

108TH CONGRESS  
1ST SESSION

# S. 1668

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review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes.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

SEPTEMBER 26, 2003

Mr. BROWNBACK (for himself, Mr. MILLER, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BUNNING, Mr. BURNS, Mr. CHAMBLISS, Mr. CORNYN, Mr. CRAIG, Mr. CRAPO, Mr. ENSIGN, Mr. ENZI, Mr. FITZGERALD, Mr. GRAHAM of South Carolina, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. KYL, Mr. LOTT, Mr. MCCAIN, Ms. MURKOWSKI, Mr. NICKLES, Mr. SANTORUM, Mr. SESSIONS, Mr. SUNUNU, Mr. THOMAS, and Mr. VOINOVICH) 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review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes.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 not later than 90 days after the  
10 date of enactment 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) MEETINGS.—

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

25 (2) SUBSEQUENT MEETINGS.—The Commission  
26 shall meet at the call of the chairperson.

1 (e) 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) DEFINITIONS.—In this section, the following defi-  
6 nitions shall apply:

7 (1) AGENCY.—

8 (A) IN GENERAL.—Except as provided in  
9 subparagraph (B), the term “agency” has the  
10 meaning given the term “Executive agency”  
11 under section 105 of title 5, United States  
12 Code.

13 (B) EXCEPTIONS.—The term “agency”  
14 does not include—

15 (i) the Department of Defense or its  
16 subdivisions; or

17 (ii) any agency that solely administers  
18 entitlement programs.

19 (2) ENTITLEMENT PROGRAM.—The term “enti-  
20 tlement program” means any program that makes  
21 payments (including loans and grants), the budget  
22 authority for which is not provided for in advance by  
23 appropriation Acts, to any person or government if,  
24 under the provisions of the law containing such au-  
25 thority, the United States is obligated to make such

1 payments to persons or governments who meet the  
2 requirements established by such law.

3 (3) PROGRAM.—

4 (A) IN GENERAL.—Except as provided in  
5 subparagraph (B), the term “program” means  
6 any activity or function of an agency.

7 (B) EXCEPTION.—The term “program”  
8 does not include entitlement programs.

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

10 (1) evaluate all agencies and programs within  
11 those agencies, using the criteria under subsection  
12 (c); and

13 (2) submit to Congress—

14 (A) a plan with recommendations of the  
15 agencies and programs that should be realigned  
16 or eliminated; and

17 (B) proposed legislation to implement the  
18 plan described under subparagraph (A).

19 (c) CRITERIA.—

20 (1) DUPLICATIVE.—If 2 or more agencies or  
21 programs are performing the same essential function  
22 and the function can be consolidated or streamlined  
23 into a single agency or program, the Commission  
24 shall recommend that the agency or program be re-  
25 aligned.

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

5                   (A) egregious spending;

6                   (B) mismanagement of resources and per-  
7 sonnel; or

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

10          (3) OUTDATED, IRRELEVANT, OR FAILED.—The  
11 Commission shall recommend the elimination of any  
12 agency or program that—

13                   (A) has completed its intended purpose;

14                   (B) has become irrelevant; or

15                   (C) has failed to meet its objectives.

16          (d) SYSTEMATIC ASSESSMENT OF PROGRAMS.—

17           (1) IN GENERAL.—Not later than 1 year after  
18 the date of enactment of this Act, the President  
19 shall—

20                   (A) establish a systematic method for as-  
21 sessing the effectiveness and accountability of  
22 agency programs; and

23                   (B) submit, to the Commission, assess-  
24 ments of not less than ½ of all programs cov-

1           ered under subsection (b)(1) that use the meth-  
2           od established under subparagraph (A).

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

5                 (A) recognize different types of federal  
6                 programs;

7                 (B) assess programs based primarily on  
8                 the achievement of performance goals (as de-  
9                 fined under section 1115(f)(4) of title 31,  
10                United States Code); and

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

15           (3) DEVELOPMENT.—The method established  
16           under paragraph (1) shall not be implemented until  
17           it has been reviewed and accepted by the Commis-  
18           sion.

19           (4) CONSIDERATION OF ASSESSMENTS.—The  
20           Commission shall consider assessments submitted  
21           under this subsection when evaluating programs  
22           under subsection (b)(1).

23           (e) COMMON PERFORMANCE MEASURES.—Not later  
24           than 1 year after the date of enactment of this Act, the  
25           President shall identify common performance measures

1 for programs covered in subsection (b)(1) that have simi-  
2 lar functions and, to the extent feasible, provide the Com-  
3 mission with data on such performance measures.

4 (f) REPORT.—

5 (1) IN GENERAL.—Not later than 2 years after  
6 the date of enactment of this Act, the Commission  
7 shall submit to the President and Congress a report  
8 that includes—

9 (A) the plan described under subsection  
10 (b)(2)(A), with supporting documentation for  
11 all recommendations; and

12 (B) the proposed legislation described  
13 under subsection (b)(2)(B).

14 (2) USE OF SAVINGS.—The proposed legislation  
15 described under subsection (b)(2)(B) shall provide  
16 that all funds saved by the implementation of the  
17 plan described under subsection (b)(2)(A) shall be  
18 used to—

19 (A) support other domestic programs; or

20 (B) pay down the national debt.

21 (3) RELOCATION OF FEDERAL EMPLOYEES.—

22 The proposed legislation under paragraph (1)(B)  
23 shall provide that if the position of an employee of  
24 an agency is eliminated as a result of the implemen-  
25 tation of the plan under paragraph (1)(A), the af-

1        fected agency shall make reasonable efforts to relo-  
2        cate such employee to another position within the  
3        agency or within another Federal agency.

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

5        (a) HEARINGS.—The Commission or, at its direction,  
6        any subcommittee or member of the Commission, may, for  
7        the purpose of carrying out this Act—

8            (1) hold such hearings, sit and act at such  
9        times and places, take such testimony, receive such  
10       evidence, and administer such oaths as any member  
11       of the Commission considers advisable;

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

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

20        (b) SUBPOENAS.—

21           (1) ISSUANCE.—Subpoenas issued under sub-  
22       section (a) shall bear the signature of the chair-  
23       person of the Commission and shall be served by any  
24       person or class of persons designated by the chair-  
25       person for 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) INFORMATION FROM FEDERAL AGENCIES.—The  
12          Commission may secure directly from any Federal depart-  
13          ment or agency such information as the Commission con-  
14          siders necessary to carry out this Act. Upon request of  
15          the chairperson of the Commission, the head of such de-  
16          partment or agency shall furnish such information to the  
17          Commission.

18          (d) POSTAL SERVICES.—The Commission may use  
19          the United States mails in the same manner and under  
20          the same conditions as other departments and agencies of  
21          the Federal Government.

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

24      **SEC. 5. COMMISSION PERSONNEL MATTERS.**

25          (a) COMPENSATION OF MEMBERS.—

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

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

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

17       (c) STAFF.—

18           (1) IN GENERAL.—The chairperson of the Com-  
19      mission may, without regard to the civil service laws  
20      and regulations, appoint and terminate an executive  
21      director and such other additional personnel as may  
22      be necessary to enable the Commission to perform  
23      its duties. The employment of an executive director  
24      shall be subject to confirmation by the Commission.

1           (2) COMPENSATION.—Upon the approval of the  
2       chairperson, the executive director may fix the com-  
3       pensation of the executive director and other per-  
4       sonnel without regard to chapter 51 and subchapter  
5       III of chapter 53 of title 5, United States Code, re-  
6       lating to classification of positions and General  
7       Schedule pay rates, except that the rate of pay for  
8       the executive director and other personnel may not  
9       exceed the maximum rate payable for a position at  
10      GS-15 of the General Schedule under section 5332  
11      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       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, and such detail shall

1 be without interruption or loss of civil service status or  
2 privilege.

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

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

11 The Commission shall terminate 90 days after the  
12 date on which the Commission submits the report under  
13 section 3(f).

14 **SEC. 7. CONGRESSIONAL CONSIDERATION OF REFORM**  
15 **PROPOSALS.**

16 (a) DEFINITIONS.—In this section:

17 (1) IMPLEMENTATION BILL.—The term “imple-  
18 mentation bill” means only a bill which is introduced  
19 as provided under subsection (b), and contains the  
20 proposed legislation included in the report submitted  
21 to Congress under section 3, without modification.

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

1 (b) INTRODUCTION; REFERRAL; AND REPORT OR  
2 DISCHARGE.—

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

8 (A) in the Senate by the Majority Leader  
9 of the Senate, for himself and the Minority  
10 Leader of the Senate, or by Members of the  
11 Senate designated by the Majority Leader and  
12 Minority Leader of the Senate; and

13 (B) in the House of Representatives by the  
14 Speaker of the House of Representatives, for  
15 himself and the Minority Leader of the House  
16 of Representatives, or by Members of the House  
17 of Representatives designated by the Speaker  
18 and Minority Leader of the House of Rep-  
19 resentatives.

20 (2) REFERRAL.—The implementation bills in-  
21 troduced under paragraph (1) shall be referred to  
22 any appropriate committee of jurisdiction in the  
23 Senate and any appropriate committee of jurisdic-  
24 tion in the House of Representatives. A committee  
25 to which an implementation bill is referred under

1       this paragraph may report such bill to the respective  
2       House without amendment.

3           (3) REPORT OR DISCHARGE.—If a committee to  
4       which an implementation bill is referred has not re-  
5       ported such bill by the end of the 15th calendar day  
6       after the date of the introduction of such bill, such  
7       committee shall be immediately discharged from fur-  
8       ther consideration of such bill, and upon being re-  
9       ported or discharged from the committee, such bill  
10      shall be placed on the appropriate calendar.

11      (c) FLOOR CONSIDERATION.—

12           (1) IN GENERAL.—When the committee to  
13      which an implementation bill is referred has re-  
14      ported, or has been discharged under subsection  
15      (b)(3), it is at any time thereafter in order (even  
16      though a previous motion to the same effect has  
17      been disagreed to) for any Member of the respective  
18      House to move to proceed to the consideration of the  
19      implementation bill, and all points of order against  
20      the implementation bill (and against consideration of  
21      the implementation bill) are waived. The motion is  
22      highly privileged in the House of Representatives  
23      and is privileged in the Senate and is not debatable.  
24      The motion is not subject to amendment, or to a  
25      motion to postpone, or to a motion to proceed to the

1 consideration of other business. A motion to recon-  
2 sider the vote by which the motion is agreed to or  
3 disagreed to shall not be in order. If a motion to  
4 proceed to the consideration of the implementation  
5 bill is agreed to, the implementation bill shall remain  
6 the unfinished business of the respective House until  
7 disposed of.

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

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

23 (4) VOTE ON FINAL PASSAGE.—Immediately  
24 following the conclusion of the debate on an imple-  
25 mentation bill, and a single quorum call at the con-

1       clusion of the debate if requested in accordance with  
 2       the rules of the appropriate House, the vote on final  
 3       passage of the implementation bill shall occur.

4           (5) RULINGS OF THE CHAIR ON PROCEDURE.—  
 5       Appeals from the decisions of the Chair relating to  
 6       the application of the rules of the Senate or the  
 7       House of Representatives, as the case may be, to the  
 8       procedure relating to an implementation bill shall be  
 9       decided without debate.

10       (d) COORDINATION WITH ACTION BY OTHER  
 11       HOUSE.—If, before the passage by 1 House of an imple-  
 12       mentation bill of that House, that House receives from  
 13       the other House an implementation bill, then the following  
 14       procedures shall apply:

15           (1) NONREFERRAL.—The implementation bill  
 16       of the other House shall not be referred to a com-  
 17       mittee.

18           (2) VOTE ON BILL OF OTHER HOUSE.—With  
 19       respect to an implementation bill of the House re-  
 20       ceiving the implementation bill—

21           (A) the procedure in that House shall be  
 22       the same as if no implementation bill had been  
 23       received from the other House; but

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



1 (e) RULES OF SENATE AND HOUSE OF REPRESENTA-  
2 TIVES.—This section is enacted by Congress—

3 (1) as an exercise of the rulemaking power of  
4 the Senate and House of Representatives, respec-  
5 tively, and as such it is deemed a part of the rules  
6 of each House, respectively, but applicable only with  
7 respect to the procedure to be followed in that  
8 House in the case of an implementation bill de-  
9 scribed in subsection (a), and it supersedes other  
10 rules only to the extent that it is inconsistent with  
11 such rules; and

12 (2) with full recognition of the constitutional  
13 right of either House to change the rules (so far as  
14 relating to the procedure of that House) at any time,  
15 in the same manner, and to the same extent as in  
16 the case of any other rule of that House.

17 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated such sums  
19 as may be necessary for carrying out this Act for each  
20 of the fiscal years 2004 through 2006.

