

EVIDENCE-BASED POLICYMAKING COMMISSION ACT OF
 2015

JULY 16, 2015.—Committed to the Committee of the Whole House on the State of
 the Union and ordered to be printed

Mr. CHAFFETZ, from the Committee on Oversight and Government
 Reform, submitted the following

R E P O R T

[To accompany H.R. 1831]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom
 was referred the bill (H.R. 1831) to establish the Commission on
 Evidence-Based Policymaking, and for other purposes, having con-
 sidered the same, report favorably thereon with an amendment and
 recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Evidence-Based Policymaking Commission Act of
 2015”.

SEC. 2. ESTABLISHMENT.

There is established in the executive branch a commission to be known as the “Commission on Evidence-Based Policymaking” (in this Act referred to as the “Commission”).

SEC. 3. MEMBERS OF THE COMMISSION.

(a) **NUMBER AND APPOINTMENT.**—The Commission shall be comprised of 15 members as follows:

(1) Three shall be appointed by the President, of whom—

(A) one shall be an academic researcher, data expert, or have experience in administering programs;

(B) one shall have expertise in database management, confidentiality, and privacy matters; and

(C) one shall be the Director of the Office of Management and Budget (or the Director’s designee).

(2) Three shall be appointed by the Speaker of the House of Representatives, of whom—

(A) two shall be academic researchers, data experts, or have experience in administering programs; and

(B) one shall have expertise in database management, confidentiality, and privacy matters.

(3) Three shall be appointed by the Minority Leader of the House of Representatives, of whom—

(A) two shall be academic researchers, data experts, or have experience in administering programs; and

(B) one shall have expertise in database management, confidentiality, and privacy matters.

(4) Three shall be appointed by the Majority Leader of the Senate, of whom—

(A) two shall be academic researchers, data experts, or have experience in administering programs; and

(B) one shall have expertise in database management, confidentiality, and privacy matters.

(5) Three shall be appointed by the Minority Leader of the Senate, of whom—

(A) two shall be academic researchers, data experts, or have experience in administering programs; and

(B) one shall have expertise in database management, confidentiality, and privacy matters.

(b) **EXPERTISE.**—In making appointments under this section, consideration should be given to individuals with expertise in economics, statistics, program evaluation, data security, confidentiality, or database management.

(c) **CHAIRPERSON AND CO-CHAIRPERSON.**—The President shall select the chairperson of the Commission and the Speaker of the House of Representatives shall select the co-chairperson.

(d) **TIMING OF APPOINTMENTS.**—Appointments to the Commission shall be made not later than 45 days after the date of enactment of this Act.

(e) **TERMS; VACANCIES.**—Each member shall be appointed for the duration of the Commission. Any vacancy in the Commission shall not affect its powers, and shall be filled in the manner in which the original appointment was made.

(f) **COMPENSATION.**—Members of the Commission shall serve without pay.

(g) **TRAVEL EXPENSES.**—Each member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

SEC. 4. DUTIES OF THE COMMISSION.

(a) **STUDY OF DATA.**—The Commission shall conduct a comprehensive study of the data inventory, data infrastructure, and statistical protocols related to Federal policymaking and the agencies responsible for maintaining that data to—

(1) determine the optimal arrangement for which administrative data on Federal programs and tax expenditures and related data series may be integrated and made available to facilitate program evaluation, continuous improvement, policy-relevant research, and cost-benefit analyses by qualified researchers and institutions;

(2) make recommendations on how data infrastructure and protocols should be modified to best fulfill the objectives identified in paragraph (1); and

(3) make recommendations on how best to incorporate outcomes measurement, institutionalize randomized controlled trials, and rigorous impact analysis into program design.

(b) **CLEARINGHOUSE.**—In undertaking the study required by subsection (a), the Commission shall consider whether a clearinghouse for program and survey data should be established and how to create such a clearinghouse. The Commission shall evaluate—

(1) what administrative data are relevant for program evaluation and Federal policy-making and should be included in a potential clearinghouse;

(2) which survey data the administrative data identified in paragraph (1) may be linked to, in addition to linkages across administrative data series;

(3) what are the legal and administrative barriers to including or linking these data series;

(4) what data-sharing infrastructure should be used to facilitate data merging and access for research purposes;

(5) how a clearinghouse could be self-funded;

(6) which types of researchers, officials, and institutions should have access to data and what their qualifications should be;

(7) what limitations should be placed on the use of data provided;

(8) how to protect information and ensure individual privacy and confidentiality;

(9) how data and results of research can be used to inform program administrators and policymakers to improve program design; and

(10) what incentives may facilitate interagency sharing of information to improve programmatic effectiveness and enhance data accuracy and comprehensiveness.

(c) **REPORT.**—Upon the affirmative vote of at least three-quarters of the members of the Commission, the Commission shall submit to the President and Congress a detailed statement of its findings and conclusions as a result of the activities required by subsections (a) and (b), together with its recommendations for such legislation or administrative actions as the Commission considers appropriate in light of the results of the study.

(d) **DEADLINE.**—The report under subsection (c) shall be submitted not later than the date that is 15 months after the date a majority of the members of the Commission are appointed pursuant to section 3.

(e) **DEFINITION.**—In this section, the term “administrative data” means data—

(1) held by an agency or a contractor or grantee of an agency (including a State or unit of local government); and

(2) collected for other than statistical purposes.

SEC. 5. OPERATION AND POWERS OF THE COMMISSION.

(a) **EXECUTIVE BRANCH ASSISTANCE.**—The heads of the following agencies shall advise and consult with the Commission on matters within their respective areas of responsibility:

(1) The Bureau of the Census.

(2) The Internal Revenue Service.

(3) The Department of Health and Human Services.

(4) The Department of Agriculture.

(5) The Department of Housing and Urban Development.

(6) The Social Security Administration.

(7) The Department of Education.

(8) The Department of Justice.

(9) The Office of Management and Budget.

(10) The Bureau of Economic Analysis.

(11) The Bureau of Labor Statistics.

(12) Any other agency, as determined by the Commission.

(b) **MEETINGS.**—The Commission shall meet not later than 30 days after the date upon which a majority of its members have been appointed and at such times thereafter as the chairperson or co-chairperson shall determine.

(c) **RULES OF PROCEDURE.**—The chairperson and co-chairperson shall, with the approval of a majority of the members of the Commission, establish written rules of procedure for the Commission, which shall include a quorum requirement to conduct the business of the Commission.

(d) **HEARINGS.**—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(e) **CONTRACTS.**—The Commission may contract with and compensate government and private agencies or persons for any purpose necessary to enable it to carry out this Act.

(f) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

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

SEC. 6. FUNDING.

Subject to the availability of appropriations—

(1) at the request of the Director of the Census, the agencies identified as “Principal Statistical Agencies” in the report, published by the Office of Management and Budget, entitled “Statistical Programs of the United States Government, Fiscal Year 2015” shall provide funds, in a total amount not to exceed \$3,000,000, to the Director for purposes of carrying out the activities of the Commission as provided in this Act; and

(2) the Bureau of the Census shall provide administrative support to the Commission, which may include providing physical space at, and access to, the headquarters of the Bureau of the Census, located in Suitland, Maryland.

SEC. 7. PERSONNEL.

(a) DIRECTOR.—The Commission shall have a Director who shall be appointed by the chairperson with the concurrence of the co-chairperson. The Director shall be paid at a rate of pay established by the chairperson and co-chairperson, not to exceed the annual rate of basic pay payable for level V of the Executive Schedule (section 5316 of title 5, United States Code).

(b) STAFF.—The Director may appoint and fix the pay of additional staff as the Director considers appropriate.

(c) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not to exceed the daily equivalent of the annual rate of basic pay for a comparable position paid under the General Schedule.

SEC. 8. TERMINATION.

The Commission shall terminate not later than 18 months after the date of enactment of this Act.

COMMITTEE STATEMENT AND VIEWS

PURPOSE AND SUMMARY

H.R. 1831, the Evidence-Based Policymaking Commission Act of 2015, establishes a 15-member commission to study how best to expand the use of data to evaluate the effectiveness of federal programs and tax expenditures. The commission would study data inventories, data infrastructure, and statistical protocols across the federal government, and make recommendations on how to incorporate outcomes measurements, randomized controlled trials, and rigorous impact analyses into program design. The commission would consider whether a data clearinghouse should be established to ensure federal data is available to policymakers, and also study how best to protect the privacy rights of individuals who interact with federal agencies. The commission’s authority would terminate 18 months after enactment of the bill.

BACKGROUND AND NEED FOR LEGISLATION

The erosion of American leadership in empirical research reinforces concerns about the effectiveness of government.¹ The federal government administers more than 1,500 different programs² and is on track to spend more than \$4 trillion annually by 2017.³ Annual federal spending is estimated to grow by another trillion dol-

¹ *Expanding Opportunity by Funding What Works: Using Evidence to Help Low-Income Individuals and Families Get Ahead: Hearing Before the H. Comm. on Ways and Means Subcomm. on Human Resources*, 114th Cong. (Mar. 17, 2015) (statement of David B. Muhlhausen, Research Fellow in Empirical Policy Analysis, Heritage Foundation)

² U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-15-83, GOVERNMENT EFFICIENCY AND EFFECTIVENESS: INCONSISTENT DEFINITIONS AND INFORMATION LIMIT THE USEFULNESS OF FEDERAL PROGRAM INVENTORIES (2014), available at: <http://www.gao.gov/products/GAO-15-83>.

³ CONG. BUDGET OFFICE, AN UPDATE TO THE BUDGET AND ECONOMIC OUTLOOK: 2014 TO 2024, available at: https://www.cbo.gov/sites/default/files/45653-OutlookUpdate_2014_Aug.pdf.

lars less than five years later.⁴ According to the U.S. Government Accountability Act, only 37 percent of program managers said that an evaluation of their programs had been completed in the last five years.⁵

Without evidence, the federal government is an ineffective fiduciary on behalf of the taxpayer. Unfortunately, in many instances, federal decision-makers do not have access to the data necessary to best inform decisions. In such instances, agencies are unable to show the benefits or impacts of the programs they administer and cannot determine what, if any, unintended consequences are created by programs, or whether programs can be improved.

Ensuring policymakers have access to high quality administrative data is essential for evidence-based policymaking. Administrative data already exists and tested protocols are in place to facilitate merging of information and ensure confidentiality, yet agencies fail to share data with each other in ways that might improve program outcomes. Further,

Statutory restrictions often prevent agencies from sharing data with researchers who may be in a position to help the federal government identify needed solutions.

The first step in creating a culture of evidence-based policymaking is to determine what data is available and how to best get the data to policymakers. The Evidence-Based Policy Commission Act of 2015 will bring together leading researchers, program administrators, and experts to conduct a thorough study of existing infrastructure and statistical protocols. These individuals will consider various methods of ensuring that policymakers have the access they need while balancing personal privacy and data integrity interests, and make recommendations on how to best approach the issue of federal data access.

LEGISLATIVE HISTORY

H.R. 1831, the Evidence-Based Policymaking Commission Act of 2015, was introduced on April 16, 2015 by Congressman Paul Ryan (R-WI) and referred to the Committee on Oversight and Government Reform. On May 19, 2015, the Committee ordered H.R. 1831 favorably reported, as amended. S. 991, the Senate companion bill, was introduced by Senator Patty Murray (D-WA) on April 16, 2015 and referred to the Senate Committee on Homeland Security and Governmental Affairs.

In the 113th Congress, similar legislation, H.R. 5754, the Evidence Based-Policymaking Commission Act of 2014, was introduced in the House on November 20, 2015 and referred to the Committee. S. 2952, the Senate companion bill, was introduced in the Senate.

SECTION-BY-SECTION

Section 1. Short title

Designates the short title of the bill as the “Evidence-Based Policymaking Commission Act of 2015.”

⁴*Id.*

⁵ U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-13-570, PROGRAM EVALUATION: STRATEGIES TO FACILITATE AGENCIES' USE OF EVALUATION IN PROGRAM MANAGEMENT AND POLICYMAKING (2013), available at: <http://www.gao.gov/assets/660/655518.pdf>.

Section 2. Establishment

Establishes the new Commission on Evidence-Based Policy-making within the Executive Branch.

Section 3. Members of the Commission

Requires the President and Congressional leaders to appoint a total of 15 members within 45 days, who will serve without pay for the duration of the Commission.

Requires the President to designate the Chairperson and the Speaker of the House of Representatives to designate the co-chairperson.

Section 4. Duties of the Commission

Requires the Commission to study data related to federal policy making and the agencies responsible for maintaining data to determine the optimal arrangement of federal data, make recommendations on necessary changes to data infrastructure and protocols, and make recommendations on how to best incorporate performance measures, controlled trials, and impact analysis into program design.

Requires the Commission to consider whether and how to establish a federal data clearinghouse.

Requires the Commission to submit to the President and to Congress a detailed statement of its findings and conclusion as a result of the study and consideration of the clearinghouse.

Section 5. Operation and powers of the Commission

Provides for Federal agencies to advise and consult with the Commission.

Requires the Commission to meet within 30 days of the appointment of a majority of the members and to establish written rules of procedure.

Provides the Commission with the authority to hold hearings, take testimony, and receive evidence.

Provides the Commission with the authority to contract, use the mail, and accept gifts.

Section 6. Funding

Requires statistical agencies to provide funds at the request of the Director of the Census for purposes of the carrying out the activities of the Commission and requires the Bureau of the Census to provide administrative support.

Section 7. Personnel

Provides a director, appointed by the chairperson with the concurrence of the co-chairperson, who may appoint staff and retain experts and consultants.

Section 8. Termination

Ends the Commission 18 months after enactment of the Act.

EXPLANATION OF AMENDMENTS

Congressman Mark Meadows (R-NC) offered an amendment in the nature of a substitute to the bill. The amendment was adopted

by voice vote. The bill, as amended, was then adopted and favorably reported to the House by voice vote.

COMMITTEE CONSIDERATION

On May 19, 2015 the Committee met in open session and ordered reported favorably the bill, H.R. 1831, as amended, by voice vote, a quorum being present.

ROLL CALL VOTES

There were no recorded votes during Full Committee consideration of H.R. 1831.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill establishes the Commission on Evidence-Based Policymaking. As such this bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goal or objective of this bill is to establish the Commission on Evidence-Based Policymaking.

DUPLICATION OF FEDERAL PROGRAMS

No provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that enacting this bill does not direct the completion of any specific rule makings within the meaning of 5 U.S.C. 551.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandate Reform Act, P.L. 104–4) requires a statement as to whether the provisions of the reported include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

This bill does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of Congressional Budget Office:

H.R. 1831—Evidence-Based Policymaking Commission Act of 2015

H.R. 1831 would establish the Commission on Evidence-Based Policymaking (commission) to study the inventory and infrastructure of data related to federal programs. The 15-member commission would be directed to determine the best structure for information that is collected and maintained by federal agencies to effectively analyze and evaluate federal programs. In addition, the commission would consider whether to establish a clearinghouse for information collected by federal agencies. Finally, the bill would require the commission to report to the President and the Congress, no later than 15 months after a majority of members have been appointed, a statement of its findings along with recommendations for legislation or administrative actions it considers appropriate. The commission's authority would terminate 18 months after enactment of the bill.

CBO estimates that implementing H.R. 1831 would cost \$3 million over the 2016–2020 period, assuming appropriation of the necessary amounts. The bill would authorize several federal agencies to contribute up to \$3 million from appropriated funds to carry out the duties of the commission. Enacting H.R. 1831 would not affect

direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 1831 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Susan Willie. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.