

GOVERNMENT EFFICIENCY, EFFECTIVENESS, AND
PERFORMANCE IMPROVEMENT ACT OF 2010

JUNE 14, 2010.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

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

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 2142]

[Including cost estimate of the Congressional Budget Office]

The Committee on Oversight and Government Reform, to whom
was referred the bill (H.R. 2142) to require the review of Govern-
ment programs at least once every 5 years for purposes of assess-
ing their performance and improving their operations, and to estab-
lish the Performance Improvement Council, having considered the
same, report favorably thereon with amendments and recommend
that the bill as amended do pass.

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AMENDMENTS

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Government Efficiency, Effectiveness, and Performance Improvement Act of 2010”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Agency defined.
- Sec. 4. Sense of Congress regarding the need for increased consultation between Congress and Federal agencies on performance management issues.
- Sec. 5. Performance assessments.
- Sec. 6. Strategic planning amendments.
- Sec. 7. Improving Government performance.
- Sec. 8. Assessments and reports.
- Sec. 9. Additions to performance plan.

SEC. 2. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—Congress finds the following:

(1) Weaknesses in established management processes pertaining to the use of information about the performance of Federal agencies undermine the confidence of the American people in the Government and reduce the Federal Government’s ability to adequately address public needs.

(2) To restore the confidence of the American people in its Government and to increase the Federal Government’s ability to adequately address vital public needs, the Federal Government must continually seek to improve the effectiveness, efficiency, and accountability of Federal programs.

(3) With the passage of the Government Performance and Results Act of 1993, Congress directed the executive branch to seek improvements in the performance and accountability of Federal programs by having agencies focus on strategic objectives and annual results.

(4) The requirements of the Government Performance and Results Act of 1993 have produced an infrastructure of outcome-oriented strategic plans, performance measures, and accountability reporting that serve as a solid foundation for agencies working with Congress to achieve long-term strategic goals and improve the performance of Federal programs; use of those plans and reports to improve outcomes has, however, been limited.

(5) Congressional policy making, spending decisions, and program oversight have been handicapped by insufficient attention to program performance and results.

(6) While improvements have been made in the development of outcome-oriented strategic plans, performance measures, and accountability reporting for individual programs, progress is still needed to ensure that agency leaders, employees, and delivery partners regularly use performance information to improve the effectiveness and efficiency of government operations and to communicate performance information coherently and candidly to inform congressional decision-making in conducting program authorization, appropriation, and oversight.

(7) Regular performance assessments, complemented by periodic assessments of Federal programs, provide critical information on whether programs are achieving specific performance objectives, help Congress and the executive branch identify the most pressing policy and program issues, and determine if specific legislative, operational, financial, or strategic reforms are needed to increase program effectiveness and efficiency.

(8) Programs performing similar or duplicative functions within a single agency or across multiple agencies should be identified and their performance and results shared among all such programs to improve coordination or possible consolidation and, ultimately, performance and results.

(9) The performance reporting requirements of the Government Performance and Results Act of 1993, along with individual performance and accountability reporting requirements contained in legislation, are in some cases redundant,

and steps should be taken to eliminate duplicative performance policies and to streamline outdated and unused reports.

(b) **PURPOSES.**—The purposes of this Act are as follows:

(1) To improve the Government Performance and Results Act of 1993 by implementing performance assessment processes that seek to assess Federal programs on a periodic basis with a particular focus on the following:

(A) Identification by agency leaders of clear priorities and setting of outcome-focused, measurable, ambitious targets for those priorities.

(B) Regular goal-focused, data driven performance assessments to measure progress and adjust strategies.

(C) Accountability expectations that encourage managers to innovate, informed by evidence and analysis of experience.

(D) Transparent, coherent, and candid communication of results.

(2) To use relevant performance and related information to help agencies make informed management decisions, improve the effectiveness of agency and program operations (particularly for those programs, projects, and activities that are deemed poorly performing), and submit funding requests based on evidence and other relevant information.

(3) To provide congressional policy makers with information needed to conduct more effective oversight and assist in the improvement of agency operations, and to make performance-informed and results-based authorization and appropriation decisions that improve the effectiveness of program operations.

(4) To establish the Performance Improvement Council as a body that will assist in the development of performance measurement and management standards and assessment methodologies, identify best practices in Federal performance management, facilitate the exchange of information among agencies on these practices, and collaborate on and strengthen the effectiveness of agency performance improvement efforts.

(5) To establish agency performance improvement officers to institutionalize and enhance the strategic and performance management activities of Federal agencies.

SEC. 3. AGENCY DEFINED.

In this Act, the term “agency” means an executive agency as defined in section 306 of title 5, United States Code.

SEC. 4. SENSE OF CONGRESS REGARDING THE NEED FOR INCREASED CONSULTATION BETWEEN CONGRESS AND FEDERAL AGENCIES ON PERFORMANCE MANAGEMENT ISSUES.

It is the sense of Congress that the head of each Federal agency should make every effort to consult with the committees with jurisdiction over the agency and other interested members of Congress each fiscal year regarding the performance plan and priorities of the agency (required by sections 1115 and 1120 of title 31, United States Code).

SEC. 5. PERFORMANCE ASSESSMENTS.

(a) **REQUIREMENT FOR PERFORMANCE ASSESSMENTS.**—Chapter 11 of title 31, United States Code, is amended by adding at the end the following new section:

“§ 1120. Performance assessments

“(a) **IDENTIFICATION OF HIGH-PRIORITY PERFORMANCE GOALS.**—For the purpose of improving agency performance, the head of each Federal agency, in consultation with the Director of the Office of Management and Budget, shall identify near-term and long-term high-priority goals for purposes of this section. In identifying such goals, the head of the agency shall—

“(1) rely on the agency’s mission, strategic plan and objectives, and statutory directives;

“(2) consult with Congress, including each appropriate committee of Congress;

“(3) select goals that—

“(A) clearly identify agency priorities and have performance outcomes that can be clearly and objectively assessed and measured;

“(B) are ambitious targets that have high direct value to the public;

“(C) involve indicators for which the agency can collect reliable and timely data that may be used in performance assessments to measure progress and adjust strategies; and

“(D) involve multiple programs, including programs within and across multiple agencies that are performing similar functions, serve similar populations, have similar purposes, or share common objectives, for purposes of identifying common challenges, exemplary goals and practices, common measures of performance, and potential opportunities for more effective and

efficient means of achieving goals, including through the integration and consolidation of Federal functions; and

“(4) with respect to a subcomponent of the agency, ensure the goals are consistent with the goals of the entire agency.

“(b) PERFORMANCE ASSESSMENTS.—The head of each Federal agency, in consultation with the Director of the Office of Management and Budget, shall, not less often than quarterly for high-priority goals identified in subsection (a), and on a semi-annual basis for performance goals established pursuant to section 1115(a)(1) of this title—

“(1) assess progress toward achieving the goals identified under subsection (a) and toward achieving the annual performance goals for each program activity established pursuant to section 1115(a)(1) of this title;

“(2) assess whether relevant agency programs and initiatives are contributing as expected toward the goals identified under subsection (a) and the annual performance goals for each program activity established pursuant to section 1115(a)(1) of this title; and

“(3) identify prospects and strategies for performance improvement, including any needed changes to agency programs or initiatives.

“(c) PERFORMANCE ASSESSMENT REQUIREMENTS.—In conducting an assessment of agency progress toward achieving the goals identified under subsection (a) and toward achieving the annual performance goals for each program activity established pursuant to section 1115(a)(1) of this title, the head of a Federal agency, in consultation with the Director of the Office of Management and Budget, shall—

“(1) coordinate with relevant personnel within and outside the agency who contribute to the accomplishment of the goals; and

“(2) encourage innovation and hold leaders and managers accountable for effective and efficient implementation based on evidence and continuing analysis of experience.

“(d) TRANSPARENCY OF GOALS AND PERFORMANCE ASSESSMENTS.—The Director of the Office of Management and Budget shall—

“(1) make available, as part of the President’s budget submission and through the Office of Management and Budget website and other relevant websites, and provide to the congressional committees described in subsection (i)—

“(A) a list of goals identified under subsection (a) and reviewed by the Director;

“(B) consistent with section 1115 of this title, annual goals defined by objectively measurable outcomes for each program administered in whole or in part by the agency;

“(C) the methods that will be used to make progress toward achieving the goals identified under subparagraphs (A) and (B);

“(D) the expected contribution that different agency programs and initiatives will make toward achieving the goals identified under subparagraphs (A) and (B) and the expected timeline for achieving those goals; and

“(E) the approach that will be used by agencies to assess progress toward achieving the goals identified under subparagraphs (A) and (B);

“(2) provide a mechanism for interested persons, including the general public and members and committees of Congress, to submit comments on the goals being assessed under subsection (a) and the annual performance goals for each program activity established pursuant to section 1115(a)(1) of this title and the methods that will be used to make progress toward achieving those goals;

“(3) provide a mechanism for agency delivery to and consideration of comments provided under paragraph (2) by each relevant agency and adjustment of goals under subsection (a) and the annual performance goals for each program activity established pursuant to section 1115(a)(1) of this title based on the comments, with approval of the Director; and

“(4) make available through the Office of Management and Budget website a summary of comments received under paragraph (2), any adjustment of goals under paragraph (3), and any changes to goals required by the Office of Management and Budget.

“(e) TRANSPARENCY OF PERFORMANCE RESULTS.—(1) The head of an agency shall ensure that all results of the assessments conducted under this section by the agency during a fiscal year shall be readily accessible to and easily found on the Internet by the public and members and committees of Congress in a searchable, machine readable format, in accordance with guidance provided by the Director of the Office of Management and Budget that ensures such information is provided in a way that presents a coherent picture of the performance of Federal agencies. At a minimum, the results of the assessments conducted under this section shall be available on the website of the Office of Management and Budget and also may be made available on any other website considered appropriate by the agency or the Director. The Di-

rector shall also notify the appropriate committees of Congress when quarterly assessments become available on the Internet.

“(2) The performance information related to the assessments of goals in this section and section 1115 of this title shall—

“(A) include—

“(i) a brief summary of the problem or opportunity being addressed and reasons for identifying these agency goals as well as key findings of the assessments;

“(ii) a list of each program and agency contributing to achievement of the goal and the time frame for such contributions;

“(iii) an assessment of the quality of the performance measures, and the extent to which necessary performance data are collected;

“(iv) a description of how leaders and managers are held accountable for achieving program results, and the extent to which strong financial management tools are in place;

“(v) contextual indicators that provide a sense of external factors that can influence performance trends related to key outcomes;

“(vi) as appropriate, indicators that provide information about the population being served and to the extent possible, the impact on disadvantaged and minority communities and individuals;

“(vii) factors affecting the performance of programs, projects, and activities and how they are impeding or contributing to failures or successes of the programs, projects, and activities, and the reasons for any substantial variation from the targeted level of achievement of the goals;

“(viii) the process used by the agency to assess progress made toward achieving the goals; and

“(ix) such other items and adjustments as may be specified by the Director;

“(B) describe the extent to which any trends, developments, or emerging conditions affect the need to change the mission of programs being carried out to achieve the goal;

“(C) identify, as part of any performance assessment, practices that resulted in positive outcomes, and the key reasons why such practices resulted in positive outcomes; and

“(D) include recommendations for actions to improve results, including opportunities that might exist for the coordination, consolidation, or integration of programs to improve service or generate cost savings.

“(3) The head of each agency shall—

“(A) use, as necessary and appropriate, a variety of assessment methods to support performance assessments, including methods contained in reports from evaluation centers, in assessments by States, and in available Federal program assessments;

“(B) maintain an archive of information required to be disclosed under this section that is, to the maximum extent practicable, readily available, accessible, and easily found by the public; and

“(C) consider the relevant comments submitted under subsection (d)(2).

“(f) CLASSIFIED INFORMATION.—(1) With respect to performance assessments conducted during a fiscal year that contain classified information, the President shall submit—

“(A) each quarterly performance assessment (including the classified information), to the appropriate committees of Congress; and

“(B) an appendix containing a list of each affected goal and the committees to which a copy of the performance assessment was submitted under subparagraph (A), to the congressional committees described in subsection (i).

“(2) Upon request from a congressional committee described in subsection (i), the Director of the Office of Management and Budget shall provide to the Committee a copy of—

“(A) any performance assessment described in subparagraph (A) of paragraph (1) (including any assessment not listed in any appendix submitted under subparagraph (B) of such paragraph); and

“(B) any appendix described in subparagraph (B) of paragraph (1).

“(3) In this subsection, the term ‘classified information’ refers to matters described in section 552(b)(1)(A) of title 5.

“(g) INHERENTLY GOVERNMENTAL FUNCTIONS.—The functions and activities authorized or required by this section shall be considered inherently governmental functions and shall be performed only by Federal employees.

“(h) REPORT STREAMLINING.—To eliminate redundancy, the head of an agency may determine each year, subject to the approval of the Director of the Office of Management and Budget and provided that it meets the requirements of this sec-

tion and sections 1115, 1116, 1117, 1121, and the first 9703 of this title, that the performance information provided to the public on the Internet is sufficient to meet the planning and reporting requirements of such sections.

“(i) CONGRESSIONAL COMMITTEES.—The congressional committees described in this subsection are the following:

“(1) The Committee on Oversight and Government Reform of the House of Representatives.

“(2) The Committee on Homeland Security and Governmental Affairs of the Senate.

“(3) The Committees on Appropriations of the House of Representatives and the Senate.

“(4) The Committees on the Budget of the House of Representatives and the Senate.

“(j) DEFINITIONS.—In this section:

“(1) AGENCY PERFORMANCE IMPROVEMENT OFFICER.—The term ‘agency performance improvement officer’ means a senior executive of an agency who is designated by the head of the agency, and reports to the head of the agency, the agency Deputy Secretary, or such other agency official designated by the head of the agency, to carry out the requirements of this section.

“(2) PERFORMANCE INFORMATION.—The term ‘performance information’ means the results of assessments conducted under this section.”.

(b) PERFORMANCE ASSESSMENTS TO BE CONSIDERED IN EVALUATING SENIOR EXECUTIVES.—Section 4313 of title 5, United States Code, is amended (in the matter before paragraph (1)) by striking “organizational performance,” and inserting the following: “organizational performance (including such reviews of agency performance, conducted under section 1120 of title 31, as are relevant).”.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 31, United States Code, is amended by adding at the end the following:

“1120. Performance assessments.”.

SEC. 6. STRATEGIC PLANNING AMENDMENTS.

(a) CHANGE IN DEADLINE FOR STRATEGIC PLAN.—Subsection (a) of section 306 of title 5, United States Code, is amended by striking “No later than September 30, 1997,” and inserting “Not later than September 30 of the second year following a year in which an election for President occurs, beginning with September 30, 2010.”.

(b) CHANGE IN PERIOD OF COVERAGE OF STRATEGIC PLAN.—Subsection (b) of section 306 of title 5, United States Code, is amended to read as follows:

“(b) Each strategic plan shall cover the four-year period beginning on October 1 of the second year following a year in which an election for President occurs.”.

SEC. 7. IMPROVING GOVERNMENT PERFORMANCE.

(a) IMPROVING GOVERNMENT PERFORMANCE.—Chapter 11 of title 31, United States Code, as amended by section 5, is further amended by adding at the end the following new section:

“§ 1121. Improving Government performance

“(a) DUTIES OF AGENCY PERFORMANCE IMPROVEMENT OFFICERS.—Subject to the direction of the head of the agency, each agency performance improvement officer shall—

“(1) advise and assist the head of the executive agency and other agency officials to ensure that the mission of the executive agency is achieved through performance planning, measurement, analysis, and regular assessment of progress, including the requirements of this section and sections 1115, 1116, 1117, 1120, and the first 9703 of this title and section 306 of title 5;

“(2) advise the head of the agency on the selection of agency goals, including opportunities to collaborate with other agencies on common goals, and on whether—

“(A) the performance targets required under section 1115 of this title and the strategic plans required under section 306 of title 5 are—

“(i) sufficiently aggressive toward full achievement of the purposes of the agency; and

“(ii) realistic in light of authority and resources provided for operations; and

“(B) means for measurement of progress toward achievement of the goals are sufficiently rigorous, aligned to outcomes, useful, and accurate as appropriate to the intended use of the measures;

“(3) support the head of the agency, agency Deputy Secretary, or such other agency senior official designated by the head of the agency in the conduct of at least quarterly performance assessments, while strengthening the perform-

ance management activities of the entire agency (including subcomponents) through at least quarterly performance assessments to—

“(A) assess progress toward achievement of the goals administered in whole or in part by the agency, as well as any goals common to that agency and other agencies;

“(B) identify factors affecting progress and benchmarking comparisons;

“(C) consider actions to improve the performance and efficiency of programs, projects, and activities; and

“(D) hold leaders and managers accountable for effective and efficient implementation and for adjusting agency actions based on evolving evidence;

“(4) assist the head of the agency in the development and use within the agency of performance measures in personnel performance appraisals, and, as appropriate, other agency personnel and planning processes and assessments;

“(5) assist the head of the agency in overseeing the implementation required under section 1120 of this title;

“(6) ensure that agency progress toward achievement of all goals is communicated to leaders, managers, and employees in the agency and Congress, and made public on the Internet; and

“(7) provide training for agency managers, program directors, supervisors, and employees on how to use performance targets, measure key performance indicators, assess programs, and analyze data to improve performance.

“(b) ESTABLISHMENT AND OPERATION OF PERFORMANCE IMPROVEMENT COUNCIL.—

“(1) There is established in the executive branch a Performance Improvement Council.

“(2) The Performance Improvement Council shall consist exclusively of—

“(A) the Deputy Director for Management of the Office of Management and Budget, who shall serve as Chair;

“(B) such agency performance improvement officers as determined appropriate by the Chair; and

“(C) such other permanent employees of an agency as determined appropriate by the Chair in consultation with the agency concerned.

“(3) The Chair or the Chair’s designee shall convene and preside at the meetings of the Performance Improvement Council, determine its agenda, direct its work, and establish and direct subgroups of the Performance Improvement Council, as appropriate to deal with particular subject matters.

“(4) To assist in implementing the requirements of sections 1105, 1115, 1116, 1117, 1120, and the first 9703 of this title and section 306 of title 5, the Performance Improvement Council shall—

“(A) develop and submit to the Director of the Office of Management and Budget, or when appropriate to the President through the Director of the Office of Management and Budget, at times and in such formats as the Chair may specify, recommendations concerning—

“(i) performance management policies and requirements;

“(ii) criteria for assessment of program, project, and activity performance; and

“(iii) how the goals required by section 1120(a) of this title can inform the Federal Government performance plan required by section 1105(a)(28) of this title, and lead to improved results from and inter-agency coordination of programs that perform similar functions;

“(B) facilitate the exchange among agencies of information on performance management, including strategic and annual planning and reporting, to accelerate improvements in performance;

“(C) monitor the performance assessment process required under section 1120 of this title;

“(D) facilitate keeping members and committees of Congress and the public informed, and with such assistance of heads of agencies and agency performance improvement officers as the Director of the Office of Management and Budget may require, provide members and committees of Congress and the public with information on the Internet on how well each agency performs and that serves as a comprehensive source of information on—

“(i) agency strategic plans;

“(ii) annual performance plans and annual performance reports;

“(iii) performance information required under section 1120 (d) of this title;

“(iv) the status of the implementation of performance assessments required under section 1120 of this title;

“(v) relevant impact and process assessments; and

“(vi) consistent with the direction of the head of the agency concerned after consultation with the Director of the Office of Management and

Budget, any publicly available reports by the agency's Inspector General concerning agency program performance;

“(E) monitor implementation by agencies of the policy set forth in sections 1115, 1116, 1117, 1120, and the first 9703 of this title and section 306 of title 5 and report thereon from time to time as appropriate to the Director of the Office of Management and Budget, or when appropriate to the President through the Director of the Office of Management and Budget, at such times and in such formats as the Chair may specify, together with any recommendations of the Council for more effective implementation of such policy;

“(F) obtain information and advice, as appropriate, in a manner that seeks individual advice and does not involve collective judgment or consensus advice or deliberation, from—

“(i) State, local, territorial, and tribal officials;

“(ii) representatives of entities or other individuals; and

“(iii) members and committees of Congress;

“(G) coordinate with other interagency management councils; and

“(H) make recommendations to Congress on duplicative, unused, or outdated performance policies or reporting requirements.

“(5)(A) The Administrator of General Services shall provide administrative and other support for the Council to implement this section.

“(B) The heads of agencies shall provide, as appropriate and to the extent permitted by law, such information and assistance as the Chair may request to implement this section.

“(c) **ADDITIONAL DUTIES OF THE COUNCIL.**—The Council—

“(1) shall develop a website for Federal agency performance information;

“(2) shall link program performance information to program spending information on the website www.USASpending.gov; and

“(3) shall submit a report to Congress on the feasibility of creating a single web-based platform for all Government spending information and all program performance information.”

(b) **GUIDANCE.**—Not later than 6 months after the date of the enactment of this Act, the Director of the Office of Management and Budget shall prescribe guidance to implement the requirements of section 1120 and 1121 of title 31, United States Code, as added by subsection (a).

(c) **CONFORMING AND CLERICAL AMENDMENTS.**—

(1) Section 1115(g) of title 31, United States Code, is amended by striking “1119” and inserting “1121”.

(2) The table of sections at the beginning of chapter 11 of title 31, United States Code, is amended by adding at the end the following:

“1121. Improving Government performance.”

SEC. 8. ASSESSMENTS AND REPORTS.

(a) **ASSESSMENTS.**—

(1) **IN GENERAL.**—No less frequently than the first, third, and fifth year after the date of the enactment of this Act, and thereafter every three years and at such other times as may be requested by Congress, the Comptroller General of the United States shall assess the implementation of this Act by the Director of the Office of Management and Budget and the agencies described in section 901(b) of title 31, United States Code, with emphasis on the matters specified in paragraph (2).

(2) **MATTERS TO BE ASSESSED.**—The matters to be assessed under paragraph (1) shall include, with respect to the fiscal year covered by the assessment:

(A) Whether the selection of goals, identified pursuant to section 1120(a) of title 31, United States Code, as added by section 5, and established pursuant to section 1115 of such title, is tied to performance outcomes that can be objectively assessed and measured and have a high direct value to the public.

(B) The use of agency performance goals and measures and program assessments to improve performance and ensure taxpayer dollars are spent in an efficient and effective manner, including the need to streamline or enhance Federal programs or initiatives to maximize the likelihood of accomplishing such performance goals.

(C) The use of agency performance goals, identified pursuant to section 1120(a) of title 31, United States Code, as added by section 5, and established pursuant to section 1115 of such title, and measures to clearly communicate performance priorities and results to the public.

(D) How any revision of goals, identified pursuant to section 1120(a) of title 31, United States Code, as added by section 5, and established pursu-

ant to section 1115 of such title, has contributed to the effectiveness of agency and program performance.

(E) The tracking of program performance toward achieving identified goals and the contribution of such tracking to agency performance improvement.

(F) The use of input from Congress and the public in the assessment of programs and in the identification and assessment of goals.

(G) The use of the archive of information referred to in section 1120(e)(3)(B) of title 31, United States Code, to create a coherent, longitudinal picture of the performance of agencies and programs over time.

(H) Best practices of agencies.

(I) Whether the annual performance plan established pursuant to section 1115 of title 31, United States Code, conforms with the requirements for such plans described in paragraphs (1) through (11) of section 1115(a) of such title.

(J) The progress each agency has made in achieving the goals identified pursuant to section 1120(a) of title 31, United States Code, as added by section 5, and established pursuant to section 1115 of such title.

(b) **REPORTS.**—The Comptroller General shall consult with the Inspectors General when evaluating program and agency performance and shall submit to Congress a report on the results of each assessment conducted under subsection (a). The report shall include a list of recommendations on ways to improve the performance assessment and communication process and the operations of agency performance improvement officers and the Performance Improvement Council.

(c) **EFFECTIVENESS ASSESSMENT.**—With respect to the evaluation conducted under subsection (a) in the third year after the date of the enactment of this Act, the Comptroller General shall include in the report relating to such evaluation submitted to Congress under this section the following:

- (1) an assessment of the effectiveness of this Act, and the amendments made by this Act;
- (2) the impact of this Act on sections 1115, 1116, 1117, and the first 9703 of title 31, United States Code, and section 306 of title 5, United States Code; and
- (3) any recommendations for improving the effectiveness of sections 1115, 1116, 1117, and the first 9703 of title 31, United States Code, and section 306 of title 5, United States Code and reducing duplication.

SEC. 9. ADDITIONS TO PERFORMANCE PLAN.

Section 1115(a) of title 31, United States Code, is amended—

- (1) in paragraph (5), by striking “and”;
- (2) in paragraph (6), by striking the period and inserting “; and”;
- (3) by inserting after paragraph (6) the following new paragraphs:
 - “(7) describe the existence and current scope of the problem that the program is intended to address, defined as an outcome that addresses the needs of the American people, not an input (such as staffing or resources expended) or an intermediate goal (such as teachers or police hired);
 - “(8) to the extent practicable, take into account the other efforts (if any) being made in Federal, State or local governments or the private sector to address the problem described under paragraph (7) and the relative cost-effectiveness of such efforts;
 - “(9) if the program is not new, describe the amount of funds expended in the previous year and state the progress made in the previous year toward solving the problem described under paragraph (7), including evidence of whether the problem is increasing, decreasing, or staying the same;
 - “(10) describe the specific level of improvement expected to be made toward addressing the problem described under paragraph (7); and
 - “(11) state the long-term goal for the program and when that goal is expected to be achieved or the problem described under paragraph (7) reduced to an acceptable level.”.

Amend the title so as to read:

A bill to require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council.

PURPOSE AND SUMMARY

H.R. 2142 was introduced on April 28, 2009, by Rep. Henry Cuellar. H.R. 2142 improves the efficiency and accountability of federal agencies by requiring each agency to identify ambitious goals and assess progress toward achieving those goals. The bill strengthens the Government Performance and Results Act of 1993 (GPRA) and codifies elements of an Executive Order on performance management.

BACKGROUND AND NEED FOR LEGISLATION

GPRA was enacted in 1993 to “improve the confidence of the American people in the capability of the Federal Government, by systematically holding Federal agencies accountable for achieving program results.”¹ GPRA requires agencies to develop long-term strategic plans every five years and to annually develop and submit to Congress performance plans and performance reports. Agencies must develop annual goals for each program activity as part of their annual performance plans.

Since the enactment of GPRA, every administration has undertaken initiatives to improve agency performance management. In 2008, GAO made recommendations for the next administration on using performance information to improve results. GAO found that the administration should focus on “(1) adopting a more strategic and crosscutting approach to overseeing governmentwide performance; (2) improving the relevance of performance information to Congress; and (3) building agency confidence in assessments for use in decision making.”²

On June 11, 2009, OMB Director Peter Orszag issued a memorandum to agency heads requiring agencies to identify high priority performance goals. In the memo, Director Orszag wrote, “[t]he American people deserve a government that works, where the public interest is prioritized, where the impact of government spending is transparent and held to high, objective standards, and where results and good management matter.”³

H.R. 2142 enhances GPRA by requiring agencies to identify high priority goals for the agency that cut across agency programs. The bill also strengthens GPRA by requiring agencies to perform frequent evaluations of progress toward achieving those goals. The bill improves Congressional and public input by requiring OMB and agencies to consider comments submitted by Congress and the public on the goals selected by agencies and the methods agencies plan to use to meet those goals. The legislation makes agency performance management efforts more transparent by requiring agencies to make performance assessment results publicly available on the Internet.

H.R. 2142 changes the deadline for strategic plans under GPRA to align with the 4-year presidential term rather than the current 5-year scheme. The Government Accountability Office has long rec-

¹P.L. 103-62.

²Government Accountability Office, *Government Performance: Lessons Learned for the Next Administration on Using Performance Information to Improve Results* (GAO-08-1026T).

³Office of Management and Budget, *Planning for the President’s Fiscal Year 2011 Budget and Performance Plans* (June 11, 2009).

ommended this adjustment to the timing of strategic plans. GAO stated in a 2004 report:

A strategic plan should reflect the policy priorities of an organization's leaders and the input of key stakeholders if it is to be an effective management tool. However, GPRA specifies timeframes for updating strategic plans that do not correspond to presidential or congressional terms. As a result, an agency may be required to update its strategic plan a year before a presidential election and without input from a new Congress. If a new president is elected, the updated plan is essentially moot and agencies must spend additional time and effort revising it to reflect new priorities. Our focus group participants, including GPRA experts, strongly agreed that this timing issue should be addressed by adjusting time frames to correspond better with presidential and congressional terms.⁴

The bill also requires each agency to designate a Performance Improvement Officer and creates a Performance Improvement Council. These were both elements of Executive Order 13450 issued by President Bush on November 13, 2007.

H.R. 2142 holds agencies accountable by requiring agencies to make performance assessment information publicly available and by requiring the Government Accountability Office to perform frequent and detailed evaluations of agency implementation of this legislation.

LEGISLATIVE HISTORY

H.R. 2142 was introduced on April 28, 2009, and referred to the Committee on Oversight and Government Reform. The legislation was discussed during a hearing of the Subcommittee on Government Management, Organization, and Procurement held on April 13, 2010, titled "Oversight of Federal Financial Management." The Subcommittee considered H.R. 2142 on May 12, 2010, and forwarded the bill to the full Committee by voice vote. The full Committee considered H.R. 2142 on May 20, 2010, and ordered the bill reported favorably, as amended, by voice vote.

SECTION-BY-SECTION

Section 1. Short title; table of contents

This section provides that the short title of H.R. 2142 is the "Government Efficiency, Effectiveness, and Performance Improvement Act of 2010."

This section also lists the table of contents.

Section 2. Findings and purposes

This section provides findings including that regular performance assessments, complemented by periodic assessments of federal programs, provide critical information on whether programs are achieving specific performance objectives.

⁴ Government Accountability Office, Results-Oriented Government: GPRA Has Established a solid Foundation for Achieving Greater Results, 8 (Mar. 2004) (GAO-04-38).

This section also provides the purposes of the legislation including providing congressional policy makers with information needed to conduct more efficient oversight and assist in the improvement of agency operations and to make performance-informed and results-based authorization and appropriation decisions that improve the effectiveness of program operations.

Section 3. Agency defined

This section defines agency as it is defined in the Government Performance and Results Act which is an Executive agency under section 105 of title 5 but not including the Central Intelligence Agency, the Government Accountability Office, the Panama Canal Commission, the United States Postal Service, and the Postal Regulatory Commission.

The Cuellar amendment adopted during consideration by the Subcommittee made the definition of agency consistent with the existing definition in GPRA.

Section 4. Sense of Congress regarding the need for increased consultation between Congress and federal agencies on performance management issues

This section provides a sense of the Congress that each agency head should make every effort to consult with relevant committees of Congress each fiscal year regarding the performance plan and priorities of the agency required by GPRA.

Section 5. Performance assessments

Subsection (a) amends GPRA to add a new section 1120.

As introduced, this section would require each agency, to the maximum extent practicable, to assess each of its programs at least once every five years. Agencies would have to collaborate with OMB in establishing assessment teams to evaluate programs.

This section was amended during Committee consideration to focus agency efforts on high priority goals that cut across agency programs.

Subsection (a) of the new section 1120 would require the head of each agency, in consultation with the Director of the Office of Management and Budget (OMB), to identify near-term and long-term high priority goals for the agency. This subsection provides a number of criteria the head of the agency must use in selecting goals. For example, the head of the agency must select goals that have performance outcomes that can be clearly and objectively assessed and measured. The Committee intends for agencies to select ambitious goals that push the agency to improve performance.

Subsection (b) requires the head of each agency, in consultation with the Director of OMB, to assess progress toward achieving the high priority goals required by subsection (a) at least once a quarter. This subsection also requires agencies to assess progress toward achieving the annual performance goals required under GPRA at least twice a year. The Issa amendment that was adopted during full committee consideration added this increase in required assessments for annual goals required by section 1115 of GPRA as well as other requirements for annual goals found throughout this section. Agencies also must assess whether relevant programs and initiatives are contributing as expected toward those high priority

and annual goals and agencies must identify strategies for improving performance.

Subsection (c) directs the head of each agency, in consultation with the Director of OMB, to coordinate with relevant personnel within and outside the agency who contribute to the accomplishment of goals and to encourage innovation and hold leaders accountable for implementing high priority and annual program goals.

Subsection (d) requires the Director of OMB to make available with the President's budget and on OMB's website, a list of the high priority goals required under subsection (a) and a list of annual goals for each agency program consistent with section 1115 of GPRA. OMB must also provide the methods that will be used by agencies to make progress toward achieving those goals, the expected contribution of various agency programs toward achieving goals, and the expected timeline for achieving the goals. OMB is also required to provide the approach agencies will use to assess progress toward achieving their high priority and annual program goals. The intent of this provision is for OMB to provide a clear and detailed explanation of the method agencies will use to assess progress. Under subsection (e), agencies must consider the comments received under this subsection.

This subsection also requires OMB to provide a way for members of the public and members of Congress to submit comments on the high priority goals required under subsection (a), the annual goals required by GPRA, and the methods each agency will use to make progress toward achieving those goals. OMB must provide a way for agencies to adjust their goals based on those comments. As added by the Cuellar amendment adopted by the full Committee, OMB must also disclose on its website a summary of the comments received and any changes made to agency goals including any changes made at the direction of OMB. These requirements are intended to improve the transparency of the process.

Subsection (e) requires the head of each agency to make the results of the agency's assessments accessible on the Internet in a searchable, machine readable format in accordance with OMB guidance. At a minimum, assessment results must be made available through OMB's website. The Director of OMB is required to notify the appropriate committees of Congress when the quarterly assessments of high priority goals become available on the Internet.

This subsection requires that the performance information for high priority and annual program goals include certain information. For example, agencies must include a brief summary of the problem or opportunity being addressed and the reasons for identifying these agency goals. Agencies must include indicators that provide information about the population being served and, as added by the Chu amendment, to the extent possible, the impact on disadvantaged and minority communities and individuals. Among other factors, agencies must also include the process used by the agency to assess progress made toward achieving the goals.

Agencies must also include in their performance information: a description of the extent to which any trends, developments, or emerging conditions affect the need to change the mission of programs being carried out to achieve the goal; practices that resulted

in positive outcomes and the key reasons for those positive outcomes; and recommendations for actions to improve results.

The head of each agency is required, under this subsection, to use, as necessary and appropriate, a variety of assessment methods and to maintain an archive of the information that is required to be disclosed under this subsection. Agencies are required to make previous performance results available to allow performance information to be compared over a period of time. Agencies are also required to consider the public comments submitted under subsection (d).

Subsection (f) provides that for performance assessments that contain classified information, the President must submit each quarterly performance assessment to the appropriate committees of Congress and an appendix with a list of each affected goal and the committees which received the performance assessments to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, the House and Senate Appropriations Committees, and the House and Senate Budget Committees. The Director of OMB, upon request from one of those committees, is required to provide a copy of any performance assessment and appendix.

Subsection (g) clarifies that the functions and activities authorized or required under this section are considered inherently governmental functions and shall only be performed by federal employees.

Subsection (h) authorizes agency heads, subject to OMB approval, to determine each year that the reporting requirements of this section also meet the annual reporting requirements of GPRA. This subsection was added by the Cuellar amendment during full Committee consideration to allow agencies to avoid unnecessarily redundant efforts.

Subsection (j) includes the following definitions: “agency performance improvement officer” means a senior executive of an agency who is designated by the head of the agency, and reports to the head of the agency, the agency Deputy Secretary, or such other agency official designated by the head of the agency, to carry out the requirements of this section; and “performance information” means the results of assessments conducted under this section.

Section 5(b) was added by the Chaffetz amendment during full committee consideration. This subsection provides that relevant reviews of agency performance, conducted under section 1120 (as added by this section), may be a criteria included in the performance appraisals for employees in the Senior Executive Service (SES). SES performance appraisals already must include considerations of organizational performance and the intent of this subsection is to clarify that any such consideration may include the relevant performance information for the agency added by this Act.

Section 5(c) makes a clerical amendment to add the new section 1120 to the table of contents at the beginning of chapter 11 of title 31.

Section 6. Strategic planning amendments

Subsection (a) amends GPRA to require the strategic plans required by GPRA to be filed two years after a presidential election year starting with September 30, 2010.

Subsection (b) changes the deadline for strategic plans under GPRA to align with the 4-year presidential term rather than the current 5-year scheme.

Section 7. Improving Government performance

Subsection (a) amends GPRA to add a new section 1121.

Subsection (a) of the new section 1121 requires that each agency designate an agency improvement officer and identifies the duties of agency improvement officers. This subsection codifies language from Executive Order 13450, issued by President Bush.

The duties of agency improvement officers include advising and assisting the head of the agency and other agency officials to effectively use performance planning, measurement, analysis, and regular progress assessments. The performance improvement officer is also responsible for such duties as advising the head of the agency on the selection of goals, the means for measuring progress toward meeting goals, and helping conduct quarterly performance assessments.

Subsection (b) codifies another element of EO 13450 which is the establishment of a Performance Improvement Council. Under this subsection, the Performance Improvement Council will be chaired by OMB's Deputy Director for Management. Other members will include agency performance improvement officers and other agency employees determined appropriate by the Chair.

The Performance Improvement Council is required to provide the Director of OMB recommendations on performance management policies and requirements, criteria for performance assessments, and how goals can improve coordination and results for programs that perform similar functions. The Performance Improvement Council is also required to perform a number of other functions including facilitating the exchange of information across agencies on performance management, monitoring the performance assessment process required under section 1120 and keeping members and committees of Congress and the public informed.

Subsection (c) was added during full committee consideration by the Issa amendment. It requires the Performance Improvement Council to develop a website for federal agency performance information. It also requires the Council to link program performance information to program spending information on the website *www.USASpending.gov* and to report to Congress on the feasibility of creating a web-based platform for all government spending information and all program performance information.

Section 6(b) requires the Director of OMB to prescribe guidance to implement the requirements of sections 1120 and 1121 as added by sections 5 and 6 of this legislation.

Section 6(c) makes conforming amendments to title 31 to add the new section 1121 to the table of contents.

Section 8: Assessment and reports

Subsection (a) requires the Comptroller General to assess implementation of the Act the first, third, and fifth year after enactment and then every three years for OMB and the agencies covered by the Chief Financial Officers Act. GAO is required to include numerous specific matters in its evaluation such as whether the selection of high priority goals and annual program goals is tied to perform-

ance outcomes that can be objectively assessed and measured and have a high direct value to the public, the use of agency performance goals and measures and program assessments to improve performance and ensure taxpayer dollars are spent in an efficient and effective manner, and the use of agency performance goals and measures to clearly communicate performance priorities and results to the public.

Subsection (b) requires the Comptroller General to consult with the Inspectors General when evaluating program and agency performance. This consultation requirement was added by the Issa amendment. The Comptroller General must also report to Congress on the results of each assessment conducted under subsection (a) including recommendations on ways to improve the performance assessment and communication process and the operations of agency performance improvement officers and the Performance Improvement Council.

Subsection (c) requires the Comptroller General to include in the evaluation conducted three years after enactment an assessment of the effectiveness of this Act and the amendments made by this Act, the impact of the Act on GPRA, and any recommendations for improving the effectiveness of GPRA.

Section 9: Additions to performance plan

This section was added by the Issa amendment. It requires agencies to address additional elements in their annual performance plans. Under this section, agencies must: (1) describe the existence and current scope of the problem that the program is intended to address, defined as an outcome that addresses the needs of the American people (not an input or an intermediate goal); (2) to the extent practicable, take into account other government or private sector efforts to address the problem and the cost-effectiveness of such efforts; (3) if the program is not new, describe the funds expended in the previous year and state the progress made during that time toward solving the problem; (4) describe the specific level of improvement expected to be made toward addressing the identified problem; and (5) state the long-term goal for the program and when it is expected to be achieved or the problem reduced to an acceptable level.

EXPLANATION OF AMENDMENTS

Rep. Cuellar offered a substitute amendment when H.R. 2142 was considered by the Subcommittee on Government Management, Organization, and Procurement that was adopted by a voice vote. The Cuellar amendment made a number of changes to the bill. These changes include requiring each agency, in consultation with OMB, to identify high priority goals with performance outcomes that can be clearly and objectively reviewed and measured and that have high direct value to the public. The Cuellar amendment requires agencies to review progress toward meeting those goals at least once each quarter. The amendment requires OMB to make available with the President's budget each year a list of agency goals and the approach to be used by agencies to review progress toward achieving those goals. OMB must also provide a way for Congress and the public to comment on the goals to be reviewed and methods each agency plans to use. The amendment requires

agencies to make the results of performance reviews publicly available on the Internet. The Cuellar amendment requires GAO, or, as appropriate, an agency's Inspector General, to evaluate implementation of the bill at least as often as the first, third, and fifth years after enactment.

During the full Committee's consideration of the bill, Rep. Cuellar offered another substitute amendment that was adopted by a voice vote. This amendment made further changes to the bill including requiring agencies to set annual goals with objectively measurable outcomes for each agency program in addition to the high priority goals required by the bill as amended in Subcommittee. The amendment clarifies that agencies must consider public comments received on the agency's high priority and annual goals. Under the amendment, agencies are required to assess whether relevant agency programs and initiatives are contributing to the achievement of goals. The amendment clarifies the impact of the bill on GPRA's reporting requirements and requires GAO to evaluate the effectiveness of the Act, its impact on GPRA, and any recommendations for improving the effectiveness of GPRA and reducing duplication. Additionally, the Cuellar amendment only requires GAO to evaluate implementation of the bill by OMB and larger agencies.

Rep. Issa offered an amendment, adopted by a voice vote, to amend GPRA to require agencies to address additional elements in their annual performance plans; require agencies to perform semi-annual assessments of the annual goals required under GPRA; require each agency to make performance assessment information for annual goals available in the same manner as for the high priority goals required by section 5(a) of the bill; require the Performance Improvement Council to perform additional duties including developing a website for federal agency performance information, linking program performance information to program spending information, and submitting a report to Congress on the feasibility of creating a single web-based platform for all government spending information and all program performance information. The Issa amendment also requires GAO to consult with the Inspectors General when evaluating program and agency performance.

Rep. Chu offered an amendment, passed by a voice vote, requiring agencies to provide, to the extent possible, information on the impact of agency initiatives on disadvantaged and minority communities and individuals.

Rep. Chaffetz offered an amendment, passed by a voice vote, providing that relevant reviews of agency performance may be a criterion included in the performance appraisals for employees in the Senior Executive Service.

Rep. Schock offered an amendment to create a Federal Program Sunset Commission. The Commission would create a schedule for reviewing federal programs. Each federal program would be abolished within one year after the Commission completes its review unless the federal program is reauthorized by Congress. The Schock amendment was rejected by a roll call vote of 11-17.

COMMITTEE CONSIDERATION

On Thursday, May 20, 2010, the Committee met in open markup session and ordered that H.R. 2142 be reported favorably to the House, as amended, by a voice vote.

ROLL CALL VOTES

**COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM - 111TH CONGRESS
ROLL CALL VOTE # 008**

BILL: H.R. 2142, the "Government Efficiency, Effectiveness, and Performance Improvement Act of 2009"

AMENDMENT: Rep. Schock, #1D, Amendment to the Amendment in the Nature of a Substitute to H.R. 2142

DISPOSITION: Defeated by a roll call vote of 17 nays to 11 yeas.

Democrats	Aye	No	Present	Republicans	Aye	No	Present
MR. TOWNS (<i>Chairman</i>)		X		MR. ISSA (<i>Ranking</i>)	X		
MR. KANJORSKI				MR. BURTON	X		
MRS. MALONEY				MR. MICA			
MR. CUMMINGS		X		MR. SOUDER			
MR. KUCINICH		X		MR. DUNCAN	X		
MR. TIERNEY		X		MR. TURNER			
MR. CLAY		X		MR. WESTMORELAND			
MS. WATSON		X		MR. McHENRY			
MR. LYNCH		X		MR. BILBRAY	X		
MR. COOPER	X			MR. JORDAN			
MR. CONNOLLY		X		MR. FLAKE	X		
MR. QUIGLEY	X			MR. FORTENBERRY	X		
MS. KAPTUR				MR. CHAFFETZ	X		
MS. NORTON		X		MR. SCHOCK	X		
MR. KENNEDY				MR. LUETKEMEYER	X		
MR. DAVIS				MR. CAO			
MR. Van HOLLEN		X					
MR. CUELLAR		X					
MR. HODES							
MR. MURPHY		X					
MR. WELCH		X					
MR. FOSTER		X					
MS. SPEIER		X					
MR. DRIEHAUS		X					
MS. CHU		X					

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 terms and conditions of employment or access to public services and accommodations.

H.R. 2142 requires executive branch agencies to perform performance assessments and other actions to improve performance management. The bill does not relate to the terms and conditions of 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 including the need to improve agency performance management efforts and the transparency of agency performance assessments.

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 goals and objectives are reflected in the descriptive portions of this report, including improving the efficiency and accountability of federal agencies and providing Congress and the public information about agency performance.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 2142. Article I, Section 8, Clause 18 of the Constitution of the United States grants the Congress the power to enact this law.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the meaning 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 Mandates Reform Act, P.L. 104–4) requires a statement on whether the provisions of the report include unfunded mandates. In compliance with this requirement the Committee has received a letter from the Congressional Budget Office included herein.

EARMARK IDENTIFICATION

H.R. 2142 does not include any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.

COMMITTEE ESTIMATE

Clause 3(d)(2) 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 H.R. 2142. However, clause 3(d)(3)(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.

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 H.R. 2142 from the Director of the Congressional Budget Office:

JUNE 7, 2010.

Hon. EDOLPHUS TOWNS,
Chairman, Committee on Oversight and Government Reform,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2142, the Government Efficiency, Effectiveness, and Performance Improvement Act of 2010.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

H.R. 2142—Government Efficiency, Effectiveness, and Performance Improvement Act of 2010

H.R. 2142 would require federal agencies to expand their efforts to evaluate the effectiveness of all federal programs by adding to the requirements under the Government Performance and Results Act of 1993 (GPRA), which requires federal agencies to define their mission and evaluate their performance. CBO estimates that implementing the new performance evaluation requirements would cost about \$150 million over the 2011–2015 period, subject to appropriation of the necessary funds. Enacting H.R. 2142 would not affect direct spending or revenues; therefore, pay-as-you-go procedures would not apply.

The bill would require federal agencies to: identify and assess their goals; submit strategic plans; designate agency improvement officers within each agency; establish a performance improvement council; impose additional reporting requirements for each agency's annual plan; and require several reports to the Congress from the Government Accountability Office regarding the evaluation of federal programs.

H.R. 2142 would expand the current performance requirements for federal programs as established under GPRA and other federal

statutes, policies, and executive orders related to the evaluation of such programs. For many agencies, making the revisions to those practices that would be required by the bill would have a small effect on their budgets. For agencies that find deficiencies in their current practices, there could be more significant costs to evaluate and review their performance.

The President's budget for fiscal year 2011 requests \$100 million for 17 agencies to conduct evaluations of their performance similar to those that would be required under H.R. 2142. Additional costs under the bill would depend on how extensively agencies have already embraced performance evaluation and on the emphasis this effort would place on specific agencies' programs. In total, CBO estimates that completing the required program evaluation for all major federal agencies (the 24 agencies and departments that employ a chief financial officer) would cost about \$150 million over the next five years.

Finally, implementing H.R. 2142 could lead to more effective management of government agencies at a lower cost. Any such savings would depend on amounts provided in future appropriation acts.

H.R. 2142 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 Matthew Pickford. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italics*, existing law in which no change is proposed is shown in roman):

TITLE 31, UNITED STATES CODE

* * * * *

SUBTITLE II—THE BUDGET PROCESS

* * * * *

CHAPTER 11—THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION

Sec

1101. Definitions.

* * * * *

1120. *Performance assessments.*

1121. *Improving Government performance.*

* * * * *

§ 1115. Performance plans

(a) In carrying out the provisions of section 1105(a)(28), the Director of the Office of Management and Budget shall require each agency to prepare an annual performance plan covering each pro-

gram activity set forth in the budget of such agency. Such plan shall—

(1) * * *

* * * * *

(5) provide a basis for comparing actual program results with the established performance goals; **[and]**

(6) describe the means to be used to verify and validate measured values~~[\.]~~; and

(7) describe the existence and current scope of the problem that the program is intended to address, defined as an outcome that addresses the needs of the American people, not an input (such as staffing or resources expended) or an intermediate goal (such as teachers or police hired);

(8) to the extent practicable, take into account the other efforts (if any) being made in Federal, State or local governments or the private sector to address the problem described under paragraph (7) and the relative cost-effectiveness of such efforts;

(9) if the program is not new, describe the amount of funds expended in the previous year and state the progress made in the previous year toward solving the problem described under paragraph (7), including evidence of whether the problem is increasing, decreasing, or staying the same;

(10) describe the specific level of improvement expected to be made toward addressing the problem described under paragraph (7); and

(11) state the long-term goal for the program and when that goal is expected to be achieved or the problem described under paragraph (7) reduced to an acceptable level.

* * * * *

(g) For purposes of this section and sections 1116 through **[1119]** 1121, and sections 9703 and 9704 the term—

(1) * * *

* * * * *

§ 1120. Performance assessments

(a) **IDENTIFICATION OF HIGH-PRIORITY PERFORMANCE GOALS.**— For the purpose of improving agency performance, the head of each Federal agency, in consultation with the Director of the Office of Management and Budget, shall identify near-term and long-term high-priority goals for purposes of this section. In identifying such goals, the head of the agency shall—

(1) rely on the agency’s mission, strategic plan and objectives, and statutory directives;

(2) consult with Congress, including each appropriate committee of Congress;

(3) select goals that—

(A) clearly identify agency priorities and have performance outcomes that can be clearly and objectively assessed and measured;

(B) are ambitious targets that have high direct value to the public;

(C) involve indicators for which the agency can collect reliable and timely data that may be used in performance assessments to measure progress and adjust strategies; and

(D) involve multiple programs, including programs within and across multiple agencies that are performing similar functions, serve similar populations, have similar purposes, or share common objectives, for purposes of identifying common challenges, exemplary goals and practices, common measures of performance, and potential opportunities for more effective and efficient means of achieving goals, including through the integration and consolidation of Federal functions; and

(4) with respect to a subcomponent of the agency, ensure the goals are consistent with the goals of the entire agency.

(b) **PERFORMANCE ASSESSMENTS.**—The head of each Federal agency, in consultation with the Director of the Office of Management and Budget, shall, not less often than quarterly for high-priority goals identified in subsection (a), and on a semi-annual basis for performance goals established pursuant to section 1115(a)(1) of this title—

(1) assess progress toward achieving the goals identified under subsection (a) and toward achieving the annual performance goals for each program activity established pursuant to section 1115(a)(1) of this title;

(2) assess whether relevant agency programs and initiatives are contributing as expected toward the goals identified under subsection (a) and the annual performance goals for each program activity established pursuant to section 1115(a)(1) of this title; and

(3) identify prospects and strategies for performance improvement, including any needed changes to agency programs or initiatives.

(c) **PERFORMANCE ASSESSMENT REQUIREMENTS.**—In conducting an assessment of agency progress toward achieving the goals identified under subsection (a) and toward achieving the annual performance goals for each program activity established pursuant to section 1115(a)(1) of this title, the head of a Federal agency, in consultation with the Director of the Office of Management and Budget, shall—

(1) coordinate with relevant personnel within and outside the agency who contribute to the accomplishment of the goals; and

(2) encourage innovation and hold leaders and managers accountable for effective and efficient implementation based on evidence and continuing analysis of experience.

(d) **TRANSPARENCY OF GOALS AND PERFORMANCE ASSESSMENTS.**—The Director of the Office of Management and Budget shall—

(1) make available, as part of the President's budget submission and through the Office of Management and Budget website and other relevant websites, and provide to the congressional committees described in subsection (i)—

(A) a list of goals identified under subsection (a) and reviewed by the Director;

(B) consistent with section 1115 of this title, annual goals defined by objectively measurable outcomes for each program administered in whole or in part by the agency;

(C) the methods that will be used to make progress toward achieving the goals identified under subparagraphs (A) and (B);

(D) the expected contribution that different agency programs and initiatives will make toward achieving the goals identified under subparagraphs (A) and (B) and the expected timeline for achieving those goals; and

(E) the approach that will be used by agencies to assess progress toward achieving the goals identified under subparagraphs (A) and (B);

(2) provide a mechanism for interested persons, including the general public and members and committees of Congress, to submit comments on the goals being assessed under subsection (a) and the annual performance goals for each program activity established pursuant to section 1115(a)(1) of this title and the methods that will be used to make progress toward achieving those goals;

(3) provide a mechanism for agency delivery to and consideration of comments provided under paragraph (2) by each relevant agency and adjustment of goals under subsection (a) and the annual performance goals for each program activity established pursuant to section 1115(a)(1) of this title based on the comments, with approval of the Director; and

(4) make available through the Office of Management and Budget website a summary of comments received under paragraph (2), any adjustment of goals under paragraph (3), and any changes to goals required by the Office of Management and Budget.

(e) **TRANSPARENCY OF PERFORMANCE RESULTS.**—(1) The head of an agency shall ensure that all results of the assessments conducted under this section by the agency during a fiscal year shall be readily accessible to and easily found on the Internet by the public and members and committees of Congress in a searchable, machine readable format, in accordance with guidance provided by the Director of the Office of Management and Budget that ensures such information is provided in a way that presents a coherent picture of the performance of Federal agencies. At a minimum, the results of the assessments conducted under this section shall be available on the website of the Office of Management and Budget and also may be made available on any other website considered appropriate by the agency or the Director. The Director shall also notify the appropriate committees of Congress when quarterly assessments become available on the Internet.

(2) The performance information related to the assessments of goals in this section and section 1115 of this title shall—

(A) include—

(i) a brief summary of the problem or opportunity being addressed and reasons for identifying these agency goals as well as key findings of the assessments;

(ii) a list of each program and agency contributing to achievement of the goal and the time frame for such contributions;

(iii) an assessment of the quality of the performance measures, and the extent to which necessary performance data are collected;

(iv) a description of how leaders and managers are held accountable for achieving program results, and the extent to which strong financial management tools are in place;

(v) contextual indicators that provide a sense of external factors that can influence performance trends related to key outcomes;

(vi) as appropriate, indicators that provide information about the population being served and to the extent possible, the impact on disadvantaged and minority communities and individuals;

(vii) factors affecting the performance of programs, projects, and activities and how they are impeding or contributing to failures or successes of the programs, projects, and activities, and the reasons for any substantial variation from the targeted level of achievement of the goals;

(viii) the process used by the agency to assess progress made toward achieving the goals; and

(ix) such other items and adjustments as may be specified by the Director;

(B) describe the extent to which any trends, developments, or emerging conditions affect the need to change the mission of programs being carried out to achieve the goal;

(C) identify, as part of any performance assessment, practices that resulted in positive outcomes, and the key reasons why such practices resulted in positive outcomes; and

(D) include recommendations for actions to improve results, including opportunities that might exist for the coordination, consolidation, or integration of programs to improve service or generate cost savings.

(3) The head of each agency shall—

(A) use, as necessary and appropriate, a variety of assessment methods to support performance assessments, including methods contained in reports from evaluation centers, in assessments by States, and in available Federal program assessments;

(B) maintain an archive of information required to be disclosed under this section that is, to the maximum extent practicable, readily available, accessible, and easily found by the public; and

(C) consider the relevant comments submitted under subsection (d)(2).

(f) CLASSIFIED INFORMATION.—(1) With respect to performance assessments conducted during a fiscal year that contain classified information, the President shall submit—

(A) each quarterly performance assessment (including the classified information), to the appropriate committees of Congress; and

(B) an appendix containing a list of each affected goal and the committees to which a copy of the performance assessment was submitted under subparagraph (A), to the congressional committees described in subsection (i).

(2) Upon request from a congressional committee described in subsection (i), the Director of the Office of Management and Budget shall provide to the Committee a copy of—

(A) any performance assessment described in subparagraph (A) of paragraph (1) (including any assessment not listed in any

appendix submitted under subparagraph (B) of such paragraph); and

(B) any appendix described in subparagraph (B) of paragraph (1).

(3) In this subsection, the term “classified information” refers to matters described in section 552(b)(1)(A) of title 5.

(g) *INHERENTLY GOVERNMENTAL FUNCTIONS.*—The functions and activities authorized or required by this section shall be considered inherently governmental functions and shall be performed only by Federal employees.

(h) *REPORT STREAMLINING.*—To eliminate redundancy, the head of an agency may determine each year, subject to the approval of the Director of the Office of Management and Budget and provided that it meets the requirements of this section and sections 1115, 1116, 1117, 1121, and the first 9703 of this title, that the performance information provided to the public on the Internet is sufficient to meet the planning and reporting requirements of such sections.

(i) *CONGRESSIONAL COMMITTEES.*—The congressional committees described in this subsection are the following:

(1) The Committee on Oversight and Government Reform of the House of Representatives.

(2) The Committee on Homeland Security and Governmental Affairs of the Senate.

(3) The Committees on Appropriations of the House of Representatives and the Senate.

(4) The Committees on the Budget of the House of Representatives and the Senate.

(j) *DEFINITIONS.*—In this section:

(1) *AGENCY PERFORMANCE IMPROVEMENT OFFICER.*—The term “agency performance improvement officer” means a senior executive of an agency who is designated by the head of the agency, and reports to the head of the agency, the agency Deputy Secretary, or such other agency official designated by the head of the agency, to carry out the requirements of this section.

(2) *PERFORMANCE INFORMATION.*—The term “performance information” means the results of assessments conducted under this section.

§ 1121. Improving Government performance

(a) *DUTIES OF AGENCY PERFORMANCE IMPROVEMENT OFFICERS.*—Subject to the direction of the head of the agency, each agency performance improvement officer shall—

(1) advise and assist the head of the executive agency and other agency officials to ensure that the mission of the executive agency is achieved through performance planning, measurement, analysis, and regular assessment of progress, including the requirements of this section and sections 1115, 1116, 1117, 1120, and the first 9703 of this title and section 306 of title 5;

(2) advise the head of the agency on the selection of agency goals, including opportunities to collaborate with other agencies on common goals, and on whether—

(A) the performance targets required under section 1115 of this title and the strategic plans required under section 306 of title 5 are—

(i) sufficiently aggressive toward full achievement of the purposes of the agency; and

(ii) realistic in light of authority and resources provided for operations; and

(B) means for measurement of progress toward achievement of the goals are sufficiently rigorous, aligned to outcomes, useful, and accurate as appropriate to the intended use of the measures;

(3) support the head of the agency, agency Deputy Secretary, or such other agency senior official designated by the head of the agency in the conduct of at least quarterly performance assessments, while strengthening the performance management activities of the entire agency (including subcomponents) through at least quarterly performance assessments to—

(A) assess progress toward achievement of the goals administered in whole or in part by the agency, as well as any goals common to that agency and other agencies;

(B) identify factors affecting progress and benchmarking comparisons;

(C) consider actions to improve the performance and efficiency of programs, projects, and activities; and

(D) hold leaders and managers accountable for effective and efficient implementation and for adjusting agency actions based on evolving evidence;

(4) assist the head of the agency in the development and use within the agency of performance measures in personnel performance appraisals, and, as appropriate, other agency personnel and planning processes and assessments;

(5) assist the head of the agency in overseeing the implementation required under section 1120 of this title;

(6) ensure that agency progress toward achievement of all goals is communicated to leaders, managers, and employees in the agency and Congress, and made public on the Internet; and

(7) provide training for agency managers, program directors, supervisors, and employees on how to use performance targets, measure key performance indicators, assess programs, and analyze data to improve performance.

(b) **ESTABLISHMENT AND OPERATION OF PERFORMANCE IMPROVEMENT COUNCIL.**—

(1) There is established in the executive branch a Performance Improvement Council.

(2) The Performance Improvement Council shall consist exclusively of—

(A) the Deputy Director for Management of the Office of Management and Budget, who shall serve as Chair;

(B) such agency performance improvement officers as determined appropriate by the Chair; and

(C) such other permanent employees of an agency as determined appropriate by the Chair in consultation with the agency concerned.

(3) The Chair or the Chair's designee shall convene and preside at the meetings of the Performance Improvement Council, determine its agenda, direct its work, and establish and direct subgroups of the Performance Improvement Council, as appropriate to deal with particular subject matters.

(4) *To assist in implementing the requirements of sections 1105, 1115, 1116, 1117, 1120, and the first 9703 of this title and section 306 of title 5, the Performance Improvement Council shall—*

(A) develop and submit to the Director of the Office of Management and Budget, or when appropriate to the President through the Director of the Office of Management and Budget, at times and in such formats as the Chair may specify, recommendations concerning—

(i) performance management policies and requirements;

(ii) criteria for assessment of program, project, and activity performance; and

(iii) how the goals required by section 1120(a) of this title can inform the Federal Government performance plan required by section 1105(a)(28) of this title, and lead to improved results from and interagency coordination of programs that perform similar functions;

(B) facilitate the exchange among agencies of information on performance management, including strategic and annual planning and reporting, to accelerate improvements in performance;

(C) monitor the performance assessment process required under section 1120 of this title;

(D) facilitate keeping members and committees of Congress and the public informed, and with such assistance of heads of agencies and agency performance improvement officers as the Director of the Office of Management and Budget may require, provide members and committees of Congress and the public with information on the Internet on how well each agency performs and that serves as a comprehensive source of information on—

(i) agency strategic plans;

(ii) annual performance plans and annual performance reports;

(iii) performance information required under section 1120 (d) of this title;

(iv) the status of the implementation of performance assessments required under section 1120 of this title;

(v) relevant impact and process assessments; and

(vi) consistent with the direction of the head of the agency concerned after consultation with the Director of the Office of Management and Budget, any publicly available reports by the agency's Inspector General concerning agency program performance;

(E) monitor implementation by agencies of the policy set forth in sections 1115, 1116, 1117, 1120, and the first 9703 of this title and section 306 of title 5 and report thereon from time to time as appropriate to the Director of the Office of Management and Budget, or when appropriate to the President through the Director of the Office of Management and Budget, at such times and in such formats as the Chair may specify, together with any recommendations of the Council for more effective implementation of such policy;

(F) obtain information and advice, as appropriate, in a manner that seeks individual advice and does not involve collective judgment or consensus advice or deliberation, from—

- (i) State, local, territorial, and tribal officials;
 - (ii) representatives of entities or other individuals;
- and
- (iii) members and committees of Congress;

(G) coordinate with other interagency management councils; and

(H) make recommendations to Congress on duplicative, unused, or outdated performance policies or reporting requirements.

(5)(A) The Administrator of General Services shall provide administrative and other support for the Council to implement this section.

(B) The heads of agencies shall provide, as appropriate and to the extent permitted by law, such information and assistance as the Chair may request to implement this section.

(c) **ADDITIONAL DUTIES OF THE COUNCIL.**—The Council—

(1) shall develop a website for Federal agency performance information;

(2) shall link program performance information to program spending information on the website *www.USASpending.gov*; and

(3) shall submit a report to Congress on the feasibility of creating a single web-based platform for all Government spending information and all program performance information.

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TITLE 5, UNITED STATES CODE

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PART I—THE AGENCIES GENERALLY

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CHAPTER 3—POWERS

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§ 306. Strategic plans

(a) **[No later than September 30, 1997,]** *Not later than September 30 of the second year following a year in which an election for President occurs, beginning with September 30, 2010,* the head of each agency shall submit to the Director of the Office of Management and Budget and to the Congress a strategic plan for program activities. Such plan shall contain—

(1) * * *

* * * * *

[(b)] The strategic plan shall cover a period of not less than five years forward from the fiscal year in which it is submitted. The strategic plan shall be updated and revised at least every three

years, except that the strategic plan for the Department of Defense shall be updated and revised at least every four years.】

(b) *Each strategic plan shall cover the four-year period beginning on October 1 of the second year following a year in which an election for President occurs.*

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PART III—EMPLOYEES

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SUBPART C—EMPLOYEE PERFORMANCE

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CHAPTER 43—PERFORMANCE APPRAISAL

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SUBCHAPTER II—PERFORMANCE APPRAISAL IN THE SENIOR EXECUTIVE SERVICE

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§ 4313. Criteria for performance appraisals

Appraisals of performance in the Senior Executive Service shall be based on both individual and 【organizational performance,】 *organizational performance (including such reviews of agency performance, conducted under section 1120 of title 31, as are relevant),* taking into account such factors as—

(1) * * *

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MINORITY VIEWS

H.R. 2142, as amended and reported by the Committee on Oversight and Government Reform, would modify aspects of the Government Performance and Results Act of 1993 (GPRA). Currently, GPRA requires agencies to develop five-year strategic plans, annual performance plans, and annual program performance reports.

H.R. 2142 would establish a framework for quarterly “performance reviews” focused on pursuit of agency-wide “high-priority performance goals” set by agencies in consultation with OMB. According to CRS, the Administration envisions these reviews to be “in-person meetings.” The results of the reviews would be posted on OMB’s website. H.R. 2142 would also establish an OMB-controlled Performance Improvement Council staffed by agency Performance Improvement Officers.

During Committee markup, Ranking Member Issa offered an amendment (accepted) which strengthens the bill by requiring agencies and OMB to consider program-level performance instead of just progress made toward meeting broad agency-wide goals. The amendment requires agencies and OMB to review progress toward meeting existing GPRA-mandated performance goals semiannually; it also strengthens the existing GPRA statute by including additional program performance metrics in the planning process.

Unfortunately, although H.R. 2142 may sound like a good-government bill, it falls short of the threshold for support on a number of key points.

First, according to the Congressional Budget Office, it increases discretionary spending by \$150 million over the next five years. At a time of record budget deficits, Congress ought to pass legislation that reduces spending or at least holds it steady.

Second, although H.R. 2142 spends millions of dollars creating “performance improvement officers” at federal agencies and establishing an interagency “performance improvement council,” it does not establish a means by which agencies must consolidate or eliminate failing programs. The lack of real consequences for programs that do not meet their goals is a serious weakness of H.R. 2142.

Third, in an amendment offered by Mr. Schock there would have been a federal program sunset commission created to sunset or drastically change underperforming federal programs. The commission would review every federal program and make recommendations to Congress on how to improve or consolidate each program. Within one year of a sunset commission review, a program would be automatically abolished unless reauthorized by Congress. Mr. Schock’s amendment failed in committee.

In a study recently released by the Mercatus Center at George Mason University, economist Jerry Ellig examined the impact of GPRA on the internal management of federal programs and on congressional decision making. Professor Ellig found that while GPRA

was successful in improving the availability and use of performance information in federal agencies, this information was rarely, if ever, taken into account by Congress in making budgetary decisions:

A content analysis of appropriations documents suggests Congress had little interest in using performance information at this time. Moynihan (2008) examined appropriations bills, accompanying conference reports, and oversight and appropriations hearings in search of performance discussions. In 3,527 single-spaced pages of text, he found that ‘performance’ was mentioned just 57 times in reference to expected or projected program performance . . . and 47 times in reference to actual program achievement.

Ellig went on to argue that in order for performance information to have a significant impact on budgetary decisions, the incentives facing decision makers must change. He suggested consideration of reforms like budget amendment rules, supermajority requirements, and a commission to terminate ineffective programs.

DARRELL E. ISSA.

