

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1155

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review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 26, 2005

Mr. BROWNBACK (for himself, Mr. ALEXANDER, Mr. ALLARD, Mr. BUNNING, Mr. CHAMBLISS, Mr. COBURN, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. DEMINT, Mr. ENSIGN, Mr. ENZI, Mr. GRAHAM, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. MCCAIN, Mr. SANTORUM, Mr. SESSIONS, Mr. SUNUNU, Mr. TALENT, and Mr. THUNE) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## 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review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes.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, of which, not later than 90 days  
9 after the date of enactment of this Act—

10 (A) 4 shall be appointed by the President;

11 (B) 2 shall be appointed by the Majority  
12 Leader of the Senate;

13 (C) 2 shall be appointed by the Minority  
14 Leader of the Senate;

15 (D) 2 shall be appointed by the Speaker of  
16 the House of Representatives; and

17 (E) 2 shall be appointed by the Minority  
18 Leader of the House of Representatives.

19 (2) CHAIRPERSON AND VICE CHAIRPERSON.—

20 The President shall designate a chairperson and vice  
21 chairperson from among the members of the Com-  
22 mission.

23 (c) PERIOD OF APPOINTMENT; VACANCIES.—Mem-  
24 bers shall be appointed for the life of the Commission. Any  
25 vacancy in the Commission shall not affect its powers, but

1 shall be filled in the same manner as the original appoint-  
2 ment.

3 (d) MEETINGS.—

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

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

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

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

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

16 (1) AGENCY.—The term “agency” means—

17 (A) an Executive agency, as defined under  
18 section 105 of title 5, United States Code; and

19 (B) the Executive Office of the President.

20 (2) PROGRAM.—The term “program” means  
21 any activity or function of an agency.

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

23 (1) evaluate all agencies and programs within  
24 those agencies, using the criteria under subsection

25 (c); and

1 (2) submit to Congress—

2 (A) a plan with recommendations of the  
3 agencies and programs that should be realigned  
4 or eliminated; and

5 (B) proposed legislation to implement the  
6 plan described under subparagraph (A).

7 (c) CRITERIA.—

8 (1) DUPLICATIVE.—If 2 or more agencies or  
9 programs are performing the same essential function  
10 and the function can be consolidated or streamlined  
11 into a single agency or program, the Commission  
12 shall recommend that the agencies or programs be  
13 realigned.

14 (2) WASTEFUL OR INEFFICIENT.—The Com-  
15 mission may recommend the realignment or elimi-  
16 nation of any agency or program that has wasted  
17 Federal funds by—

18 (A) egregious spending;

19 (B) mismanagement of resources and per-  
20 sonnel; or

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

23 (3) OUTDATED, IRRELEVANT, OR FAILED.—The  
24 Commission shall recommend the elimination of any  
25 agency or program that—

1 (A) has completed its intended purpose;

2 (B) has become irrelevant; or

3 (C) has failed to meet its objectives.

4 (d) SYSTEMATIC ASSESSMENT OF PROGRAMS.—

5 (1) IN GENERAL.—Not later than 1 year after  
6 the date of enactment of this Act, the President  
7 shall—

8 (A) establish a systematic method for as-  
9 sassing the effectiveness and accountability of  
10 agency programs; and

11 (B) submit, to the Commission, assess-  
12 ments of not less than 50 percent of all pro-  
13 grams covered under subsection (b)(1) that use  
14 the method established under subparagraph  
15 (A).

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

18 (A) recognize different types of Federal  
19 programs;

20 (B) assess programs based primarily on  
21 the achievement of performance goals (as de-  
22 fined under section 1115(f)(4) of title 31,  
23 United States Code); and

24 (C) assess programs based in part on the  
25 adequacy of the program's performance meas-

1           ures, financial management, and other factors  
2           determined by the President.

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

7           (4) CONSIDERATION OF ASSESSMENTS.—The  
8           Commission shall consider assessments submitted  
9           under this subsection when evaluating programs  
10          under subsection (b)(1).

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

17          (f) REPORT.—

18                  (1) IN GENERAL.—Not later than 2 years after  
19                  the date of enactment of this Act, the Commission  
20                  shall submit to the President and Congress a report  
21                  that includes—

22                          (A) the plan described under subsection  
23                          (b)(2)(A), with supporting documentation for  
24                          all recommendations; and

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

3 (2) RELOCATION OF FEDERAL EMPLOYEES.—

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

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

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

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

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

22 (3) require, by subpoena or otherwise, the pro-  
23 duction of such books, records, correspondence,  
24 memoranda, papers, documents, tapes, and other

1       evidentiary materials relating to any matter under  
2       investigation by the Commission.

3       (b) SUBPOENAS.—

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

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

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



1 (d) **POSTAL SERVICES.**—The Commission may use  
2 the United States mails in the same manner and under  
3 the same conditions as other departments and agencies of  
4 the Federal Government.

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

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

8 (a) **COMPENSATION OF MEMBERS.**—

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

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

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

25 (c) **STAFF.**—

1           (1) IN GENERAL.—The chairperson of the Com-  
2 mission may, without regard to the civil service laws  
3 and regulations, appoint and terminate an executive  
4 director and such other additional personnel as may  
5 be necessary to enable the Commission to perform  
6 its duties. The employment of an executive director  
7 shall be subject to confirmation by the Commission.

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

19           (3) PERSONNEL AS FEDERAL EMPLOYEES.—

20           (A) IN GENERAL.—The executive director  
21 and any personnel of the Commission who are  
22 employees shall be employees under section  
23 2105 of title 5, United States Code, for pur-  
24 poses of chapters 63, 81, 83, 84, 85, 87, 89,  
25 89A, 89B, 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 review and comment on such  
8           bill, may report such bill to the respective House,  
9           and may not amend such bill.

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

18          (c) FLOOR CONSIDERATION.—

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

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

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

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

1       ation of other business, or a motion to recommit the  
2       implementation bill is not in order. A motion to re-  
3       consider the vote by which the implementation bill is  
4       agreed to or disagreed to is not in order.

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

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

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

22           (1) NONREFERRAL.—The implementation bill  
23      of the other House shall not be referred to a com-  
24      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 for each of  
3 the fiscal years 2006 through 2008, such sums as may  
4 be necessary for carrying out this Act.

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