H. R. 5755

To establish the Bipartisan Earmark Reform Commission.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2008

Mr. Kind (for himself, Mr. Ramstad, Mr. Cooper, Mr. Gilchrest, Ms. Bean, Mr. Udall of Colorado, and Mr. Walz of Minnesota) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish the Bipartisan Earmark Reform Commission.

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 “Bipartisan Earmark
5 Reform Commission Act of 2008”.

6 SEC. 2. ESTABLISHMENT.

7 There is established a commission to be known as the
8 “Bipartisan Earmark Reform Commission” (hereinafter
9 in this Act referred to as the “Commission”).
SEC. 3. DUTIES OF COMMISSION.

The duties of the Commission shall be to—

(1) develop a clear definition of what constitutes an earmark;

(2) consider all policy implications of earmarks, including—

(A) the general history and trends in legislative earmarks, including changes in the numbers and sizes of earmarks;

(B) the policy effects of these earmark trends;

(C) the extent to which for-profit companies receive legislative earmarks;

(D) whether there are disparities between the Members, districts, States, or regions receiving legislative earmarks;

(E) the impacts of legislative earmarks on the overall budget and whether there are any effects on specific departments, agencies, initiatives, or issue areas;

(F) whether a merit-based or competitive application process similar to what is used in grant funding could be adapted for use in legislative earmarks;
whether the current system of disclosure for legislative earmarks is sufficient for purposes of public transparency;

(H) the extent to which the executive branch engages in earmarking, analyzed by number and size of earmarks;

(I) whether there are any disparities between the Members, districts, States, or regions receiving executive earmarks; and

(J) the extent to which earmarked projects are named after current or retired members of Congress (or family members thereof) or executive branch officials (or family members thereof).

SEC. 4. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members appointed as follows:

(1) Three members appointed by the Speaker.

(2) Two members appointed by the House minority leader.

(3) Three members appointed by Senate majority leader.

(4) Two members appointed by Senate minority leader.

(5) Two members appointed by the President.
(b) Political Affiliation.—Of the members appointed by each appointing authority described in subsection (a) who is a Member of Congress, one appointed by each such Member shall be a Member of Congress.

(c) Chair and Co-Chair.—The President shall designate a chairperson and a co-chairperson of the Commission from the members appointed under subsection (a), one of whom shall be a Republican and one of whom shall be a Democrat.

(d) Continuation of Membership.—If a member was appointed to the Commission as a Member of Congress and the member ceases to be a Member of Congress, that member shall cease to be a member of the Commission.

(e) Meetings.—The Commission shall meet upon the call of the chairperson or a majority of its members.

(f) Quorum.—Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

SEC. 5. DIRECTOR AND STAFF OF COMMISSION.

(a) Director.—

(1) In general.—Subject to subsection (c) and to the extent provided in advance in appropriation Acts, the Commission shall appoint and fix the pay of a director.
(2) Duties.—The director of the Commission shall be responsible for the administration and coordination of the duties of the Commission and shall perform other such duties as the Commission may direct.

(b) Staff.—In accordance with rules agreed upon by the Commission, subject to subsection (c), and to the extent provided in advance in appropriation Acts, the director may appoint and fix the pay of additional personnel.

(c) Applicability of Certain Civil Service Laws.—The director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that pay fixed under subsection (a) may not exceed $150,000 per year and pay fixed under subsection (b) may not exceed a rate equal to the daily equivalent of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(d) Detaineel.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the
rights, status, and privileges of their regular employment
without interruption.

(c) EXPERTS AND CONSULTANTS.—In accordance
with rules agreed upon by the Commission and to the ex-
tent provided in advance in appropriation Acts, the direc-
tor may procure the services of experts and consultants
under section 3109(b) of title 5, United States Code, but
at rates not to exceed the daily equivalent of the annual
rate of basic pay for level V of the Executive Schedule
under section 5316 of title 5, United States Code.

SEC. 6. POWERS OF COMMISSION.

(a) HEARINGS AND EVIDENCE.—The Commission
may, for the purpose of carrying out this Act, hold such
hearings in addition to the town hall style public hearings,
sit and act at such times and places, take such testimony,
and receive such evidence as the Commission considers ap-
propriate. The Commission may administer oaths or affir-
mations to witnesses appearing before it.

(b) POWERS OF MEMBERS AND AGENTS.—Any mem-
ber or agent of the Commission may, if authorized by the
Commission, take any action which the Commission is au-
thorized to take under this section.

(e) MAILS.—The Commission may use the United
States mails in the same manner and under the same con-
ditions as other departments and agencies of the United States.

(d) Administrative Support Services.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(e) Contract Authority.—To the extent provided in advance in appropriation Acts, the Commission may enter into contracts to enable the Commission to discharge its duties under this Act.

SEC. 7. REPORTS.

The Commission shall transmit a report to the President and the Congress not later than six months after its establishment. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for legislation and administrative actions to reform the legislative and executive earmark processes.

SEC. 8. TERMINATION.

The Commission shall terminate 30 days after submitting its final report pursuant to section 7.
SEC. 9. CONGRESSIONAL CONSIDERATION OF LEGISLATION RECOMMENDED BY THE COMMISSION.

Not later than 60 legislative days after submission of the Commission’s report to Congress pursuant to section 7, the majority leader of the House of Representatives and the majority leader of the Senate shall introduce (by request) the legislation set forth in such report.