

112TH CONGRESS
1ST SESSION

H. R. 2680

To establish a commission to conduct a comprehensive review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2011

Mr. FLEMING introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a commission to conduct a comprehensive review of Federal agencies and programs and to recommend the elimination or realignment of duplicative, wasteful, or outdated functions, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Federal Realignment and Closure Commission Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Establishment of Commission.
- Sec. 4. Duties of the Commission.
- Sec. 5. Powers of the Commission.
- Sec. 6. Commission personnel matters.
- Sec. 7. Termination of the Commission.
- Sec. 8. Closure and realignment of agencies and programs.
- Sec. 9. Congressional consideration of commission recommendations.
- Sec. 10. Authorization of appropriations.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) AGENCY.—The term “agency” has the
4 meaning given the term “Executive agency” under
5 section 105 of title 5, United States Code.

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

10 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

11 (a) ESTABLISHMENT.—There is established the Fed-
12 eral Realignment and Closure Commission (hereafter in
13 this Act referred to as the “Commission”).

14 (b) MEMBERSHIP.—

15 (1) NUMBER AND APPOINTMENT.—

16 (A) IN GENERAL.—The Commission shall
17 be composed of 6 members appointed by the
18 President as follows:

19 (i) One in consultation with the
20 Speaker of the House of Representatives.

1 (ii) One in consultation with the mi-
2 nority leader of the House of Representa-
3 tives.

4 (iii) One in consultation with the ma-
5 jority leader of the Senate.

6 (iv) One in consultation with the mi-
7 nority leader of the Senate.

8 (v) Two other members, who may not
9 be of the same political party.

10 (B) EX OFFICIO MEMBERS.—The Presi-
11 dent may appoint up to 4 Members of Congress
12 (up to 2 from each House) as nonvoting ex offi-
13 cio members of the Commission.

14 (C) CHAIRMAN AND VICE CHAIRMAN.—At
15 the time the President appoints individuals to
16 the Commission under this paragraph, the
17 President shall designate 1 such individual who
18 shall serve as chairman and 1 such individual
19 who shall serve as vice chairman. The chairman
20 and vice chairman may not be of the same po-
21 litical party.

22 (c) PERIOD OF APPOINTMENT; VACANCIES.—Mem-
23 bers shall be appointed for the life of the Commission. Any
24 vacancy in the Commission shall not affect its powers, but

1 shall be filled in the same manner as the original appoint-
2 ment.

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

7 (e) MEETINGS.—The Commission shall meet at the
8 call of the chairman.

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

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

13 (a) SYSTEMATIC ASSESSMENT OF PROGRAMS BY THE
14 COMMISSION.—

15 (1) IN GENERAL.—Not later than 180 days
16 after the date of enactment of this Act, the Commis-
17 sion shall establish a systematic method for assess-
18 ing the effectiveness and accountability of agency
19 programs in accordance with paragraph (2) and di-
20 vide the programs into three approximately equal
21 budgetary groupings based on the size of the budget
22 and number of personnel of the agency program.

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

1 (A) recognize different types of Federal
2 programs;

3 (B) assess programs based on the achieve-
4 ment of performance goals (as defined under
5 section 1115(g)(4) of title 31, United States
6 Code);

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

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

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

19 (3) COMPTROLLER GENERAL RECOMMENDA-
20 TIONS.—The Comptroller General of the United
21 States shall—

22 (A) assist the Commission, to the extent
23 requested, in the Commission's evaluation of
24 agencies and programs under subsection (b)(1);
25 and

1 (B) by no later than March 30 of each
2 year in which an evaluation is carried out under
3 subsection (b)(1), submit to the Commission a
4 report containing the Comptroller General's rec-
5 ommendations for the agencies and programs
6 that should be realigned or eliminated within
7 the grouping evaluated that year.

8 (b) EVALUATION, PLAN, AND RECOMMENDATIONS.—

9 (1) EVALUATION.—Subject to subsection (e),
10 during each of 2012, 2013, and 2014, the Commis-
11 sion shall evaluate all agencies, and programs within
12 those agencies, in a grouping identified in the as-
13 sessment under subsection (a), with one grouping
14 evaluated each year over those three years, using the
15 criteria under paragraph (3). In carrying out the
16 evaluation, the Commission shall consider the report
17 of the Comptroller General submitted under sub-
18 section (a)(3).

19 (2) PLAN AND RECOMMENDATIONS.—Not later
20 than June 30 of a year in which an evaluation is
21 carried out under paragraph (1), the Commission
22 shall, with respect to the evaluation carried out dur-
23 ing that year, submit to the President and Congress
24 a plan with recommendations of the agencies and

1 programs that should be realigned or eliminated
2 within the grouping evaluated that year.

3 (3) CRITERIA.—

4 (A) DUPLICATIVE.—If 2 or more agencies
5 or programs are performing the same essential
6 function and the function can be consolidated
7 or streamlined into a single agency or program,
8 the Commission shall recommend that the agen-
9 cies or programs be realigned.

10 (B) WASTEFUL OR INEFFICIENT.—The
11 Commission may recommend the realignment or
12 elimination of any agency or program that has
13 wasted Federal funds by—

14 (i) egregious spending;

15 (ii) mismanagement of resources and
16 personnel; or

17 (iii) use of such funds for personal
18 benefit or the benefit of a special interest
19 group.

20 (C) OUTDATED, IRRELEVANT, OR
21 FAILED.—The Commission shall recommend
22 the elimination of any agency or program
23 that—

24 (i) has completed its intended pur-
25 pose;

1 (ii) has become irrelevant; or

2 (iii) has failed to meet its objectives.

3 (4) RELOCATION OF FEDERAL EMPLOYEES.—

4 The plan under paragraph (2) shall provide that if
5 the position of an employee of an agency is elimi-
6 nated as a result of the implementation of the plan,
7 the affected agency shall make reasonable efforts to
8 relocate such employee to another position within
9 the agency or within another Federal agency.

10 (5) USE OF SAVINGS.—The plan under para-
11 graph (2) shall provide that all funds saved by the
12 implementation of the plan shall be used for deficit
13 reduction.

14 (6) INFORMATION TO MEMBERS OF CON-
15 GRESS.—After June 30 of each year in which the
16 Commission submits a plan and recommendations to
17 the President and Congress under this subsection,
18 the Commission shall promptly provide, upon re-
19 quest, to any Member of Congress information used
20 by the Commission in making its recommendations.

21 (c) CONSIDERATION OF SUGGESTIONS FROM PUBLIC
22 THROUGH WEB SITE.—In carrying out its duties under
23 this Act, the Commission shall—

1 (1) establish a Web site for the purpose of al-
2 lowing any member of the public to submit sugges-
3 tions to the Commission for its consideration; and

4 (2) consider each such suggestion submitted
5 through the Web site.

6 (d) REVIEW BY THE PRESIDENT.—

7 (1) The President shall, by no later than Au-
8 gust 15 of a year in which the Commission carries
9 out an evaluation under subsection (b)(1), transmit
10 to the Commission and to Congress a report con-
11 taining the President's approval or disapproval of
12 the Commission's plan and recommendations.

13 (2) If the President approves all the plan and
14 recommendations of the Commission, the President
15 shall transmit a copy of such plan and recommenda-
16 tions to Congress, together with a certification of
17 such approval.

18 (3) If the President disapproves the plan and
19 recommendations of the Commission, in whole or in
20 part, the President shall transmit to the Commission
21 and Congress the reasons for that disapproval. The
22 Commission shall then transmit to the President, by
23 no later than September 15 of the year in which the
24 evaluation was carried out, a revised list of rec-

1 ommendations for the closure or realignment of
2 agencies and programs.

3 (4) If the President approves all of the revised
4 plan and recommendations of the Commission trans-
5 mitted to the President under paragraph (3), the
6 President shall transmit a copy of such revised plan
7 and recommendations to Congress, together with a
8 certification of such approval.

9 (5) If the President does not transmit to Con-
10 gress an approval and certification described in
11 paragraph (2) or (4) by October 15 of any year in
12 which the Commission has transmitted its plan and
13 recommendations to the President under this sec-
14 tion, the process by which agencies and programs
15 may be selected for realignment or elimination under
16 this Act with respect to that year shall be termi-
17 nated.

18 (e) CARRYFORWARD OF GROUPING AND EVALUA-
19 TION.—If the process by which agencies and programs
20 may be selected for realignment or elimination under this
21 Act with respect to a year is terminated under subsection
22 (d)(5)—

23 (1) if the termination occurs in 2012 or 2013,
24 the grouping of agencies and programs evaluated

1 that year shall be included in the grouping evaluated
2 under subsection (b)(1) in the following year; and

3 (2) if the termination occurs in 2014, the
4 grouping of agencies and programs evaluated that
5 year shall be subject again during the next year to
6 the process by which agencies and programs may be
7 selected for realignment or elimination under this
8 Act as provided in this section.

9 **SEC. 5. POWERS OF THE COMMISSION.**

10 (a) HEARINGS.—

11 (1) IN GENERAL.—The Commission or, at its
12 direction, any subcommittee or member of the Com-
13 mission, may, for the purpose of carrying out this
14 Act—

15 (A) hold such hearings, sit and act at such
16 times and places, take such testimony, receive
17 such evidence, and administer such oaths as
18 any member of the Commission considers advis-
19 able;

20 (B) require, by subpoena or otherwise, the
21 attendance and testimony of such witnesses as
22 any member of the Commission considers advis-
23 able; and

24 (C) require, by subpoena or otherwise, the
25 production of such books, records, correspond-

1 ence, memoranda, papers, documents, tapes,
2 and other evidentiary materials relating to any
3 matter under investigation by the Commission.

4 (2) MEMBERS OF CONGRESS.—Any member of
5 Congress may testify before the Commission or at-
6 tend any proceedings or deliberations of the Com-
7 mission.

8 (3) TESTIMONY UNDER OATH.—All testimony
9 before the Commission shall be under oath.

10 (b) ISSUANCE AND ENFORCEMENT OF SUB-
11 POENAS.—

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

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

1 may be punished by the court as a contempt of that
2 court.

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

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

14 **SEC. 6. COMMISSION PERSONNEL MATTERS.**

15 (a) COMPENSATION OF MEMBERS.—

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

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

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

8 (c) STAFF.—

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

16 (2) COMPENSATION.—Upon the approval of the
17 chairman, the executive director may fix the com-
18 pensation of the executive director and other per-
19 sonnel without regard to chapter 51 and subchapter
20 III of chapter 53 of title 5, United States Code, re-
21 lating to classification of positions and General
22 Schedule pay rates, except that the rate of pay for
23 the executive director and other personnel may not
24 exceed the maximum rate payable for a position at

1 GS-15 of the General Schedule under section 5332
2 of such title.

3 (3) PERSONNEL AS FEDERAL EMPLOYEES.—

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

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

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

18 (e) SECURITY CLEARANCE.—As a condition of ap-
19 pointment to or employment with the Commission, the
20 members and staff of the Commission shall hold appro-
21 priate security clearances for access to any classified brief-
22 ing, records, and materials that may be reviewed by the
23 Commission or its staff and shall follow the guidance and
24 practices on security under applicable Executive orders
25 and agency directives.

1 (f) LIBRARY OF CONGRESS.—Upon the request of the
2 Commission, the Librarian of Congress shall provide to
3 the Commission, on a reimbursable basis, administrative
4 support services, research services, and research staff nec-
5 essary for the Commission to carry out its responsibilities
6 under this Act.

7 (g) PROCUREMENT OF TEMPORARY AND INTERMIT-
8 TENT SERVICES.—The chairman of the Commission may
9 procure temporary and intermittent services under section
10 3109(b) of title 5, United States Code, at rates for individ-
11 uals which do not exceed the daily equivalent of the annual
12 rate of basic pay prescribed for level V of the Executive
13 Schedule under section 5316 of such title.

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

15 The Commission shall terminate 120 days after the
16 date on which the Commission submits the final plan and
17 recommendations under section 3(b).

18 **SEC. 8. CLOSURE AND REALIGNMENT OF AGENCIES AND**
19 **PROGRAMS.**

20 (a) IN GENERAL.—Subject to subsection (b), the
21 President shall—

22 (1) eliminate all agencies and programs rec-
23 ommended for elimination by the Commission in
24 each report submitted to Congress by the President
25 under section 3(d);

1 (2) realign all agencies and programs rec-
2 ommended for realignment by such Commission in
3 each such report;

4 (3) initiate all such eliminations and realign-
5 ments no later than 2 years after the date on which
6 the President submits a report to Congress under
7 section 3(d) containing the recommendations for
8 such eliminations or realignments; and

9 (4) complete all such eliminations and realign-
10 ments no later than the end of the 6-year period be-
11 ginning on the date on which the President submits
12 the report under section 3(d) containing the rec-
13 ommendations for such closures or realignments.

14 (b) CONGRESSIONAL DISAPPROVAL.—

15 (1) The President may not carry out any elimi-
16 nation or realignment recommended in a report sub-
17 mitted by the President pursuant to section 3(d) if
18 a joint resolution is enacted, in accordance with the
19 provisions of section 9, disapproving such rec-
20 ommendations before the earlier of—

21 (A) the end of the 45-day period beginning
22 on the date on which the President submits
23 such report; or

1 (B) the adjournment of Congress sine die
2 for the session during which such report is sub-
3 mitted.

4 (2) For purposes of paragraph (1) of this sub-
5 section and subsections (a) and (c) of section 9, the
6 days on which either House of Congress is not in
7 session because of adjournment of more than 3 days
8 to a day certain shall be excluded in the computation
9 of a period.

10 **SEC. 9. CONGRESSIONAL CONSIDERATION OF COMMISSION**
11 **RECOMMENDATIONS.**

12 (a) **TERMS OF THE RESOLUTION.**—For purposes of
13 section 8(b), the term “joint resolution” means only a
14 joint resolution which is introduced within the 10-day pe-
15 riod beginning on the date on which the President submits
16 the report to Congress under section 3(d), and—

17 (1) which does not have a preamble;

18 (2) the matter after the resolving clause of
19 which is as follows: “That Congress disapproves the
20 recommendations of the Federal Realignment and
21 Closure Commission as submitted by the President
22 on”, the blank space being filled in with the appro-
23 priate date; and

1 (3) the title of which is as follows: “Joint reso-
2 lution disapproving the recommendations of the Fed-
3 eral Realignment and Closure Commission.”.

4 (b) REFERRAL.—A resolution described in subsection
5 (a) that is introduced in the House of Representatives
6 shall be referred to the Committee on Oversight and Gov-
7 ernment Reform of the House of Representatives. A reso-
8 lution described in subsection (a) introduced in the Senate
9 shall be referred to the Committee on Homeland Security
10 and Governmental Affairs of the Senate.

11 (c) DISCHARGE.—If the committee to which a resolu-
12 tion described in subsection (a) is referred has not re-
13 ported such a resolution (or an identical resolution) by the
14 end of the 20-day period beginning on the date on which
15 the President submits the report to Congress under sec-
16 tion 3(d), such committee shall be, at the end of such pe-
17 riod, discharged from further consideration of such resolu-
18 tion, and such resolution shall be placed on the appro-
19 priate calendar of the House involved.

20 (d) CONSIDERATION.—

21 (1) On or after the third day after the date on
22 which the committee to which such a resolution is
23 referred has reported, or has been discharged (under
24 subsection (c)) from further consideration of, such a
25 resolution, it is in order (even though a previous mo-

1 tion to the same effect has been disagreed to) for
2 any Member of the respective House to move to pro-
3 ceed to the consideration of the resolution. A mem-
4 ber may make the motion only on the day after the
5 calendar day on which the Member announces to the
6 House concerned the Member's intention to make
7 the motion, except that, in the case of the House of
8 Representatives, the motion may be made without
9 such prior announcement if the motion is made by
10 direction of the committee to which the resolution
11 was referred. The motion is highly privileged in the
12 House of Representatives and is privileged in the
13 Senate and is not debatable. The motion is not sub-
14 ject to amendment, or to a motion to postpone, or
15 to a motion to proceed to the consideration of other
16 business. A motion to reconsider the vote by which
17 the motion is agreed to or disagreed to shall not be
18 in order. If a motion to proceed to the consideration
19 of the resolution is agreed to, the respective House
20 shall immediately proceed to consideration of the
21 joint resolution without intervening motion, order, or
22 other business, and the resolution shall remain the
23 unfinished business of the respective House until
24 disposed of.

1 (2) Debate on the resolution, and on all debat-
2 able motions and appeals in connection therewith,
3 shall be limited to not more than 2 hours, which
4 shall be divided equally between those favoring and
5 those opposing the resolution. An amendment to the
6 resolution is not in order. A motion further to limit
7 debate is in order and not debatable. A motion to
8 postpone, or a motion to proceed to the consider-
9 ation of other business, or a motion to recommit the
10 resolution is not in order. A motion to reconsider the
11 vote by which the resolution is agreed to or dis-
12 agreed to is not in order.

13 (3) Immediately following the conclusion of the
14 debate on a resolution described in subsection (a)
15 and a single quorum call at the conclusion of the de-
16 bate if requested in accordance with the rules of the
17 appropriate House, the vote on final passage of the
18 resolution shall occur.

19 (4) Appeals from the decisions of the Chair re-
20 lating to the application of the rules of the Senate
21 or the House of Representatives, as the case may be,
22 to the procedure relating to a resolution described in
23 subsection (a) shall be decided without debate.

24 (e) CONSIDERATION BY OTHER HOUSE.—

1 (1) If, before the passage by one House of a
2 resolution of that House described in subsection (a),
3 that House receives from the other House a resolu-
4 tion described in subsection (a), then the following
5 procedures shall apply—

6 (A) the resolution of the other House shall
7 not be referred to a committee and may not be
8 considered in the House receiving it except in
9 the case of final passage as provided in sub-
10 paragraph (B)(ii); and

11 (B) with respect to a resolution described
12 in subsection (a) of the House receiving the res-
13 olution (i) the procedure in that House shall be
14 the same as if no resolution had been received
15 from the other House; but (ii) the vote on final
16 passage shall be on the resolution of the other
17 House.

18 (2) Upon disposition of the resolution received
19 from the other House, it shall no longer be in order
20 to consider the resolution that originated in the re-
21 ceiving House.

22 (f) RULES OF THE SENATE AND HOUSE.—This sec-
23 tion is enacted by Congress—

24 (1) as an exercise of the rulemaking power of
25 the Senate and House of Representatives, respec-

1 tively, and as such it is deemed a part of the rules
2 of each House, respectively, but applicable only with
3 respect to the procedure to be followed in that
4 House in the case of a resolution described in sub-
5 section (a), and it supersedes other rules only to the
6 extent that it is inconsistent with such rules; and

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

12 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated such sums
14 as may be necessary for each of fiscal years 2012 through
15 2015 for carrying out this Act.

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