

111TH CONGRESS
1ST SESSION

S. 1282

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

IN THE SENATE OF THE UNITED STATES

JUNE 17, 2009

Mr. BROWNBACK (for himself, Mr. ALEXANDER, Mr. CHAMBLISS, Mr. COBURN, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. ENSIGN, Mr. ENZI, Mr. GRAHAM, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. JOHANNES, Mr. KYL, Mr. MARTINEZ, Mr. MCCAIN, Mr. RISCH, Mr. THUNE, Mr. VITTER, and Mr. VOINOVICH) 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

8 (B) the Executive Office of the President.

1 (2) CALENDAR DAY.—The term “calendar day”
 2 means a calendar day other than one on which ei-
 3 ther House is not in session because of an adjourn-
 4 ment of more than 3 days to a date certain.

5 (3) COMMISSION BILL.—The term “Commission
 6 bill” means only a bill which is introduced as pro-
 7 vided under section 6, and contains the proposed
 8 legislation included in the report submitted to Con-
 9 gress under section 3(b)(1), without modification.

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

12 **SEC. 2. ESTABLISHMENT OF COMMISSION.**

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

17 (b) MEMBERSHIP.—

18 (1) IN GENERAL.—The Commission shall con-
 19 sist of 7 members, of which, not later than 30 days
 20 after the date of enactment of this Act—

21 (A) 1 shall be appointed by the President;

22 (B) 1 shall be appointed by the majority
 23 leader of the Senate;

24 (C) 1 shall be appointed by the President
 25 pro tempore of the Senate;

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

3 (E) 1 shall be appointed by the Speaker of
4 the House of Representatives;

5 (F) 1 shall be appointed by the majority
6 leader of the House of Representatives; and

7 (G) 1 shall be appointed by the minority
8 leader of the House of Representatives.

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

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

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

21 (e) MEETINGS.—

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

11 (1) IN GENERAL.—Not later than 180 days
 12 after the date of enactment of this Act, the Commis-
 13 sion shall establish a systematic method for assess-
 14 ing the effectiveness and accountability of agency
 15 programs in accordance with paragraph (2) and di-
 16 vide the programs into 4 approximately equal budg-
 17 etary parts based on the size of the budget and
 18 number of personnel of the agency program.

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

21 (A) recognize different types of Federal
 22 programs;

23 (B) assess programs based on the achieve-
 24 ment of performance goals (as defined under

1 section 1115(g)(4) of title 31, United States
2 Code);

3 (C) assess programs based in part on the
4 adequacy of the program's performance meas-
5 ures, financial management, and other factors;

6 (D) assess programs based in part on
7 whether the program has fulfilled the legislative
8 intent surrounding the creation of the program,
9 taking into account any change in legislative in-
10 tent during the program's existence; and

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

15 (b) EVALUATION, PLAN, AND LEGISLATION.—

16 (1) IN GENERAL.—The Commission shall—

17 (A) evaluate all agencies and programs
18 within those agencies in each unit identified in
19 the systemic assessment under subsection (a) (1
20 each year over the next 4 years), using the cri-
21 teria under paragraph (3); and

22 (B) submit to Congress each of the next 4
23 years beginning January 1, 2011, with respect
24 to each evaluation under subparagraph (A)—

- 1 (i) a plan with recommendations of
2 the agencies and programs that should be
3 realigned or eliminated within each part;
4 and
5 (ii) proposed legislation to implement
6 the plan described under clause (i).

7 (2) RELOCATION OF FEDERAL EMPLOYEES.—
8 The proposed legislation under paragraph (1) shall
9 provide that if the position of an employee of an
10 agency is eliminated as a result of the implementa-
11 tion of the plan under paragraph (1)(A), the af-
12 fected agency shall make reasonable efforts to relo-
13 cate such employee to another position within the
14 agency or within another Federal agency.

15 (3) CRITERIA.—

16 (A) DUPLICATIVE.—If 2 or more agencies
17 or programs are performing the same essential
18 function and the function can be consolidated
19 or streamlined into a single agency or program,
20 the Commission shall recommend that the agen-
21 cies or programs be realigned.

22 (B) WASTEFUL OR INEFFICIENT.—The
23 Commission may recommend the realignment or
24 elimination of any agency or program that has
25 wasted Federal funds by—

- 1 (i) egregious spending;
- 2 (ii) mismanagement of resources and
- 3 personnel; or
- 4 (iii) use of such funds for personal
- 5 benefit or the benefit of a special interest
- 6 group.

7 (C) OUTDATED, IRRELEVANT, OR
 8 FAILED.—The Commission shall recommend
 9 the elimination of any agency or program
 10 that—

- 11 (i) has completed its intended pur-
- 12 pose;
- 13 (ii) has become irrelevant; or
- 14 (iii) has failed to meet its objectives.

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

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

- 19 (1) hold such hearings, sit and act at such
- 20 times and places, take such testimony, receive such
- 21 evidence, and administer such oaths as the Chair-
- 22 person of the Commission considers advisable;
- 23 (2) require, by subpoena or otherwise, the at-
- 24 tendance and testimony of such witnesses as the

1 Chairperson of the Commission considers advisable;
2 and

3 (3) require, by subpoena or otherwise, the pro-
4 duction of such books, records, correspondence,
5 memoranda, papers, documents, tapes, and other
6 evidentiary materials relating to any matter under
7 investigation by the Commission.

8 (b) SUBPOENAS.—

9 (1) ISSUANCE.—

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

12 (i) the agreement of the Cochair-
13 persons; or

14 (ii) the affirmative vote of 4 members
15 of the Commission.

16 (B) SIGNATURE.—Subpoenas issued under
17 this section may be issued under the signature
18 of both Cochairpersons of the Commission and
19 may be served by any person designated by the
20 Cochairpersons or by a member designated by
21 a majority of the Commission.

22 (2) ENFORCEMENT.—In the case of contumacy
23 or failure to obey a subpoena issued under this sec-
24 tion, the United States district court for the judicial
25 district in which the subpoenaed person resides, is

1 served, or may be found, may issue an order requir-
2 ing such person to appear at any designated place
3 to testify or to produce documentary or other evi-
4 dence. Any failure to obey the order of the court
5 may be punished by the court as a contempt of that
6 court.

7 (c) TECHNICAL ASSISTANCE.—Upon the request of
8 the Commission, the head of a Federal agency shall pro-
9 vide such technical assistance to the Commission as the
10 Commission determines to be necessary to carry out its
11 duties.

12 (d) INFORMATION.—

13 (1) IN GENERAL.—The Commission shall have
14 reasonable access to budgetary, performance or pro-
15 grammatic materials, resources, statistical data, and
16 other information the Commission determines to be
17 necessary to carry out its duties from the Congres-
18 sional Budget Office, and other agencies and rep-
19 resentatives of the executive and legislative branches
20 of the Federal Government. The Cochairpersons
21 shall make requests for such access in writing when
22 necessary.

23 (2) RECEIPT, HANDLING, STORAGE, AND DIS-
24 SEMINATION OF INFORMATION.—Information shall
25 only be received, handled, stored, and disseminated

1 by members of the Commission and its staff con-
2 sistent with all applicable statutes, regulations, and
3 Executive orders.

4 (3) LIMITATION OF ACCESS TO PERSONAL TAX
5 INFORMATION.—Information requested, subpoenaed,
6 or otherwise accessed under this Act shall not in-
7 clude tax data from the United States Internal Rev-
8 enue Service, the release of which would otherwise
9 be in violation of law.

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

14 **SEC. 5. COMMISSION PERSONNEL MATTERS.**

15 (a) COMPENSATION OF MEMBERS.—

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

20 (2) FEDERAL OFFICERS OR EMPLOYEES.—All
21 members of the Commission who are officers or em-
22 ployees of the United States shall serve without com-
23 pensation in addition to that received for their serv-
24 ices as officers or employees of the United States.

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

8 (c) STAFF.—

9 (1) IN GENERAL.—With the approval of the
10 majority of the Commission, the Cochairpersons of
11 the Commission may, appoint an executive director
12 and such other additional personnel as may be nec-
13 essary to enable the Commission to perform its du-
14 ties.

15 (2) COMPENSATION.—Upon the approval of the
16 Cochairpersons, the executive director may fix the
17 compensation of the executive director and other
18 personnel without regard to chapter 51 and sub-
19 chapter III of chapter 53 of title 5, United States
20 Code, relating to classification of positions and Gen-
21 eral Schedule pay rates, except that the rate of pay
22 for the executive director and other personnel may
23 not exceed the maximum rate payable for a position
24 at GS-15 of the General Schedule under section
25 5332 of such title.

1 (3) PERSONNEL AS FEDERAL EMPLOYEES.—

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

8 (B) MEMBERS OF COMMISSION.—Subpara-
9 graph (A) shall not be construed to apply to
10 members of the Commission.

11 (d) DETAIL OF GOVERNMENT EMPLOYEES.—Any
12 Federal Government employee may be detailed to the
13 Commission without reimbursement from the Commission,
14 and such detail shall be without interruption or loss of
15 civil service status or privilege.

16 (e) PROCUREMENT OF TEMPORARY AND INTERMIT-
17 TENT SERVICES.—With the approval of the majority of
18 the Commission, the Chairperson of the Commission may
19 procure temporary and intermittent services under section
20 3109(b) of title 5, United States Code, at rates for individ-
21 uals which do not exceed the daily equivalent of the annual
22 rate of basic pay prescribed for level V of the Executive
23 Schedule under section 5316 of such title.

1 **SEC. 6. EXPEDITED CONSIDERATION OF REFORM PRO-**
2 **POSALS.**

3 (a) INTRODUCTION AND COMMITTEE CONSIDER-
4 ATION.—

5 (1) INTRODUCTION.—The Commission bill lan-
6 guage provisions submitted pursuant to section
7 3(b)(1) shall be introduced in the Senate by the ma-
8 jority leader, or the majority leader's designee, and
9 in the House of Representatives, by the Speaker, or
10 the Speaker's designee. Upon such introduction, the
11 Commission bill shall be referred to the appropriate
12 committees of Congress under paragraph (2). If the
13 Commission bill is not introduced in accordance with
14 the preceding sentence, then any member of Con-
15 gress may introduce the Commission bill in their re-
16 spective House of Congress beginning on the date
17 that is the 5th calendar day that such House is in
18 session following the date of the submission of such
19 aggregate legislative language provisions.

20 (2) COMMITTEE CONSIDERATION.—

21 (A) REFERRAL.—A Commission bill intro-
22 duced under paragraph (1) shall be referred to
23 any appropriate committee of jurisdiction in the
24 Senate, any appropriate committee of jurisdic-
25 tion in the House of Representatives, the Com-
26 mittee on the Budget of the Senate and the

1 Committee on the Budget of the House of Rep-
2 resentatives. A committee to which a Commis-
3 sion bill is referred under this paragraph may
4 review and comment on such bill, may report
5 such bill to the respective House, and may not
6 amend such bill.

7 (B) REPORTING.—Not later than 30 cal-
8 endar days after the introduction of the Com-
9 mission bill, each Committee of Congress to
10 which the Commission bill was referred shall re-
11 port the bill.

12 (C) DISCHARGE OF COMMITTEE.—If a
13 committee to which is referred a Commission
14 bill has not reported such Commission bill at
15 the end of 30 calendar days after its introduc-
16 tion or at the end of the first day after there
17 has been reported to the House involved a Com-
18 mission bill, whichever is earlier, such com-
19 mittee shall be deemed to be discharged from
20 further consideration of such Commission bill,
21 and such Commission bill shall be placed on the
22 appropriate calendar of the House involved.

23 (b) EXPEDITED PROCEDURE.—

24 (1) CONSIDERATION.—

1 (A) IN GENERAL.—Not later than 5 cal-
2 endar days after the date on which a committee
3 has reported a Commission bill or been dis-
4 charged from consideration of a Commission
5 bill, the majority leader of the Senate, or the
6 majority leader's designee, or the Speaker of
7 the House of Representatives, or the Speaker's
8 designee, shall move to proceed to the consider-
9 ation of the Commission bill. It shall also be in
10 order for any member of the Senate or the
11 House of Representatives, respectively, to move
12 to proceed to the consideration of the Commis-
13 sion bill at any time after the conclusion of
14 such 5-day period.

15 (B) MOTION TO PROCEED.—A motion to
16 proceed to the consideration of a Commission
17 bill is highly privileged in the House of Rep-
18 resentatives and is privileged in the Senate and
19 is not debatable. The motion is not subject to
20 amendment or to a motion to postpone consid-
21 eration of the Commission bill. If the motion to
22 proceed is agreed to, the Senate or the House
23 of Representatives, as the case may be, shall
24 immediately proceed to consideration of the
25 Commission bill without intervening motion,

1 order, or other business, and the Commission
2 bill shall remain the unfinished business of the
3 Senate or the House of Representatives, as the
4 case may be, until disposed of.

5 (C) LIMITED DEBATE.—Debate on the
6 Commission bill and on all debatable motions
7 and appeals in connection therewith shall be
8 limited to not more than 10 hours, which shall
9 be divided equally between those favoring and
10 those opposing the Commission bill. A motion
11 further to limit debate on the Commission bill
12 is in order and is not debatable. All time used
13 for consideration of the Commission bill, includ-
14 ing time used for quorum calls (except quorum
15 calls immediately preceding a vote) and voting,
16 shall come from the 10 hours of debate.

17 (D) AMENDMENTS.—No amendment to the
18 Commission bill shall be in order in the Senate
19 and the House of Representatives.

20 (E) VOTE ON FINAL PASSAGE.—Imme-
21 diately following the conclusion of the debate on
22 the Commission bill, the vote on final passage
23 of the Commission bill shall occur.

24 (F) OTHER MOTIONS NOT IN ORDER.—A
25 motion to postpone consideration of the Com-

1 mission bill, a motion to proceed to the consid-
 2 eration of other business, or a motion to recom-
 3 mit the Commission bill is not in order. A mo-
 4 tion to reconsider the vote by which the Com-
 5 mission bill is agreed to or not agreed to is not
 6 in order.

7 (2) CONSIDERATION BY OTHER HOUSE.—If, be-
 8 fore the passage by one House of the Commission
 9 bill that was introduced in such House, such House
 10 receives from the other House a Commission bill as
 11 passed by such other House—

12 (A) the Commission bill of the other House
 13 shall not be referred to a committee and may
 14 only be considered for final passage in the
 15 House that receives it under subparagraph (C);

16 (B) the procedure in the House in receipt
 17 of the Commission bill of the other House, shall
 18 be the same as if no Commission bill had been
 19 received from the other House; and

20 (C) notwithstanding subparagraph (B), the
 21 vote on final passage shall be on the Commis-
 22 sion bill of the other House.

23 (3) Upon disposition of a Commission bill that
 24 is received by one House from the other House, it

1 shall no longer be in order to consider the Commis-
 2 sion bill that was introduced in the receiving House.

3 (c) RULES OF THE SENATE AND THE HOUSE OF
 4 REPRESENTATIVES.—This section is enacted—

5 (1) as an exercise of the rulemaking power of
 6 the Senate and the House of Representatives, re-
 7 spectively, and is deemed to be part of the rules of
 8 each House, respectively, but applicable only with re-
 9 spect to the procedure to be followed in that House
 10 in the case of a Commission bill, and it supersedes
 11 other rules only to the extent that it is inconsistent
 12 with such rules; and

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

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

19 The Commission shall terminate 90 days after the
 20 date on which the Commission submits the final evaluation
 21 and plan report under section 3.

1 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as may be necessary for carrying out this Act for each
4 of the fiscal years 2010 through 2014.

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