

107TH CONGRESS  
2D SESSION

# S. 2488

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review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes.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 9, 2002

Mr. BROWNBACK (for himself, Mr. MILLER, Mr. FITZGERALD, Mr. SMITH of New Hampshire, Mr. INHOFE, Mr. HELMS, Mr. SESSIONS, and Mr. ENZI) introduced the following bill; which was read twice and referred to the Committee on 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review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes.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, all of whom shall be appointed  
9 by the President within 90 days after the date of en-  
10 actment of this Act.

11 (2) CHAIRPERSON AND VICE CHAIRPERSON.—

12 The President shall designate a chairperson and vice  
13 chairperson from among the members of the Com-  
14 mission.

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

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

24 (e) MEETINGS.—The Commission shall meet at the  
25 call of the chairperson.

1 (f) QUORUM.—A majority of the members of the  
 2 Commission shall constitute a quorum, but a lesser num-  
 3 ber of members may hold hearings.

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

5 (a) DEFINITION.—

6 (1) IN GENERAL.—Except as provided in para-  
 7 graph (2), the term “agency”, as used in this sec-  
 8 tion, has the meaning given the term “executive  
 9 agency” under section 105 of title 5, United States  
 10 Code.

11 (2) EXCEPTION.—The term “agency” does not  
 12 include the Department of Defense or its subdivi-  
 13 sions.

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

15 (1) evaluate all agencies and programs within  
 16 those agencies, using the criteria under subsection  
 17 (c); and

18 (2) submit to Congress—

19 (A) a plan with recommendations of the  
 20 agencies and programs that should be realigned  
 21 or eliminated; and

22 (B) proposed legislation to implement the  
 23 plan under subparagraph (A).

24 (c) CRITERIA.—

1           (1) DUPLICATIVE.—If 2 or more agencies or  
 2           programs are performing the same essential function  
 3           and the function can be consolidated or streamlined  
 4           into a single agency or program, the Commission  
 5           shall recommend that the agency or program be re-  
 6           aligned.

7           (2) WASTEFUL OR INEFFICIENT.—The Com-  
 8           mission shall recommend the realignment or elimi-  
 9           nation of any agency or program that has wasted  
 10          Federal funds by—

11                   (A) egregious spending;

12                   (B) mismanagement of resources and per-  
 13           sonnel; or

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

16          (3) OUTDATED, IRRELEVANT, OR FAILED.—The  
 17          Commission shall recommend the elimination of any  
 18          agency or program that—

19                   (A) has completed its intended purpose;

20                   (B) has become irrelevant; or

21                   (C) has failed to meet its objectives.

22          (d) REPORT.—

23           (1) IN GENERAL.—Not later than 2 years after  
 24          the date of enactment of this Act, the Commission

1       shall submit to the President and Congress a report  
2       that includes—

3               (A) the plan described under subsection  
4               (b)(1) with supporting documentation for all  
5               recommendations; and

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

8               (2) USE OF SAVINGS.—The proposed legislation  
9       under paragraph (1)(B) shall provide that all funds  
10      saved by the implementation of the plan under para-  
11      graph (1)(A) shall be used to support other domestic  
12      programs.

13              (3) RELOCATION OF FEDERAL EMPLOYEES.—  
14      The proposed legislation under paragraph (1)(B)  
15      shall provide that if the position of an employee of  
16      an agency is eliminated as a result of the implemen-  
17      tation of the plan under paragraph (1)(A), the af-  
18      fected agency shall make reasonable efforts to relo-  
19      cate such employee to another position within the  
20      agency or within another Federal agency.

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

22              (a) HEARINGS.—The Commission or, at its direction,  
23      any subcommittee or member of the Commission, may, for  
24      the purpose of 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 any member  
4 of the Commission considers advisable;

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

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

13       (b) ISSUANCE AND ENFORCEMENT OF SUB-  
14 POENAS.—

15           (1) ISSUANCE.—Subpoenas issued under sub-  
16 section (a) shall bear the signature of the chair-  
17 person of the Commission and shall be served by any  
18 person or class of persons designated by the chair-  
19 person for that purpose.

20           (2) ENFORCEMENT.—In the case of contumacy  
21 or failure to obey a subpoena issued under sub-  
22 section (a), the United States district court for the  
23 judicial district in which the subpoenaed person re-  
24 sides, is served, or may be found, may issue an order  
25 requiring such person to appear at any designated

1 place to testify or to produce documentary or other  
2 evidence. Any failure to obey the order of the court  
3 may be punished by the court as a contempt of that  
4 court.

5 (c) INFORMATION FROM FEDERAL AGENCIES.—The  
6 Commission may secure directly from any Federal depart-  
7 ment or agency such information as the Commission con-  
8 siders necessary to carry out this Act. Upon request of  
9 the chairperson of the Commission, the head of such de-  
10 partment or agency shall furnish such information to the  
11 Commission.

12 (d) POSTAL SERVICES.—The Commission may use  
13 the United States mails in the same manner and under  
14 the same conditions as other departments and agencies of  
15 the Federal Government.

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

18 **SEC. 5. COMMISSION PERSONNEL MATTERS.**

19 (a) COMPENSATION OF MEMBERS.—

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

24 (2) FEDERAL OFFICERS OR EMPLOYEES.—All  
25 members of the Commission who are officers or em-

1        ployees of the United States shall serve without com-  
2        pensation in addition to that received for their serv-  
3        ices as officers or employees of the United States.

4        (b) TRAVEL EXPENSES.—The members of the Com-  
5        mission shall be allowed travel expenses, including per  
6        diem in lieu of subsistence, at rates authorized for employ-  
7        ees of agencies under subchapter I of chapter 57 of title  
8        5, United States Code, while away from their homes or  
9        regular places of business in the performance of services  
10       for the Commission.

11       (c) STAFF.—

12            (1) IN GENERAL.—The chairperson of the Com-  
13        mission may, without regard to the civil service laws  
14        and regulations, appoint and terminate an executive  
15        director and such other additional personnel as may  
16        be necessary to enable the Commission to perform  
17        its duties. The employment of an executive director  
18        shall be subject to confirmation by the Commission.

19            (2) COMPENSATION.—Upon the approval of the  
20        chairperson, the executive director may fix the com-  
21        pensation of the executive director and other per-  
22        sonnel without regard to chapter 51 and subchapter  
23        III of chapter 53 of title 5, United States Code, re-  
24        lating to classification of positions and General  
25        Schedule pay rates, except that the rate of pay for



1 the executive director and other personnel may not  
2 exceed the maximum rate payable for a position at  
3 GS-15 of the General Schedule under section 5332  
4 of such title.

5 (3) PERSONNEL AS FEDERAL EMPLOYEES.—

6 (A) IN GENERAL.—The executive director  
7 and any personnel of the Commission who are  
8 employees shall be employees under section  
9 2105 of title 5, United States Code, for pur-  
10 poses of chapters 63, 81, 83, 84, 85, 87, 89,  
11 and 90 of that title.

12 (B) MEMBERS OF COMMISSION.—Subpara-  
13 graph (A) shall not be construed to apply to  
14 members of the Commission.

15 (d) DETAIL OF GOVERNMENT EMPLOYEES.—Any  
16 Federal Government employee may be detailed to the  
17 Commission without reimbursement, and such detail shall  
18 be without interruption or loss of civil service status or  
19 privilege.

20 (e) PROCUREMENT OF TEMPORARY AND INTERMIT-  
21 TENT SERVICES.—The chairperson of the Commission  
22 may procure temporary and intermittent services under  
23 section 3109(b) of title 5, United States Code, at rates  
24 for individuals which do not exceed the daily equivalent

1 of the annual rate of basic pay prescribed for level V of  
 2 the Executive Schedule under section 5316 of such title.

3 **SEC. 6. TERMINATION OF THE COMMISSION.**

4 The Commission shall terminate 90 days after the  
 5 date on which the Commission submits the report under  
 6 section 3(d).

7 **SEC. 7. CONGRESSIONAL CONSIDERATION OF REFORM**  
 8 **PROPOSALS.**

9 (a) DEFINITIONS.—In this section—

10 (1) the term “implementation bill” means only  
 11 a bill which is introduced as provided under sub-  
 12 section (b), and contains the proposed legislation in-  
 13 cluded in the report submitted to Congress under  
 14 section 3, without modification; and

15 (2) the term “calendar day” means a calendar  
 16 day other than 1 on which either House is not in  
 17 session because of an adjournment of more than 3  
 18 days to a date certain.

19 (b) INTRODUCTION; REFERRAL; AND REPORT OR  
 20 DISCHARGE.—

21 (1) INTRODUCTION.—On the first calendar day  
 22 on which both Houses are in session, on or imme-  
 23 diately following the date on which the report is sub-  
 24 mitted to Congress under section 3, a single imple-  
 25 mentation bill shall be introduced (by request)—

1 (A) in the Senate by the Majority Leader  
2 of the Senate, for himself and the Minority  
3 Leader of the Senate, or by Members of the  
4 Senate designated by the Majority Leader and  
5 Minority Leader of the Senate; and

6 (B) in the House of Representatives by the  
7 Speaker of the House of Representatives, for  
8 himself and the Minority Leader of the House  
9 of Representatives, or by Members of the House  
10 of Representatives designated by the Speaker  
11 and Minority Leader of the House of Rep-  
12 resentatives.

13 (2) REFERRAL.—The implementation bills in-  
14 troduced under paragraph (1) shall be referred to  
15 any appropriate committee of jurisdiction in the  
16 Senate and any appropriate committee of jurisdic-  
17 tion in the House of Representatives. A committee  
18 to which an implementation bill is referred under  
19 this paragraph may report such bill to the respective  
20 House without amendment.

21 (3) REPORT OR DISCHARGE.—If a committee to  
22 which an implementation bill is referred has not re-  
23 ported such bill by the end of the 15th calendar day  
24 after the date of the introduction of such bill, such  
25 committee shall be immediately discharged from fur-

1       ther consideration of such bill, and upon being re-  
2       ported or discharged from the committee, such bill  
3       shall be placed on the appropriate calendar.

4       (c) FLOOR CONSIDERATION.—

5           (1) IN GENERAL.—When the committee to  
6       which an implementation bill is referred has re-  
7       ported, or has been discharged under subsection  
8       (b)(3), it is at any time thereafter in order (even  
9       though a previous motion to the same effect has  
10      been disagreed to) for any Member of the respective  
11      House to move to proceed to the consideration of the  
12      implementation bill, and all points of order against  
13      the implementation bill (and against consideration of  
14      the implementation bill) are waived. The motion is  
15      highly privileged in the House of Representatives  
16      and is privileged in the Senate and is not debatable.  
17      The motion is not subject to amendment, or to a  
18      motion to postpone, or to a motion to proceed to the  
19      consideration of other business. A motion to recon-  
20      sider the vote by which the motion is agreed to or  
21      disagreed to shall not be in order. If a motion to  
22      proceed to the consideration of the implementation  
23      bill is agreed to, the implementation bill shall remain  
24      the unfinished business of the respective House until  
25      disposed of.

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

4           (3) DEBATE.—Debate on the implementation  
5 bill, and on all debatable motions and appeals in  
6 connection therewith, shall be limited to not more  
7 than 10 hours, which shall be divided equally be-  
8 tween those favoring and those opposing the resolu-  
9 tion. A motion further to limit debate is in order and  
10 not debatable. An amendment to, or a motion to  
11 postpone, or a motion to proceed to the consider-  
12 ation of other business, or a motion to recommit the  
13 implementation bill is not in order. A motion to re-  
14 consider the vote by which the implementation bill is  
15 agreed to or disagreed to is not in order.

16           (4) VOTE ON FINAL PASSAGE.—Immediately  
17 following the conclusion of the debate on an imple-  
18 mentation bill, and a single quorum call at the con-  
19 clusion of the debate if requested in accordance with  
20 the rules of the appropriate House, the vote on final  
21 passage of the implementation bill shall occur.

22           (5) RULINGS OF THE CHAIR ON PROCEDURE.—  
23 Appeals from the decisions of the Chair relating to  
24 the application of the rules of the Senate or the  
25 House of Representatives, as the case may be, to the

1 procedure relating to an implementation bill shall be  
 2 decided without debate.

3 (d) COORDINATION WITH ACTION BY OTHER  
 4 HOUSE.—If, before the passage by 1 House of an imple-  
 5 mentation bill of that House, that House receives from  
 6 the other House an implementation bill, then the following  
 7 procedures shall apply:

8 (1) NONREFERRAL.—The implementation bill  
 9 of the other House shall not be referred to a com-  
 10 mittee.

11 (2) VOTE ON BILL OF OTHER HOUSE.—With  
 12 respect to an implementation bill of the House re-  
 13 ceiving the implementation bill—

14 (A) the procedure in that House shall be  
 15 the same as if no implementation bill had been  
 16 received from the other House; but

17 (B) the vote on final passage shall be on  
 18 the implementation bill of the other House.

19 (e) RULES OF THE SENATE AND THE HOUSE OF  
 20 REPRESENTATIVES.—This section is enacted by  
 21 Congress—

22 (1) as an exercise of the rulemaking power of  
 23 the Senate and House of Representatives, respec-  
 24 tively, and as such it is deemed a part of the rules  
 25 of each House, respectively, but applicable only with

1       respect to the procedure to be followed in that  
2       House in the case of an implementation bill de-  
3       scribed in subsection (a), and it supersedes other  
4       rules only to the extent that it is inconsistent with  
5       such rules; and

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

11 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

12      There are authorized to be appropriated such sums  
13 as may be necessary for each of fiscal years 2002 through  
14 2005 for carrying out this Act.

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