

110TH CONGRESS
2D SESSION

H. R. 7071

To establish a commission to recommend the elimination or realignment of Federal agencies that are duplicative or perform functions that would be more efficient on a non-Federal level, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 2008

Mr. SULLIVAN (for himself, Mr. GINGREY, Mr. KINGSTON, Mr. BROUN of Georgia, Mr. FRANKS of Arizona, Mr. GOHMERT, Mr. WALBERG, Ms. FALLIN, Mr. BARTLETT of Maryland, Mr. AKIN, and Mr. SHUSTER) 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 a commission to recommend the elimination or realignment of Federal agencies that are duplicative or perform functions that would be more efficient on a non-Federal level, 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 “Federal Agency Pro-
5 gram Realignment and Closure Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) AGENCY.—The term “agency” has the
4 meaning given the term “Executive agency” by sec-
5 tion 105 of title 5, United States Code.

6 (2) CALENDAR DAY.—The term “calendar day”
7 means a calendar day other than one on which ei-
8 ther House is not in session because of an adjourn-
9 ment of more than three days to a date certain.

10 (3) PROGRAM.—The term “program” means a
11 program or office within an agency.

12 (4) STATE.—The term “State” includes the
13 several States, the District of Columbia, the Com-
14 monwealth of Puerto Rico, and the possessions of
15 the United States.

16 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

17 (a) ESTABLISHMENT.—There is established the Fed-
18 eral Agency Program Realignment and Closure Commis-
19 sion (in this Act referred to as the “Commission”).

20 (b) MEMBERSHIP.—

21 (1) NUMBER AND APPOINTMENT.—

22 (A) IN GENERAL.—The Commission shall
23 be composed of 17 members appointed by the
24 President, by and with the advice and consent
25 of the Senate. Not later than 30 days after the
26 date of the enactment of this Act, the President

1 shall transmit to the Senate the nominations
2 for appointment to the Commission.

3 (B) CONSULTATION.—In selecting individ-
4 uals for nominations for appointments to the
5 Commission, the President shall consult with—

6 (i) the Speaker of the House of Rep-
7 resentatives concerning the appointment of
8 3 members;

9 (ii) the minority leader of the House
10 of Representatives concerning the appoint-
11 ment of 3 members;

12 (iii) the majority leader of the Senate
13 concerning the appointment of 3 members;
14 and

15 (iv) the minority leader of the Senate
16 concerning the appointment of 3 members.

17 (C) CRITERIA.—

18 (i) Not less than 5 members shall be
19 individuals from the private sector.

20 (ii) Two members shall be State Gov-
21 ernors who are not of the same political
22 party.

23 (iii) Eight members shall be from the
24 Republican Party.

1 (iv) Eight members shall be from the
2 Democratic Party.

3 (v) One member shall not be affiliated
4 with any political party.

5 (D) DESIGNEES.—A member described
6 under subparagraph (C)(ii) may designate an
7 individual to serve in the place of the member.
8 Such individual shall be—

9 (i) a State official from the same
10 State as the member; or

11 (ii) a State Governor who is of the
12 same political party as the member.

13 (E) CHAIRMAN AND VICE CHAIRMAN.—At
14 the time the President nominates individuals
15 for appointment to the Commission under sub-
16 section (a), the President shall designate one
17 such individual who shall serve as chairman and
18 one such individual who shall serve as vice
19 chairman. The chairman and vice chairman
20 may not be of the same political party.

21 (2) APPOINTMENT DEADLINE.—Members shall
22 be appointed not later than 30 days after the date
23 of the enactment of this Act

24 (3) PERIOD OF APPOINTMENT; VACANCIES.—
25 Members shall be appointed for the life of the Com-

1 mission. Any vacancy in the Commission shall not
2 affect its powers, but shall be filled in the same
3 manner as the original appointment.

4 (4) REMOVAL.—The President may remove a
5 member from the commission only for good cause.

6 (c) INITIAL MEETING.—Not later than 60 days after
7 the date of the enactment of this Act or the date on which
8 each member has obtained an appropriate security clear-
9 ance, whichever is later, the Commission shall hold its first
10 meeting.

11 (d) MEETINGS.—The Commission shall meet at the
12 call of the chairman.

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

16 (f) SECURITY CLEARANCE.—As a condition of ap-
17 pointment to or employment with the Commission, the
18 members and staff of the Commission shall hold appro-
19 priate security clearances for access to any classified brief-
20 ing, records, and materials that may be reviewed by the
21 Commission or its staff and shall follow the guidance and
22 practices on security under applicable Executive orders
23 and agency directives.

1 (g) FEDERAL ADVISORY COMMITTEE ACT.—The
2 Federal Advisory Committee Act (5 U.S.C. App.) shall not
3 apply to the Commission.

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

5 (a) EVALUATION; REPORT.—Not later than 3 years
6 after the date of the initial meeting of the Commission,
7 the Commission shall—

8 (1) evaluate each agency and program within
9 agencies using the criteria under subsection (c); and

10 (2) submit to the President and Congress a re-
11 port containing a list including the name of each
12 agency and program the Commission recommends
13 eliminating or realigning.

14 (b) CRITERIA.—

15 (1) DUPLICATIVE FUNCTIONS.—If two or more
16 agencies or programs are performing the same func-
17 tion and the function can be consolidated or stream-
18 lined into a single agency or program, the Commis-
19 sion shall recommend that the agency or program be
20 realigned.

21 (2) STATE FUNCTIONS.—The Commission shall
22 recommend the elimination of any agency or pro-
23 gram that—

24 (A) performs a function that is also pro-
25 vided by a State; or

1 (B) would be more efficient if performed at
2 the State level.

3 (3) PRIVATE FUNCTIONS.—The Commission
4 shall recommend the elimination of any agency or
5 program that performs a function that can be more
6 efficiently performed by a private entity.

7 **SEC. 5. ELIMINATION OR REALIGNMENT OF AGENCIES AND**
8 **PROGRAMS.**

9 (a) ELIMINATION AND REALIGNMENT.—Except as
10 provided by subsection (c) or by any other law, the Presi-
11 dent shall begin the process of eliminating and realigning
12 the agencies and programs recommended by the Commis-
13 sion in the report required under section 4(a) not later
14 than 3 years after the date of the submission of the report.
15 Such elimination and realignment shall be completed not
16 later than 5 years after such date.

17 (b) IMPLEMENTATION.—In eliminating or realigning
18 an agency or program recommended by the Commission
19 in the report required under section 4(a), the President
20 shall ensure that—

21 (1) all orders, grants, contracts, and other de-
22 terminations or actions of the affected agency or
23 program that are effective as of the day before the
24 date of the elimination or realignment shall be trans-
25 ferred to a relevant Secretary or agency head and

1 shall continue in effect according to their terms un-
2 less changed pursuant to law;

3 (2) all funds saved by the elimination or re-
4 alignment of the agency or program shall be depos-
5 ited in the general fund of the Treasury and shall
6 be dedicated only to deficit reduction and shall not
7 be used as an offset for other spending increases;
8 and

9 (3) if the position of an employee of an agency
10 is eliminated as a result of a realignment of a pro-
11 gram, the affected agency shall make reasonable ef-
12 forts to relocate such employee to another position
13 within the agency or within another Federal agency.

14 (c) CONGRESSIONAL DISAPPROVAL.—The President
15 may not eliminate or realign any agency or program rec-
16 ommended by the Commission in the report required
17 under section 4(a) if a joint resolution is enacted, in ac-
18 cordance with section 9, disapproving such recommenda-
19 tions before the earlier of—

20 (1) the end of the 45-calendar day period begin-
21 ning on the date on which the Commission submits
22 such report; or

23 (2) the adjournment of Congress sine die for
24 the session during which such report is submitted.

1 **SEC. 6. POWERS OF THE COMMISSION.**

2 (a) HEARINGS.—For the purpose of carrying out this
3 Act, the Commission may—

4 (1) hold such hearings, sit and act at such
5 times and places, take such testimony, receive such
6 evidence, and administer such oaths as any member
7 of the Commission considers advisable;

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

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

16 (b) ISSUANCE AND ENFORCEMENT OF SUB-
17 POENAS.—

18 (1) ISSUANCE.—Subpoenas issued under sub-
19 section (a)—

20 (A) may be issued only by a majority vote
21 of the Commission;

22 (B) shall bear the signature of the chair-
23 man of the Commission; and

24 (C) shall be served by any person or class
25 of persons designated by the Commission for
26 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) TECHNICAL ASSISTANCE AND INFORMATION
12 FROM FEDERAL AGENCIES.—

13 (1) TECHNICAL ASSISTANCE.—Upon the re-
14 quest of the Commission, the head of a Federal de-
15 partment or agency shall provide such technical as-
16 sistance to the Commission as the Commission de-
17 termines to be necessary to carry out its duties.

18 (2) INFORMATION.—The Commission may se-
19 cure directly from any Federal department or agency
20 such information as the Commission considers nec-
21 essary to carry out this Act. Upon request of the
22 chairman of the Commission, the head of such de-
23 partment or agency shall furnish such information to
24 the 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 **SEC. 7. 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 chairman 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 chairman, 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 chairman of the Commission may
 11 procure temporary and intermittent services under section
 12 3109(b) of title 5, United States Code, at rates for individ-
 13 uals which do not exceed the daily equivalent of the annual
 14 rate of basic pay prescribed for level V of the Executive
 15 Schedule under section 5316 of such title.

16 **SEC. 8. 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 4(a).

20 **SEC. 9. CONGRESSIONAL CONSIDERATION OF PROPOSALS**
 21 **TO ELIMINATE CERTAIN AGENCIES AND PRO-**
 22 **GRAMS.**

23 (a) DEFINITIONS.—In this section, the term “joint
 24 resolution” means only a joint resolution—

25 (1) which does not have a preamble;

1 (2) the matter after the resolving clause of
2 which is as follows: “That the Congress hereby dis-
3 approves the recommendations submitted to Con-
4 gress by the Federal Agency Program Realignment
5 and Closure Commission pursuant to section 9 of
6 the Federal Agency Program Realignment and Clo-
7 sure Act.”; and

8 (3) the title of which is as follows: “Joint reso-
9 lution disapproving the recommendations of the Fed-
10 eral Agency Program Realignment and Closure
11 Commission”.

12 (b) INTRODUCTION; REFERRAL; AND REPORT OR
13 DISCHARGE.—

14 (1) INTRODUCTION.—On the first calendar day
15 on which both Houses are in session, on or imme-
16 diately following the date on which a report is sub-
17 mitted to Congress under section 4(a), a joint reso-
18 lution shall be introduced (by request)—

19 (A) in the Senate by the majority leader of
20 the Senate, for himself and the minority leader
21 of the Senate, or by Members of the Senate
22 designated by the majority leader and minority
23 leader of the Senate; and

24 (B) in the House of Representatives by the
25 Speaker of the House of Representatives, for

1 himself and the minority leader of the House of
2 Representatives, or by Members of the House of
3 Representatives designated by the Speaker and
4 minority leader of the House of Representa-
5 tives.

6 (2) REFERRAL.—A joint resolution that is in-
7 troduced in the House of Representatives shall be
8 referred to the Committee on Oversight and Govern-
9 ment Reform. A joint resolution that is introduced
10 in the Senate shall be referred to the Committee on
11 Governmental Affairs. The committee to which such
12 joint resolution is referred may only either rec-
13 ommend passage or recommend against passage
14 when reporting such joint resolution.

15 (3) REPORT OR DISCHARGE.—If a committee to
16 which a joint resolution is referred has not reported
17 such resolution by the end of the 15th calendar day
18 after the date of the introduction of such joint reso-
19 lution, such committee shall be immediately dis-
20 charged from further consideration of such joint res-
21 olution, and upon being reported or discharged from
22 the committee, such joint resolution shall be placed
23 on the appropriate calendar.

24 (c) FLOOR CONSIDERATION.—

1 (1) IN GENERAL.—When the committee to
2 which a joint resolution is referred has reported, or
3 has been discharged under subsection (b)(3), it is at
4 any time thereafter in order (even though a previous
5 motion to the same effect has been disagreed to) for
6 any Member of the respective House to move to pro-
7 ceed to the consideration of the joint resolution, and
8 all points of order against the joint resolution (and
9 against consideration of the joint resolution) are
10 waived. The motion is highly privileged in the House
11 of Representatives and is privileged in the Senate
12 and is not debatable. The motion is not subject to
13 amendment, or to a motion to postpone, or to a mo-
14 tion to proceed to the consideration of other busi-
15 ness. A motion to reconsider the vote by which the
16 motion is agreed to or disagreed to shall not be in
17 order. If a motion to proceed to the consideration of
18 the joint resolution is agreed to, the joint resolution
19 shall remain the unfinished business of the respec-
20 tive House until disposed of.

21 (2) AMENDMENTS.—A joint resolution may not
22 be amended in the Senate or the House of Rep-
23 resentatives.

24 (3) DEBATE.—Debate on the joint resolution,
25 and on all debatable motions and appeals in connec-

1 tion therewith, shall be limited to not more than 10
2 hours, which shall be divided equally between those
3 favoring and those opposing the resolution. A motion
4 further to limit debate is in order and not debatable.
5 An amendment to, or a motion to postpone, or a mo-
6 tion to proceed to the consideration of other busi-
7 ness, or a motion to recommit the joint resolution is
8 not in order. A motion to reconsider the vote by
9 which the joint resolution is agreed to or disagreed
10 to is not in order.

11 (4) VOTE ON FINAL PASSAGE.—Immediately
12 following the conclusion of the debate on a joint res-
13 olution, and a single quorum call at the conclusion
14 of the debate if requested in accordance with the
15 rules of the appropriate House, the vote on final
16 passage of the joint resolution shall occur.

17 (5) RULINGS OF THE CHAIR ON PROCEDURE.—
18 Appeals from the decisions of the Chair relating to
19 the application of the rules of the Senate or the
20 House of Representatives, as the case may be, to the
21 procedure relating to a joint resolution shall be de-
22 cided without debate.

23 (d) COORDINATION WITH ACTION BY OTHER
24 HOUSE.—If, before the passage by one House of a joint
25 resolution of that House, that House receives from the

1 other House a joint resolution, then the following proce-
 2 dures shall apply:

3 (1) NONREFERRAL.—The joint resolution of the
 4 other House shall not be referred to a committee.

5 (2) VOTE ON BILL OF OTHER HOUSE.—With
 6 respect to a joint resolution of the House receiving
 7 the joint resolution—

8 (A) the procedure in that House shall be
 9 the same as if no joint resolution had been re-
 10 ceived from the other House; but

11 (B) the vote on final passage shall be on
 12 the joint resolution of the other House.

13 (e) RULES OF THE SENATE AND THE HOUSE OF
 14 REPRESENTATIVES.—This section is enacted by Con-
 15 gress—

16 (1) as an exercise of the rulemaking power of
 17 the Senate and House of Representatives, respec-
 18 tively, and as such it is deemed a part of the rules
 19 of each House, respectively, but applicable only with
 20 respect to the procedure to be followed in that
 21 House in the case of a joint resolution described in
 22 subsection (a), and it supersedes other rules only to
 23 the extent that it is inconsistent with such rules; and

24 (2) with full recognition of the constitutional
 25 right of either House to change the rules (so far as

- 1 relating to the procedure of that House) at any time,
- 2 in the same manner, and to the same extent as in
- 3 the case of any other rule of that House.

