways to improve the use of excess personal property.

Subsection (c) amends the table of sections for chapter 5 of title 40, United States Code, by inserting a reference to the new section 530.

Subsection (d) directs GAO to submit a report to the Senate Committee on Homeland Security and Governmental Affairs and the House Committee on Oversight and Accountability. This report should evaluate the frequency with which executive agencies acquire personal property that was made, produced, or manufactured by any entity, including any corporation, that is organized under the laws of, is headquartered in, or has its principal place of business in the People's Republic of China, including any Special Administrative Region.

Subsection (e) sunsets the authorities of this Act 5 years after its enactment.

Subsection (f) provides that no additional funds are authorized to be appropriated for the purpose of carrying out this Act or the amendments made by this Act.

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

S. 2685, Reuse Excess Property Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on October 25, 2023			
By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	*	*	*
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	*	*	*
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	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?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

S. 2685 would amend federal law regarding the use of excess personal property. Personal property refers to physical items (not real estate or land) ranging from common products—such as office equipment, motor vehicles, and animals—to specialized equipment—such as scientific devices and heavy machinery. Specifically, the legislation would:

- Require the Government Accountability Office (GAO) to report on the frequency of federal agencies buying personal property that is produced in China,
- Require the General Services Administration (GSA) to publicly report on excess personal property and on its inter-agency working group, and
- Require agencies to report on their guidance about the use of excess personal property.

The bill would sunset five years after enactment.

CBO is unaware of any comprehensive information about personal property purchased by the federal government that is produced in China. Based on the cost of similar reporting requirements and CBO's expectation that GSA and federal agencies will continue their efforts with respect to the use of excess personal property, CBO estimates that implementing the bill would cost less

than \$500,000. That spending would be subject to the availability of appropriated funds.

Enacting S. 2685 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.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

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 the bill, 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 40—PUBLIC BUILDINGS, PROPERTY, AND WORKS

* * * * *

Subtitle I—Federal Property and Administrative Services

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CHAPTER 5—PROPERTY MANAGEMENT

Table of sections

Sec.

501. Services for executive agencies.

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530. *Internal guidance on excess personal property.*

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SUBCHAPTER II—USE OF PROPERTY

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SEC. 529. ANNUAL EXECUTIVE AGENCY REPORTS ON EXCESS PERSONAL PROPERTY

(a) IN GENERAL.—During the calendar quarter following the close of each fiscal year, each executive agency shall submit to the Administrator of General Services *and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee*

on Oversight and Accountability of the House of Representatives a report on personal property—

(1) obtained as—

(A) excess property; or

(B) personal property determined to be no longer required for the purpose of the appropriation used to make the purchase; and

(2) furnished within the United States to a recipient other than a federal agency.

(b) * * *

(c) *COMPILATION OF DATA.*—Not later than 180 days following the close of a fiscal year, the Administrator shall compile the data in the reports submitted under subsection (a) and submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Accountability of the House of Representatives and publish on a centralized online website a publicly available report, which shall include—

(1) the complete data provided in each report in a user-friendly format;

(2) a summary of the findings of each report, including the aggregate dollar amount of personal property determined to be no longer required for the purpose of the appropriation used to make the purchase; and

(3) any other recommendations from the Administrator.

SEC. 530. INTERNAL GUIDANCE ON EXCESS PERSONAL PROPERTY

(a) *INITIAL REPORT.*—Not later than 180 days after the date of enactment of this section, each executive agency shall submit to the Administrator of General Services and make publicly available on the website of the executive agency the internal guidance of the executive agency on considering using excess personal property to meet the needs of the executive agency, which shall include—

(1) a requirement to consider excess personal property before buying new;

(2) when it is practicable to check for and obtain excess personal property;

(3) how to evaluate the suitability of excess personal property for use; and

(4) defined roles and responsibilities relevant to considering the use of excess personal property, including the designation of an employee as responsible for searching through available excess personal property for items that meet the needs of the executive agency.

(b) *UPDATES.*—Each executive agency shall submit to the Administrator of General Services and update on the website of the executive agency any changes to the internal guidance submitted and made available under subsection (a).

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