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S. 837

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review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes.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

APRIL 9, 2003

Mr. BROWNBACK (for himself, Mr. MILLER, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. CORNYN, Mr. ENSIGN, Mr. ENZI, Mr. FITZGERALD, Mr. GRAHAM of South Carolina, Mr. INHOFE, Mr. SANTORUM, Mr. THOMAS, and Mr. BUNNING) 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review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes.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) DEFINITION.—In this section:

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), the term “agency” has the meaning given
8 the term “executive agency” under section 105 of
9 title 5, United States Code.

10 (2) EXCEPTION.—The term “agency” does not
11 include the Department of Defense or its subdivi-
12 sions.

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

14 (1) evaluate all agencies and programs within
15 those agencies, using the criteria under subsection
16 (c); and

17 (2) submit to Congress—

18 (A) a plan with recommendations of the
19 agencies and programs that should be realigned
20 or eliminated; and

21 (B) proposed legislation to implement the
22 plan described under subparagraph (A).

23 (c) CRITERIA.—

24 (1) DUPLICATIVE.—If 2 or more agencies or
25 programs are performing the same essential function

1 and the function can be consolidated or streamlined
2 into a single agency or program, the Commission
3 shall recommend that the agency or program be re-
4 aligned.

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

9 (A) egregious spending;

10 (B) mismanagement of resources and per-
11 sonnel; or

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

14 (3) OUTDATED, IRRELEVANT, OR FAILED.—The
15 Commission shall recommend the elimination of any
16 agency or program that—

17 (A) has completed its intended purpose;

18 (B) has become irrelevant; or

19 (C) has failed to meet its objectives.

20 (d) SYSTEMATIC ASSESSMENT OF PROGRAMS.—

21 (1) IN GENERAL.—Not later than 1 year after
22 the date of enactment of this Act, the President
23 shall—

1 (A) establish a systematic method for as-
2 sessing the effectiveness and accountability of
3 agency programs; and

4 (B) submit, to the Commission, assess-
5 ments of not less than $\frac{1}{2}$ of all programs cov-
6 ered under subsection (b)(1) that use the meth-
7 od established under subparagraph (A).

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

10 (A) recognize different types of federal
11 programs;

12 (B) assess programs based primarily on
13 the achievement of performance goals (as de-
14 fined under section 1115(f)(4) of title 31,
15 United States Code); and

16 (C) assess programs based in part on the
17 adequacy of the program's performance meas-
18 ures, financial management, and other factors
19 determined by the President.

20 (3) DEVELOPMENT.—The method established
21 under paragraph (1) shall not be implemented until
22 it has been reviewed and accepted by the Commis-
23 sion.

24 (4) CONSIDERATION OF ASSESSMENTS.—The
25 Commission shall consider assessments submitted

1 under this subsection when evaluating programs
2 under subsection (b)(1).

3 (e) COMMON PERFORMANCE MEASURES.—Not later
4 than 1 year after the date of enactment of this Act, the
5 President shall identify common performance measures
6 for programs covered in subsection (b)(1) that have simi-
7 lar functions and, to the extent feasible, provide the Com-
8 mission with data on such performance measures.

9 (f) REPORT.—

10 (1) IN GENERAL.—Not later than 2 years after
11 the date of enactment of this Act, the Commission
12 shall submit to the President and Congress a report
13 that includes—

14 (A) the plan described under subsection
15 (b)(2)(A), with supporting documentation for
16 all recommendations; and

17 (B) the proposed legislation described
18 under subsection (b)(2)(B).

19 (2) USE OF SAVINGS.—The proposed legislation
20 described under subsection (b)(2)(B) shall provide
21 that all funds saved by the implementation of the
22 plan described under subsection (b)(2)(A) shall be
23 used to—

24 (A) support other domestic programs; or

25 (B) pay down the national debt.

1 (3) RELOCATION OF FEDERAL EMPLOYEES.—

2 The proposed legislation under paragraph (1)(B)
3 shall provide that if the position of an employee of
4 an agency is eliminated as a result of the implemen-
5 tation of the plan under paragraph (1)(A), the af-
6 fected agency shall make reasonable efforts to relo-
7 cate such employee to another position within the
8 agency or within another Federal agency.

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

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

13 (1) hold such hearings, sit and act at such
14 times and places, take such testimony, receive such
15 evidence, and administer such oaths as any member
16 of the Commission considers advisable;

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

20 (3) require, by subpoena or otherwise, the pro-
21 duction of such books, records, correspondence,
22 memoranda, papers, documents, tapes, and other
23 evidentiary materials relating to any matter under
24 investigation by the Commission.

25 (b) SUBPOENAS.—

1 (1) ISSUANCE.—Subpoenas issued under sub-
2 section (a) shall bear the signature of the chair-
3 person of the Commission and shall be served by any
4 person or class of persons designated by the chair-
5 person for that purpose.

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

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

23 (d) POSTAL SERVICES.—The Commission may use
24 the United States mails in the same manner and under

1 the same conditions as other departments and agencies of
2 the Federal Government.

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

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

6 (a) COMPENSATION OF MEMBERS.—

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

11 (2) FEDERAL OFFICERS OR EMPLOYEES.—All
12 members of the Commission who are officers or em-
13 ployees of the United States shall serve without com-
14 pensation in addition to that received for their serv-
15 ices as officers or employees of the United States.

16 (b) TRAVEL EXPENSES.—The members of the Com-
17 mission shall be allowed travel expenses, including per
18 diem in lieu of subsistence, at rates authorized for employ-
19 ees of agencies under subchapter I of chapter 57 of title
20 5, United States Code, while away from their homes or
21 regular places of business in the performance of services
22 for the Commission.

23 (c) STAFF.—

24 (1) IN GENERAL.—The chairperson of the Com-
25 mission may, without regard to the civil service laws

1 and regulations, appoint and terminate an executive
2 director and such other additional personnel as may
3 be necessary to enable the Commission to perform
4 its duties. The employment of an executive director
5 shall be subject to confirmation by the Commission.

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

17 (3) PERSONNEL AS FEDERAL EMPLOYEES.—

18 (A) IN GENERAL.—The executive director
19 and any personnel of the Commission who are
20 employees shall be employees under section
21 2105 of title 5, United States Code, for pur-
22 poses of chapters 63, 81, 83, 84, 85, 87, 89,
23 and 90 of that title.

1 (B) MEMBERS OF COMMISSION.—Subpara-
2 graph (A) shall not be construed to apply to
3 members of the Commission.

4 (d) DETAIL OF GOVERNMENT EMPLOYEES.—Any
5 Federal Government employee may be detailed to the
6 Commission without reimbursement, and such detail shall
7 be without interruption or loss of civil service status or
8 privilege.

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

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

17 The Commission shall terminate 90 days after the
18 date on which the Commission submits the report under
19 section 3(f).

20 **SEC. 7. CONGRESSIONAL CONSIDERATION OF REFORM**
21 **PROPOSALS.**

22 (a) DEFINITIONS.—In this section:

23 (1) IMPLEMENTATION BILL.—The term “imple-
24 mentation bill” means only a bill which is introduced
25 as provided under subsection (b), and contains the

1 proposed legislation included in the report submitted
2 to Congress under section 3, without modification.

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

7 (b) INTRODUCTION; REFERRAL; AND REPORT OR
8 DISCHARGE.—

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

14 (A) in the Senate by the Majority Leader
15 of the Senate, for himself and the Minority
16 Leader of the Senate, or by Members of the
17 Senate designated by the Majority Leader and
18 Minority Leader of the Senate; and

19 (B) in the House of Representatives by the
20 Speaker of the House of Representatives, for
21 himself and the Minority Leader of the House
22 of Representatives, or by Members of the House
23 of Representatives designated by the Speaker
24 and Minority Leader of the House of Rep-
25 resentatives.

1 (2) REFERRAL.—The implementation bills in-
2 troduced under paragraph (1) shall be referred to
3 any appropriate committee of jurisdiction in the
4 Senate and any appropriate committee of jurisdic-
5 tion in the House of Representatives. A committee
6 to which an implementation bill is referred under
7 this paragraph may report such bill to the respective
8 House without amendment.

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

17 (c) FLOOR CONSIDERATION.—

18 (1) IN GENERAL.—When the committee to
19 which an implementation bill is referred has re-
20 ported, or has been discharged under subsection
21 (b)(3), it is at any time thereafter in order (even
22 though a previous motion to the same effect has
23 been disagreed to) for any Member of the respective
24 House to move to proceed to the consideration of the
25 implementation bill, and all points of order against

1 the implementation bill (and against consideration of
2 the implementation bill) are waived. The motion is
3 highly privileged in the House of Representatives
4 and is privileged in the Senate and is not debatable.
5 The motion is not subject to amendment, or to a
6 motion to postpone, or to a motion to proceed to the
7 consideration of other business. A motion to recon-
8 sider the vote by which the motion is agreed to or
9 disagreed to shall not be in order. If a motion to
10 proceed to the consideration of the implementation
11 bill is agreed to, the implementation bill shall remain
12 the unfinished business of the respective House until
13 disposed of.

14 (2) AMENDMENTS.—An implementation bill
15 may not be amended in the Senate or the House of
16 Representatives.

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

1 implementation bill is not in order. A motion to re-
2 consider the vote by which the implementation bill is
3 agreed to or disagreed to is not in order.

4 (4) VOTE ON FINAL PASSAGE.—Immediately
5 following the conclusion of the debate on an imple-
6 mentation bill, and a single quorum call at the con-
7 clusion of the debate if requested in accordance with
8 the rules of the appropriate House, the vote on final
9 passage of the implementation bill shall occur.

10 (5) RULINGS OF THE CHAIR ON PROCEDURE.—
11 Appeals from the decisions of the Chair relating to
12 the application of the rules of the Senate or the
13 House of Representatives, as the case may be, to the
14 procedure relating to an implementation bill shall be
15 decided without debate.

16 (d) COORDINATION WITH ACTION BY OTHER
17 HOUSE.—If, before the passage by 1 House of an imple-
18 mentation bill of that House, that House receives from
19 the other House an implementation bill, then the following
20 procedures shall apply:

21 (1) NONREFERRAL.—The implementation bill
22 of the other House shall not be referred to a com-
23 mittee.

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

4 (A) the procedure in that House shall be
5 the same as if no implementation bill had been
6 received from the other House; but

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

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

11 (1) as an exercise of the rulemaking power of
12 the Senate and House of Representatives, respec-
13 tively, and as such it is deemed a part of the rules
14 of each House, respectively, but applicable only with
15 respect to the procedure to be followed in that
16 House in the case of an implementation bill de-
17 scribed in subsection (a), and it supersedes other
18 rules only to the extent that it is inconsistent with
19 such rules; and

20 (2) with full recognition of the constitutional
21 right of either House to change the rules (so far as
22 relating to the procedure of that House) at any time,
23 in the same manner, and to the same extent as in
24 the case of any other rule of that House.

1 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

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

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