

108TH CONGRESS
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S. 1668

To establish a commission to conduct a comprehensive review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2003

Mr. BROWNBACK (for himself, Mr. MILLER, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BUNNING, Mr. BURNS, Mr. CHAMBLISS, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. ENSIGN, Mr. ENZI, Mr. FITZGERALD, Mr. GRAHAM of South Carolina, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. KYL, Mr. LOTT, Mr. MCCAIN, Ms. MURKOWSKI, Mr. NICKLES, Mr. SANTORUM, Mr. SESSIONS, Mr. SUNUNU, Mr. THOMAS, and Mr. VOINOVICH) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To establish a commission to conduct a comprehensive review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Commission on the
5 Accountability and Review of Federal Agencies Act”.

1 **SEC. 2. ESTABLISHMENT OF COMMISSION.**

2 (a) ESTABLISHMENT.—There is established the Com-
3 mission on the Accountability and Review of Federal
4 Agencies (hereafter in this Act referred to as the “Com-
5 mission”).

6 (b) MEMBERSHIP.—

7 (1) IN GENERAL.—The Commission shall con-
8 sist of 12 members, all of whom shall be appointed
9 by the President not later than 90 days after the
10 date of enactment of this Act.

11 (2) CHAIRPERSON AND VICE CHAIRPERSON.—

12 The President shall designate a chairperson and vice
13 chairperson from among the members of the Com-
14 mission.

15 (c) PERIOD OF APPOINTMENT; VACANCIES.—Mem-
16 bers shall be appointed for the life of the Commission. Any
17 vacancy in the Commission shall not affect its powers, but
18 shall be filled in the same manner as the original appoint-
19 ment.

20 (d) MEETINGS.—

21 (1) INITIAL MEETING.—Not later than 30 days
22 after the date on which all members of the Commis-
23 sion have been appointed, the Commission shall hold
24 its first meeting.

25 (2) SUBSEQUENT MEETINGS.—The Commission
26 shall meet at the call of the chairperson.

1 (e) QUORUM.—A majority of the members of the
2 Commission shall constitute a quorum, but a lesser num-
3 ber of members may hold hearings.

4 **SEC. 3. DUTIES OF THE COMMISSION.**

5 (a) DEFINITIONS.—In this section, the following defi-
6 nitions shall apply:

7 (1) AGENCY.—

8 (A) IN GENERAL.—Except as provided in
9 subparagraph (B), the term “agency” has the
10 meaning given the term “Executive agency”
11 under section 105 of title 5, United States
12 Code.

13 (B) EXCEPTIONS.—The term “agency”
14 does not include—

15 (i) the Department of Defense or its
16 subdivisions; or

17 (ii) any agency that solely administers
18 entitlement programs.

19 (2) ENTITLEMENT PROGRAM.—The term “enti-
20 tlement program” means any program that makes
21 payments (including loans and grants), the budget
22 authority for which is not provided for in advance by
23 appropriation Acts, to any person or government if,
24 under the provisions of the law containing such au-
25 thority, the United States is obligated to make such

1 payments to persons or governments who meet the
2 requirements established by such law.

3 (3) PROGRAM.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (B), the term “program” means
6 any activity or function of an agency.

7 (B) EXCEPTION.—The term “program”
8 does not include entitlement programs.

9 (b) IN GENERAL.—The Commission shall—

10 (1) evaluate all agencies and programs within
11 those agencies, using the criteria under subsection
12 (c); and

13 (2) submit to Congress—

14 (A) a plan with recommendations of the
15 agencies and programs that should be realigned
16 or eliminated; and

17 (B) proposed legislation to implement the
18 plan described under subparagraph (A).

19 (c) CRITERIA.—

20 (1) DUPLICATIVE.—If 2 or more agencies or
21 programs are performing the same essential function
22 and the function can be consolidated or streamlined
23 into a single agency or program, the Commission
24 shall recommend that the agency or program be re-
25 aligned.

1 (2) WASTEFUL OR INEFFICIENT.—The Com-
2 mission shall recommend the realignment or elimi-
3 nation of any agency or program that has wasted
4 Federal funds by—

5 (A) egregious spending;

6 (B) mismanagement of resources and per-
7 sonnel; or

8 (C) use of such funds for personal benefit
9 or the benefit of a special interest group.

10 (3) OUTDATED, IRRELEVANT, OR FAILED.—The
11 Commission shall recommend the elimination of any
12 agency or program that—

13 (A) has completed its intended purpose;

14 (B) has become irrelevant; or

15 (C) has failed to meet its objectives.

16 (d) SYSTEMATIC ASSESSMENT OF PROGRAMS.—

17 (1) IN GENERAL.—Not later than 1 year after
18 the date of enactment of this Act, the President
19 shall—

20 (A) establish a systematic method for as-
21 sessing the effectiveness and accountability of
22 agency programs; and

23 (B) submit, to the Commission, assess-
24 ments of not less than ½ of all programs cov-

1 ered under subsection (b)(1) that use the meth-
2 od established under subparagraph (A).

3 (2) METHOD OBJECTIVES.—The method estab-
4 lished under paragraph (1) shall—

5 (A) recognize different types of federal
6 programs;

7 (B) assess programs based primarily on
8 the achievement of performance goals (as de-
9 fined under section 1115(f)(4) of title 31,
10 United States Code); and

11 (C) assess programs based in part on the
12 adequacy of the program’s performance meas-
13 ures, financial management, and other factors
14 determined by the President.

15 (3) DEVELOPMENT.—The method established
16 under paragraph (1) shall not be implemented until
17 it has been reviewed and accepted by the Commis-
18 sion.

19 (4) CONSIDERATION OF ASSESSMENTS.—The
20 Commission shall consider assessments submitted
21 under this subsection when evaluating programs
22 under subsection (b)(1).

23 (e) COMMON PERFORMANCE MEASURES.—Not later
24 than 1 year after the date of enactment of this Act, the
25 President shall identify common performance measures

1 for programs covered in subsection (b)(1) that have simi-
2 lar functions and, to the extent feasible, provide the Com-
3 mission with data on such performance measures.

4 (f) REPORT.—

5 (1) IN GENERAL.—Not later than 2 years after
6 the date of enactment of this Act, the Commission
7 shall submit to the President and Congress a report
8 that includes—

9 (A) the plan described under subsection
10 (b)(2)(A), with supporting documentation for
11 all recommendations; and

12 (B) the proposed legislation described
13 under subsection (b)(2)(B).

14 (2) USE OF SAVINGS.—The proposed legislation
15 described under subsection (b)(2)(B) shall provide
16 that all funds saved by the implementation of the
17 plan described under subsection (b)(2)(A) shall be
18 used to—

19 (A) support other domestic programs; or

20 (B) pay down the national debt.

21 (3) RELOCATION OF FEDERAL EMPLOYEES.—

22 The proposed legislation under paragraph (1)(B)
23 shall provide that if the position of an employee of
24 an agency is eliminated as a result of the implemen-
25 tation of the plan under paragraph (1)(A), the af-

1 fected agency shall make reasonable efforts to relo-
2 cate such employee to another position within the
3 agency or within another Federal agency.

4 **SEC. 4. POWERS OF THE COMMISSION.**

5 (a) HEARINGS.—The Commission or, at its direction,
6 any subcommittee or member of the Commission, may, for
7 the purpose of carrying out this Act—

8 (1) hold such hearings, sit and act at such
9 times and places, take such testimony, receive such
10 evidence, and administer such oaths as any member
11 of the Commission considers advisable;

12 (2) require, by subpoena or otherwise, the at-
13 tendance and testimony of such witnesses as any
14 member of the Commission considers advisable; and

15 (3) require, by subpoena or otherwise, the pro-
16 duction of such books, records, correspondence,
17 memoranda, papers, documents, tapes, and other
18 evidentiary materials relating to any matter under
19 investigation by the Commission.

20 (b) SUBPOENAS.—

21 (1) ISSUANCE.—Subpoenas issued under sub-
22 section (a) shall bear the signature of the chair-
23 person of the Commission and shall be served by any
24 person or class of persons designated by the chair-
25 person for that purpose.

1 (2) ENFORCEMENT.—In the case of contumacy
2 or failure to obey a subpoena issued under sub-
3 section (a), the United States district court for the
4 judicial district in which the subpoenaed person re-
5 sides, is served, or may be found, may issue an order
6 requiring such person to appear at any designated
7 place to testify or to produce documentary or other
8 evidence. Any failure to obey the order of the court
9 may be punished by the court as a contempt of that
10 court.

11 (c) INFORMATION FROM FEDERAL AGENCIES.—The
12 Commission may secure directly from any Federal depart-
13 ment or agency such information as the Commission con-
14 siders necessary to carry out this Act. Upon request of
15 the chairperson of the Commission, the head of such de-
16 partment or agency shall furnish such information to the
17 Commission.

18 (d) POSTAL SERVICES.—The Commission may use
19 the United States mails in the same manner and under
20 the same conditions as other departments and agencies of
21 the Federal Government.

22 (e) GIFTS.—The Commission may accept, use, and
23 dispose of gifts or donations of services or property.

24 **SEC. 5. COMMISSION PERSONNEL MATTERS.**

25 (a) COMPENSATION OF MEMBERS.—

1 (1) NON-FEDERAL MEMBERS.—Except as pro-
2 vided under subsection (b), each member of the
3 Commission who is not an officer or employee of the
4 Federal Government shall not be compensated.

5 (2) FEDERAL OFFICERS OR EMPLOYEES.—All
6 members of the Commission who are officers or em-
7 ployees of the United States shall serve without com-
8 pensation in addition to that received for their serv-
9 ices as officers or employees of the United States.

10 (b) TRAVEL EXPENSES.—The members of the Com-
11 mission shall be allowed travel expenses, including per
12 diem in lieu of subsistence, at rates authorized for employ-
13 ees of agencies under subchapter I of chapter 57 of title
14 5, United States Code, while away from their homes or
15 regular places of business in the performance of services
16 for the Commission.

17 (c) STAFF.—

18 (1) IN GENERAL.—The chairperson of the Com-
19 mission may, without regard to the civil service laws
20 and regulations, appoint and terminate an executive
21 director and such other additional personnel as may
22 be necessary to enable the Commission to perform
23 its duties. The employment of an executive director
24 shall be subject to confirmation by the Commission.

1 (2) COMPENSATION.—Upon the approval of the
2 chairperson, the executive director may fix the com-
3 pensation of the executive director and other per-
4 sonnel without regard to chapter 51 and subchapter
5 III of chapter 53 of title 5, United States Code, re-
6 lating to classification of positions and General
7 Schedule pay rates, except that the rate of pay for
8 the executive director and other personnel may not
9 exceed the maximum rate payable for a position at
10 GS-15 of the General Schedule under section 5332
11 of such title.

12 (3) PERSONNEL AS FEDERAL EMPLOYEES.—

13 (A) IN GENERAL.—The executive director
14 and any personnel of the Commission who are
15 employees shall be employees under section
16 2105 of title 5, United States Code, for pur-
17 poses of chapters 63, 81, 83, 84, 85, 87, 89,
18 and 90 of that title.

19 (B) MEMBERS OF COMMISSION.—Subpara-
20 graph (A) shall not be construed to apply to
21 members of the Commission.

22 (d) DETAIL OF GOVERNMENT EMPLOYEES.—Any
23 Federal Government employee may be detailed to the
24 Commission without reimbursement, and such detail shall

1 be without interruption or loss of civil service status or
2 privilege.

3 (e) **PROCUREMENT OF TEMPORARY AND INTERMIT-**
4 **TENT SERVICES.**—The chairperson of the Commission
5 may procure temporary and intermittent services under
6 section 3109(b) of title 5, United States Code, at rates
7 for individuals which do not exceed the daily equivalent
8 of the annual rate of basic pay prescribed for level V of
9 the Executive Schedule under section 5316 of such title.

10 **SEC. 6. TERMINATION OF THE COMMISSION.**

11 The Commission shall terminate 90 days after the
12 date on which the Commission submits the report under
13 section 3(f).

14 **SEC. 7. CONGRESSIONAL CONSIDERATION OF REFORM**
15 **PROPOSALS.**

16 (a) **DEFINITIONS.**—In this section:

17 (1) **IMPLEMENTATION BILL.**—The term “imple-
18 mentation bill” means only a bill which is introduced
19 as provided under subsection (b), and contains the
20 proposed legislation included in the report submitted
21 to Congress under section 3, without modification.

22 (2) **CALENDAR DAY.**—The term “calendar day”
23 means a calendar day other than 1 on which either
24 House is not in session because of an adjournment
25 of more than 3 days to a date certain.

1 (b) INTRODUCTION; REFERRAL; AND REPORT OR
2 DISCHARGE.—

3 (1) INTRODUCTION.—On the first calendar day
4 on which both Houses are in session, on or imme-
5 diately following the date on which the report is sub-
6 mitted to Congress under section 3, a single imple-
7 mentation bill shall be introduced (by request)—

8 (A) in the Senate by the Majority Leader
9 of the Senate, for himself and the Minority
10 Leader of the Senate, or by Members of the
11 Senate designated by the Majority Leader and
12 Minority Leader of the Senate; and

13 (B) in the House of Representatives by the
14 Speaker of the House of Representatives, for
15 himself and the Minority Leader of the House
16 of Representatives, or by Members of the House
17 of Representatives designated by the Speaker
18 and Minority Leader of the House of Rep-
19 resentatives.

20 (2) REFERRAL.—The implementation bills in-
21 troduced under paragraph (1) shall be referred to
22 any appropriate committee of jurisdiction in the
23 Senate and any appropriate committee of jurisdic-
24 tion in the House of Representatives. A committee
25 to which an implementation bill is referred under

1 this paragraph may report such bill to the respective
2 House without amendment.

3 (3) REPORT OR DISCHARGE.—If a committee to
4 which an implementation bill is referred has not re-
5 ported such bill by the end of the 15th calendar day
6 after the date of the introduction of such bill, such
7 committee shall be immediately discharged from fur-
8 ther consideration of such bill, and upon being re-
9 ported or discharged from the committee, such bill
10 shall be placed on the appropriate calendar.

11 (c) FLOOR CONSIDERATION.—

12 (1) IN GENERAL.—When the committee to
13 which an implementation bill is referred has re-
14 ported, or has been discharged under subsection
15 (b)(3), it is at any time thereafter in order (even
16 though a previous motion to the same effect has
17 been disagreed to) for any Member of the respective
18 House to move to proceed to the consideration of the
19 implementation bill, and all points of order against
20 the implementation bill (and against consideration of
21 the implementation bill) are waived. The motion is
22 highly privileged in the House of Representatives
23 and is privileged in the Senate and is not debatable.
24 The motion is not subject to amendment, or to a
25 motion to postpone, or to a motion to proceed to the

1 consideration of other business. A motion to recon-
2 sider the vote by which the motion is agreed to or
3 disagreed to shall not be in order. If a motion to
4 proceed to the consideration of the implementation
5 bill is agreed to, the implementation bill shall remain
6 the unfinished business of the respective House until
7 disposed of.

8 (2) AMENDMENTS.—An implementation bill
9 may not be amended in the Senate or the House of
10 Representatives.

11 (3) DEBATE.—Debate on the implementation
12 bill, and on all debatable motions and appeals in
13 connection therewith, shall be limited to not more
14 than 10 hours, which shall be divided equally be-
15 tween those favoring and those opposing the resolu-
16 tion. A motion further to limit debate is in order and
17 not debatable. An amendment to, or a motion to
18 postpone, or a motion to proceed to the consider-
19 ation of other business, or a motion to recommit the
20 implementation bill is not in order. A motion to re-
21 consider the vote by which the implementation bill is
22 agreed to or disagreed to is not in order.

23 (4) VOTE ON FINAL PASSAGE.—Immediately
24 following the conclusion of the debate on an imple-
25 mentation bill, and a single quorum call at the con-

1 clusion of the debate if requested in accordance with
2 the rules of the appropriate House, the vote on final
3 passage of the implementation bill shall occur.

4 (5) RULINGS OF THE CHAIR ON PROCEDURE.—
5 Appeals from the decisions of the Chair relating to
6 the application of the rules of the Senate or the
7 House of Representatives, as the case may be, to the
8 procedure relating to an implementation bill shall be
9 decided without debate.

10 (d) COORDINATION WITH ACTION BY OTHER
11 HOUSE.—If, before the passage by 1 House of an imple-
12 mentation bill of that House, that House receives from
13 the other House an implementation bill, then the following
14 procedures shall apply:

15 (1) NONREFERRAL.—The implementation bill
16 of the other House shall not be referred to a com-
17 mittee.

18 (2) VOTE ON BILL OF OTHER HOUSE.—With
19 respect to an implementation bill of the House re-
20 ceiving the implementation bill—

21 (A) the procedure in that House shall be
22 the same as if no implementation bill had been
23 received from the other House; but

24 (B) the vote on final passage shall be on
25 the implementation bill of the other House.

1 (e) RULES OF SENATE AND HOUSE OF REPRESENTA-
2 TIVES.—This section is enacted by Congress—

3 (1) as an exercise of the rulemaking power of
4 the Senate and House of Representatives, respec-
5 tively, and as such it is deemed a part of the rules
6 of each House, respectively, but applicable only with
7 respect to the procedure to be followed in that
8 House in the case of an implementation bill de-
9 scribed in subsection (a), and it supersedes other
10 rules only to the extent that it is inconsistent with
11 such rules; and

12 (2) with full recognition of the constitutional
13 right of either House to change the rules (so far as
14 relating to the procedure of that House) at any time,
15 in the same manner, and to the same extent as in
16 the case of any other rule of that House.

17 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated such sums
19 as may be necessary for carrying out this Act for each
20 of the fiscal years 2004 through 2006.

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