

110TH CONGRESS
1ST SESSION

S. 1935

To establish a Commission on Congressional Budgetary Accountability and
Review of Federal Agencies.

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2007

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

A BILL

To establish a Commission on Congressional Budgetary
Accountability and Review of Federal Agencies.

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. DEFINITIONS.**

4 In this Act:

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

6 (A) an Executive agency, as defined under

7 section 105 of title 5, United States Code; and

1 (B) the Executive Office of the President.

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

6 (3) COMMISSION BILL.—The term “Commission
7 bill” means only a bill which is introduced as pro-
8 vided under section 6, and contains the proposed
9 legislation included in the report submitted to Con-
10 gress under section 3(b)(3), without modification.

11 (4) PROGRAM.—The term “program” means
12 any activity or function of an agency.

13 **SEC. 2. ESTABLISHMENT OF COMMISSION.**

14 (a) ESTABLISHMENT.—There is established the Com-
15 mission on Congressional Budgetary Accountability and
16 Review of Federal Agencies (referred to in this Act as the
17 “Commission”).

18 (b) MEMBERSHIP.—

19 (1) IN GENERAL.—The Commission shall con-
20 sist of 15 members, of which, not later than 30 days
21 after the date of enactment of this Act—

22 (A) 3 shall be appointed by the President;

23 (B) 3 shall be appointed by the majority
24 leader of the Senate;

1 (C) 3 shall be appointed by the minority
2 leader of the Senate;

3 (D) 3 shall be appointed by the Speaker of
4 the House of Representatives; and

5 (E) 3 shall be appointed by the minority
6 leader of the House of Representatives.

7 (2) COCHAIRPERSONS.—The President shall
8 designate 2 Cochairpersons from among the mem-
9 bers of the Commission. The Cochairpersons may
10 not be affiliated with the same political party.

11 (c) DATE.—Members of the Commission shall be ap-
12 pointed by not later than 30 days after the date of enact-
13 ment of this Act.

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

19 (e) MEETINGS.—

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

1 (2) SUBSEQUENT MEETINGS.—The Commission
2 shall meet at the call of the Cochairpersons or a ma-
3 jority of its members.

4 (f) QUORUM.—Eight members of the Commission
5 shall constitute a quorum for purposes of voting, but a
6 quorum is not required for members to meet and hold
7 hearings.

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

9 (a) SYSTEMATIC ASSESSMENT OF PROGRAMS BY THE
10 PRESIDENT.—

11 (1) IN GENERAL.—Not later than 1 year after
12 the date of enactment of this Act and each of the
13 next 3 years thereafter, the President shall—

14 (A) establish a systematic method for as-
15 sessing the effectiveness and accountability of
16 agency programs in accordance with paragraph
17 (2) and divide the programs into 4 approxi-
18 mately equal budgetary parts based on the size
19 of the budget and number of personnel of the
20 agency program; and

21 (B) submit, to the Commission each year,
22 an assessment of the programs within each part
23 (1 each year) that use the method established
24 under subparagraph (A).

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

3 (A) recognize different types of Federal
4 programs;

5 (B) assess programs based on the achieve-
6 ment of performance goals (as defined under
7 section 1115(g)(4) of title 31, United States
8 Code);

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

13 (D) assess programs based in part on
14 whether the program has fulfilled the legislative
15 intent surrounding the creation of the program,
16 taking into account any change in legislative in-
17 tent during the program’s existence; and

18 (E) assess programs based in part on col-
19 laborative analysis, with the program or agency,
20 of program policy and goals which may not fit
21 into easily measurable performance goals.

22 (3) COMMON PERFORMANCE MEASURES.—Not
23 later than 1 year after the date of enactment of this
24 Act, the President shall identify common perform-
25 ance measures for programs covered in paragraph

1 (1) that have similar functions and, to the extent
2 feasible, provide the Commission with data on such
3 performance measures.

4 (b) EVALUATION AND PLAN BY COMMISSION.—

5 (1) DEVELOPMENT.—The method established
6 under subsection (a) shall be subject to review and
7 change by the Commission. If the Commission
8 makes any changes in the method, the Commission
9 shall notify Congress not later than 1 year after re-
10 viewing the first assessment from the President
11 under this section.

12 (2) CONSIDERATION OF ASSESSMENTS.—The
13 Commission shall consider assessments submitted
14 under subsection (a) when evaluating programs
15 under this subsection.

16 (3) ASSESSMENT AND LEGISLATION.—

17 (A) IN GENERAL.—The Commission
18 shall—

19 (i) evaluate all agencies and programs
20 within those agencies in each unit identi-
21 fied in the systemic assessment under sub-
22 section (a) (1 each year over the next 4
23 years), using the criteria under subsection
24 (a) subject to modification under para-
25 graph (1); and

1 (ii) submit to Congress each of the
2 next 4 years beginning January 1, 2008,
3 with respect to each evaluation under
4 clause (i)—

5 (I) a plan with recommendations
6 of the agencies and programs that
7 should be realigned or eliminated
8 within each part; and

9 (II) proposed legislation to imple-
10 ment the plan described under sub-
11 clause (I).

12 (B) RELOCATION OF FEDERAL EMPLOY-
13 EES.—The proposed legislation under subpara-
14 graph (A) shall provide that if the position of
15 an employee of an agency is eliminated as a re-
16 sult of the implementation of the plan under
17 subparagraph (A)(i), the affected agency shall
18 make reasonable efforts to relocate such em-
19 ployee to another position within the agency or
20 within another Federal agency.

21 (4) CRITERIA.—

22 (A) DUPLICATIVE.—If 2 or more agencies
23 or programs are performing the same essential
24 function and the function can be consolidated
25 or streamlined into a single agency or program,

1 the Commission shall recommend that the agen-
2 cies or programs be realigned.

3 (B) WASTEFUL OR INEFFICIENT.—The
4 Commission may recommend the realignment or
5 elimination of any agency or program that has
6 wasted Federal funds by—

7 (i) egregious spending;

8 (ii) mismanagement of resources and
9 personnel; or

10 (iii) use of such funds for personal
11 benefit or the benefit of a special interest
12 group.

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

17 (i) has completed its intended pur-
18 pose;

19 (ii) has become irrelevant; or

20 (iii) has failed to meet its objectives.

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

22 (a) HEARINGS.—Subject to subsection (d), the Co-
23 chairpersons of the Commission may, for the purpose of
24 carrying out this Act—

1 (1) hold such hearings, sit and act at such
2 times and places, take such testimony, receive such
3 evidence, and administer such oaths as the chair-
4 person of the Commission considers advisable;

5 (2) require, by subpoena or otherwise, the at-
6 tendance and testimony of such witnesses as the
7 chairperson of the Commission considers advisable;
8 and

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

14 (b) SUBPOENAS.—

15 (1) ISSUANCE.—

16 (A) IN GENERAL.—A subpoena may be
17 issued under this section only by—

18 (i) the agreement of the Cochair-
19 persons; or

20 (ii) the affirmative vote of 8 members
21 of the Commission.

22 (B) SIGNATURE.—Subpoenas issued under
23 this section may be issued under the signature
24 of both Cochairpersons of the Commission and
25 may be served by any person designated by the

1 Cochairpersons or by a member designated by
2 a majority of the Commission.

3 (2) ENFORCEMENT.—In the case of contumacy
4 or failure to obey a subpoena issued under this sec-
5 tion, the United States district court for the judicial
6 district in which the subpoenaed person resides, is
7 served, or may be found, may issue an order requir-
8 ing such person to appear at any designated place
9 to testify or to produce documentary or other evi-
10 dence. Any failure to obey the order of the court
11 may be punished by the court as a contempt of that
12 court.

13 (c) TECHNICAL ASSISTANCE.—Upon the request of
14 the Commission, the head of a Federal agency shall pro-
15 vide such technical assistance to the Commission as the
16 Commission determines to be necessary to carry out its
17 duties.

18 (d) INFORMATION.—

19 (1) IN GENERAL.—The Commission shall have
20 reasonable access to budgetary, performance or pro-
21 grammatic materials, resources, statistical data, and
22 other information the Commission determines to be
23 necessary to carry out its duties from the Congres-
24 sional Budget Office, and other agencies and rep-
25 resentatives of the executive and legislative branches

1 of the Federal Government. The Cochairpersons
2 shall make requests for such access in writing when
3 necessary.

4 (2) RECEIPT, HANDLING, STORAGE, AND DIS-
5 SEMINATION OF INFORMATION.—Information shall
6 only be received, handled, stored, and disseminated
7 by members of the Commission and its staff con-
8 sistent with all applicable statutes, regulations, and
9 Executive orders.

10 (3) LIMITATION OF ACCESS TO PERSONAL TAX
11 INFORMATION.—Information requested, subpoenaed,
12 or otherwise accessed under this Act shall not in-
13 clude tax data from the United States Internal Rev-
14 enue Service, the release of which would otherwise
15 be in violation of law.

16 (e) RECEIPT, HANDLING, STORAGE, AND DISSEMINA-
17 TION OF INFORMATION.—Information shall only be re-
18 ceived, handled, stored, and disseminated by members of
19 the Commission and its staff consistent with all applicable
20 statutes, regulations, and Executive orders.

21 (f) POSTAL SERVICES.—The Commission may use
22 the United States mails in the same manner and under
23 the same conditions as other departments and agencies of
24 the Federal Government.

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

2 (a) COMPENSATION OF MEMBERS.—

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

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

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

19 (c) STAFF.—

20 (1) IN GENERAL.—With the approval of the
21 majority of the Commission, the Cochairpersons of
22 the Commission may, appoint an executive director
23 and such other additional personnel as may be nec-
24 essary to enable the Commission to perform its du-
25 ties.

1 (2) COMPENSATION.—Upon the approval of the
2 Cochairpersons, the executive director may fix the
3 compensation of the executive director and other
4 personnel without regard to chapter 51 and sub-
5 chapter III of chapter 53 of title 5, United States
6 Code, relating to classification of positions and Gen-
7 eral Schedule pay rates, except that the rate of pay
8 for the executive director and other personnel may
9 not exceed the maximum rate payable for a position
10 at GS–15 of the General Schedule under section
11 5332 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 89A, 89B, 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 from the Commission,

1 and such detail shall be without interruption or loss of
2 civil service status or privilege.

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

11 **SEC. 6. EXPEDITED CONSIDERATION OF REFORM PRO-**
12 **POSALS.**

13 (a) INTRODUCTION AND COMMITTEE CONSIDER-
14 ATION.—

15 (1) INTRODUCTION.—The Commission bill lan-
16 guage provisions submitted pursuant to section
17 3(b)(3) shall be introduced in the Senate by the ma-
18 jority leader, or the majority leader's designee, and
19 in the House of Representatives, by the Speaker, or
20 the Speaker's designee. Upon such introduction, the
21 Commission bill shall be referred to the appropriate
22 committees of Congress under paragraph (2). If the
23 Commission bill is not introduced in accordance with
24 the preceding sentence, then any member of Con-
25 gress may introduce the Commission bill in their re-

1 spective House of Congress beginning on the date
2 that is the 5th calendar day that such House is in
3 session following the date of the submission of such
4 aggregate legislative language provisions.

5 (2) COMMITTEE CONSIDERATION.—

6 (A) REFERRAL.—A Commission bill intro-
7 duced under paragraph (1) shall be referred to
8 any appropriate committee of jurisdiction in the
9 Senate, any appropriate committee of jurisdic-
10 tion in the House of Representatives, the Com-
11 mittee on the Budget of the Senate and the
12 Committee on the Budget of the House of Rep-
13 resentatives. A committee to which a Commis-
14 sion bill is referred under this paragraph may
15 review and comment on such bill, may report
16 such bill to the respective House, and may not
17 amend such bill.

18 (B) REPORTING.—Not later than 30 cal-
19 endar days after the introduction of the Com-
20 mission bill, each Committee of Congress to
21 which the Commission bill was referred shall re-
22 port the bill.

23 (C) DISCHARGE OF COMMITTEE.—If a
24 committee to which is referred a Commission
25 bill has not reported such Commission bill at

1 the end of 30 calendar days after its introduc-
2 tion or at the end of the first day after there
3 has been reported to the House involved a Com-
4 mission bill, whichever is earlier, such com-
5 mittee shall be deemed to be discharged from
6 further consideration of such Commission bill,
7 and such Commission bill shall be placed on the
8 appropriate calendar of the House involved.

9 (b) EXPEDITED PROCEDURE.—

10 (1) CONSIDERATION.—

11 (A) IN GENERAL.—Not later than 5 cal-
12 endar days after the date on which a committee
13 has reported a Commission bill or been dis-
14 charged from consideration of a Commission
15 bill, the majority leader of the Senate, or the
16 majority leader's designee, or the Speaker of
17 the House of Representatives, or the Speaker's
18 designee, shall move to proceed to the consider-
19 ation of the Commission bill. It shall also be in
20 order for any member of the Senate or the
21 House of Representatives, respectively, to move
22 to proceed to the consideration of the Commis-
23 sion bill at any time after the conclusion of
24 such 5-day period.

1 (B) MOTION TO PROCEED.—A motion to
2 proceed to the consideration of a Commission
3 bill is highly privileged in the House of Rep-
4 resentatives and is privileged in the Senate and
5 is not debatable. The motion is not subject to
6 amendment or to a motion to postpone consid-
7 eration of the Commission bill. A motion to pro-
8 ceed to the consideration of other business shall
9 not be in order. A motion to reconsider the vote
10 by which the motion to proceed is agreed to or
11 not agreed to shall not be in order. If the mo-
12 tion to proceed is agreed to, the Senate or the
13 House of Representatives, as the case may be,
14 shall immediately proceed to consideration of
15 the Commission bill without intervening motion,
16 order, or other business, and the Commission
17 bill shall remain the unfinished business of the
18 Senate or the House of Representatives, as the
19 case may be, until disposed of.

20 (C) LIMITED DEBATE.—Debate on the
21 Commission bill and on all debatable motions
22 and appeals in connection therewith shall be
23 limited to not more than 10 hours, which shall
24 be divided equally between those favoring and
25 those opposing the Commission bill. A motion

1 further to limit debate on the Commission bill
2 is in order and is not debatable. All time used
3 for consideration of the Commission bill, includ-
4 ing time used for quorum calls (except quorum
5 calls immediately preceding a vote) and voting,
6 shall come from the 10 hours of debate.

7 (D) AMENDMENTS.—No amendment to the
8 Commission bill shall be in order in the Senate
9 and the House of Representatives.

10 (E) VOTE ON FINAL PASSAGE.—Imme-
11 diately following the conclusion of the debate on
12 the Commission bill, the vote on final passage
13 of the Commission bill shall occur.

14 (F) OTHER MOTIONS NOT IN ORDER.—A
15 motion to postpone consideration of the Com-
16 mission bill, a motion to proceed to the consid-
17 eration of other business, or a motion to recom-
18 mit the Commission bill is not in order. A mo-
19 tion to reconsider the vote by which the Com-
20 mission bill is agreed to or not agreed to is not
21 in order.

22 (2) CONSIDERATION BY OTHER HOUSE.—If, be-
23 fore the passage by one House of the Commission
24 bill that was introduced in such House, such House

1 receives from the other House a Commission bill as
2 passed by such other House—

3 (A) the Commission bill of the other House
4 shall not be referred to a committee and may
5 only be considered for final passage in the
6 House that receives it under subparagraph (C);

7 (B) the procedure in the House in receipt
8 of the Commission bill of the other House, with
9 respect to the Commission bill that was intro-
10 duced in the House in receipt of the Commis-
11 sion bill of the other House, shall be the same
12 as if no Commission bill had been received from
13 the other House; and

14 (C) notwithstanding subparagraph (B), the
15 vote on final passage shall be on the Commis-
16 sion bill of the other House.

17 Upon disposition of a Commission bill that is re-
18 ceived by one House from the other House, it shall
19 no longer be in order to consider the Commission bill
20 that was introduced in the receiving House.

21 (c) RULES OF THE SENATE AND THE HOUSE OF
22 REPRESENTATIVES.—This section is enacted by Con-
23 gress—

24 (1) as an exercise of the rulemaking power of
25 the Senate and the House of Representatives, re-

1 spectively, and is deemed to be part of the rules of
2 each House, respectively, but applicable only with re-
3 spect to the procedure to be followed in that House
4 in the case of a Commission bill, and it supersedes
5 other rules only to the extent that it is inconsistent
6 with such rules; and

7 (2) with full recognition of the constitutional
8 right of either House to change the rules (so far as
9 they relate to the procedure of that House) at any
10 time, in the same manner, and to the same extent
11 as in the case of any other rule of that House.

12 **SEC. 7. TERMINATION OF THE COMMISSION.**

13 The Commission shall terminate 90 days after the
14 date on which the Commission submits the final evaluation
15 and plan report under section 3.

16 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated such sums
18 as may be necessary for carrying out this Act for each
19 of the fiscal years 2008 through 2012.

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