

110TH CONGRESS
2D SESSION

H. R. 5439

To establish the Civil Service Reform Commission.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2008

Mr. THORNBERRY 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 the Civil Service Reform Commission.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Civil Service Reform
5 Commission Act of 2008”.

6 **SEC. 2. CIVIL SERVICE REFORM COMMISSION.**

7 (a) ESTABLISHMENT.—There is established a com-
8 mission to be known as the “Civil Service Reform Com-
9 mission” (in this Act referred to as the “Commission”).

10 (b) DUTIES OF COMMISSION.—

1 (1) STUDY.—The Commission shall study the
2 following aspects of the Federal civil service system:

3 (A) The Federal compensation system, in-
4 cluding pay and benefit structures, with an em-
5 phasis on performance-based pay and benefits.

6 (B) Recruiting individuals for the Federal
7 workforce, with an emphasis on identifying and
8 filling skill gaps in the Federal workforce, in-
9 cluding experience in scientific fields, engineer-
10 ing, foreign language fluency, cultural under-
11 standing, and information technology.

12 (C) Expediting and improving hiring proc-
13 esses.

14 (D) Retaining a high-quality Federal work-
15 force and providing continuing professional edu-
16 cation to maintain the quality of such work-
17 force.

18 (E) Policies and barriers related to the ter-
19 mination of under-performing workers.

20 (F) The role and oversight of Federal con-
21 tractors and issues related to contractor as-
22 sumption of traditionally Federal duties.

23 (2) REPORT AND PROPOSED LEGISLATION.—
24 Not later than 2 years after the initial meeting of
25 the Commission under subsection (c)(8)(A), the

1 Commission shall submit to the President and each
2 House of Congress (on the same day and while each
3 House is in session)—

4 (A) a report containing a detailed state-
5 ment of the findings and conclusion of the
6 Commission with respect to the Federal civil
7 service system, together with the recommenda-
8 tions of the Commission for improvements to
9 such system based on such findings; and

10 (B) proposed legislative language to carry
11 out the recommendations described in subpara-
12 graph (A).

13 (c) MEMBERSHIP.—

14 (1) NUMBER; APPOINTMENT.—The Commission
15 shall be composed of 11 members who shall be ap-
16 pointed by the President by and with the advice and
17 consent of the Senate.

18 (2) ELIGIBILITY.—

19 (A) NO SERVING MEMBERS OF CONGRESS
20 OR FEDERAL EMPLOYEES.—A member ap-
21 pointed under paragraph (1) may not be an of-
22 ficer or employee of the Federal Government or
23 a Member of Congress serving at the time of
24 such appointment.

25 (B) BACKGROUND OF MEMBERS.—

1 (i) FORMER FEDERAL EMPLOYEES.—
2 Four members appointed under paragraph
3 (1) shall be former officers or employees of
4 the Federal Government under the Federal
5 civil service system. Any former officer or
6 employee appointed as a member under
7 this clause may not be appointed as a
8 member under clause (ii).

9 (ii) PRIVATE SECTOR EXPERTS.—
10 Seven members appointed under paragraph
11 (1) shall be individuals in the private sec-
12 tor who are recognized experts in matters
13 relating to management or personnel man-
14 agement. Any individual appointed as a
15 member under this clause may not be ap-
16 pointed as a member under clause (i).

17 (3) POLITICAL AFFILIATION.—Not more than 6
18 members appointed under paragraph (1) may be of
19 the same political party.

20 (4) VACANCIES.—Any member appointed to fill
21 a vacancy occurring before the expiration of the
22 term for which the predecessor of such member was
23 appointed shall be appointed only for the remainder
24 of such term. Any appointment to fill a vacancy

1 shall be subject to the requirements of paragraphs
2 (1) through (3).

3 (5) BASIC PAY.—

4 (A) RATES OF PAY.—To the extent or in
5 the amounts provided in advance in appropria-
6 tion Acts, each member shall be paid at a rate
7 equal to level I of the Executive Schedule under
8 section 5312 of title 5, United States Code.

9 (B) TRAVEL EXPENSES.—Each member
10 shall receive travel expenses, including per diem
11 in lieu of subsistence, in accordance with appli-
12 cable provisions of subchapter I of chapter 57
13 of title 5, United States Code.

14 (6) CHAIRPERSON.—Not later than 30 days
15 after all members have been appointed under para-
16 graph (1), the President shall designate a Chair-
17 person of the Commission.

18 (7) QUORUM.—Six members of the Commission
19 shall constitute a quorum but a lesser number may
20 hold hearings.

21 (8) MEETINGS.—

22 (A) INITIAL MEETING.—Not later than 30
23 days after all members have been appointed
24 under paragraph (1), the Commission shall hold
25 its initial meeting.

1 (B) FREQUENCY OF MEETINGS.—The
2 Commission shall meet at least monthly at the
3 call of the Chairperson.

4 (d) STAFF OF COMMISSION; EXPERTS AND CONSULT-
5 ANTS.—

6 (1) DIRECTOR.—The Commission shall appoint
7 a Director. To the extent or in the amounts provided
8 in advance in appropriation Acts, the Director shall
9 be paid at a rate not to exceed the minimum rate
10 of basic pay for GS–15 of the General Schedule.

11 (2) STAFF.—Subject to rules prescribed by the
12 Commission, the Director may appoint and fix the
13 pay of staff members as the Director determines ap-
14 propriate, except that not more than 14 staff mem-
15 bers may be appointed under this paragraph.

16 (3) EXPERTS AND CONSULTANTS.—Subject to
17 the approval of the Commission, the Director may
18 procure temporary and intermittent services under
19 section 3109(b) of title 5, United States Code.

20 (e) POWERS OF COMMISSION.—

21 (1) HEARINGS AND SESSIONS.—The Commis-
22 sion may hold hearings, sit and act at times and
23 places, take testimony, and receive evidence as the
24 Commission determines appropriate.

1 (2) POWERS OF MEMBERS AND AGENTS.—Any
2 member or agent of the Commission may, if author-
3 ized by the Commission, take any action which the
4 Commission is authorized to take by this subsection.

5 (3) OBTAINING OFFICIAL DATA.—The Commis-
6 sion may obtain, from any department or agency of
7 the United States, information necessary to enable it
8 to carry out its duties. At the request of the Chair-
9 person, the head of such department or agency shall
10 furnish such information to the Commission.

11 (4) VISITS.—The Commission may visit the fa-
12 cilities and installations of any department or agency
13 of the United States.

14 (5) MAILS.—The Commission may use the
15 United States mails in the same manner and under
16 the same conditions as any department or agency of
17 the United States.

18 (6) SUBPOENA POWER.—

19 (A) ISSUANCE.—The Commission may
20 issue subpoenas requiring the attendance and
21 testimony of witnesses, the production of any
22 evidence, or both, relating to any matter which
23 the Commission is directed to study under sub-
24 section (b). The attendance of witnesses, pro-
25 duction of evidence, or both, may be required

1 from any place in the United States at any des-
2 ignated place of hearing in the United States.

3 (B) FAILURE TO OBEY.—If a person fails
4 to obey a subpoena issued under subparagraph
5 (A), the Commission may apply to a United
6 States district court for an order requiring that
7 person to appear before the Commission to give
8 testimony, produce evidence, or both, relating to
9 the matter under examination. The application
10 may be made in the judicial district where the
11 hearing is conducted or where that person is
12 found, resides, or transacts business. Any fail-
13 ure to obey the order of the court may be pun-
14 ished by the court as civil contempt.

15 (C) SERVICE OF SUBPOENAS.—A subpoena
16 of the Commission shall be served in the man-
17 ner provided for subpoenas issued by a United
18 States district court under the Federal Rules of
19 Civil Procedure for United States district
20 courts.

21 (D) SERVICE OF PROCESS.—All process of
22 any court to which application is made under
23 subparagraph (B) may be served in the judicial
24 district in which the person required to be
25 served resides or may be found.

1 (7) IMMUNITY.—The Commission is an agency
2 of the United States for the purpose of part V of
3 title 18, United States Code (relating to immunity
4 of witnesses).

5 (8) CONTRACT AUTHORITY.—To the extent or
6 in the amounts provided in advance in appropriation
7 Acts, the Commission may contract with and com-
8 pensate private agencies or persons for services.

9 (f) TERMINATION.—The Commission shall terminate
10 10 days after submitting the report and proposed legisla-
11 tion required by subsection (b)(2).

12 **SEC. 3. LEGISLATION TO IMPLEMENT RECOMMENDATIONS**
13 **OF THE COMMISSION.**

14 (a) DEFINITION.—For purposes of this section, the
15 term “implementing bill” means a bill the text of which
16 consists of the legislative language submitted by the Com-
17 mission to Congress in accordance with section 2(b)(2)
18 and the title of which is “A bill to implement the rec-
19 ommendations of the Civil Service Reform Commission.”.

20 (b) INTRODUCTION.—Not later than 60 days after
21 the date on which the Commission submits its report and
22 proposed legislation to Congress in accordance with sec-
23 tion 2(b)(2), an implementing bill—

24 (1) shall be introduced (by request) in the
25 House of Representatives by the majority leader of

1 the House of Representatives, for himself or herself
2 and the minority leader of the House of Representa-
3 tives, or by Members of the House of Representa-
4 tives designated by the majority leader and minority
5 leader of the House; and

6 (2) shall be introduced (by request) in the Sen-
7 ate by the majority leader of the Senate, for himself
8 or herself and the minority leader of the Senate, or
9 by Members of the Senate designated by the major-
10 ity leader and minority leader of the Senate.

11 If an implementing bill is not introduced in accordance
12 with the preceding sentence in either House of Congress,
13 any Member of that House may introduce an imple-
14 menting bill on any day thereafter.

15 (c) REFERRAL.—An implementing bill shall be re-
16 ferred to the committees of the House of Representatives
17 and of the Senate with jurisdiction. Each committee shall
18 make its recommendations to the House of Representa-
19 tives or the Senate, as the case may be, within 10 calendar
20 days after the date of introduction in that House. If a
21 committee to which an implementing bill has been referred
22 has not reported by the close of the 10th calendar day
23 after its introduction, such committee shall be automati-
24 cally discharged from further consideration of the bill, and
25 the bill shall be placed on the appropriate calendar.

1 (d) EXPEDITED PROCEDURES.—

2 (1) IN THE HOUSE OF REPRESENTATIVES.—

3 (A) IN GENERAL.—Not later than 5 days
4 of session after the date on which an imple-
5 menting bill is reported or discharged from all
6 committees to which it was referred, the major-
7 ity leader of the House of Representatives or
8 the majority leader's designee shall move to
9 proceed to the consideration of the imple-
10 menting bill. It shall also be in order for any
11 Member of the House of Representatives to
12 move to proceed to the consideration of the im-
13 plementing bill at any time after the conclusion
14 of such 5-day period.

15 (B) MOTION TO PROCEED.—A motion to
16 proceed to the consideration of the imple-
17 menting bill is highly privileged in the House of
18 Representatives and is not debatable. The mo-
19 tion is not subject to amendment or to a motion
20 to postpone consideration of the implementing
21 bill. A motion to proceed to the consideration of
22 other business shall not be in order. A motion
23 to reconsider the vote by which the motion to
24 proceed is agreed to or not agreed to shall not
25 be in order. If the motion to proceed is agreed

1 to, the House of Representatives shall imme-
2 diately proceed to consideration of the imple-
3 menting bill without intervening motion, order,
4 or other business, and the implementing bill
5 shall remain the unfinished business of the
6 House of Representatives until disposed of.

7 (C) LIMITS ON DEBATE.—Debate in the
8 House of Representatives on an implementing
9 bill under this paragraph shall not exceed a
10 total of 100 hours, which shall be divided equal-
11 ly between those favoring and those opposing
12 the bill. A motion further to limit debate is in
13 order and shall not be debatable. It shall not be
14 in order to move to recommit an implementing
15 bill under this paragraph or to move to recon-
16 sider the vote by which the bill is agreed to or
17 disagreed to.

18 (D) APPEALS.—Appeals from decisions of
19 the chair relating to the application of the
20 Rules of the House of Representatives to the
21 procedures relating to an implementing bill
22 shall be decided without debate.

23 (E) APPLICATION OF HOUSE RULES.—Ex-
24 cept to the extent specifically provided in this
25 paragraph, consideration of an implementing

1 bill shall be governed by the Rules of the House
2 of Representatives. It shall not be in order in
3 the House of Representatives to consider any
4 implementing bill introduced pursuant to the
5 provisions of this section under a suspension of
6 the rules or under a special rule.

7 (F) NO AMENDMENTS.—No amendment to
8 the implementing bill shall be in order in the
9 House of Representatives.

10 (G) VOTE ON FINAL PASSAGE.—In the
11 House of Representatives, immediately fol-
12 lowing the conclusion of consideration of the
13 implementing bill, the vote on final passage of
14 the implementing bill shall occur without any
15 intervening action or motion, requiring an af-
16 firmative vote of $\frac{3}{5}$ of the Members, duly cho-
17 sen and sworn. If the implementing bill is
18 passed, the Clerk of the House of Representa-
19 tives shall cause the bill to be transmitted to
20 the Senate before the close of the next day of
21 session of the House.

22 (2) IN THE SENATE.—

23 (A) IN GENERAL.—Not later than 5 days
24 of session after the date on which an imple-
25 menting bill is reported or discharged from all

1 committees to which it was referred, the major-
2 ity leader of the Senate or the majority leader's
3 designee shall move to proceed to the consider-
4 ation of the implementing bill. It shall also be
5 in order for any Member of the Senate to move
6 to proceed to the consideration of the imple-
7 menting bill at any time after the conclusion of
8 such 5-day period.

9 (B) MOTION TO PROCEED.—A motion to
10 proceed to the consideration of the imple-
11 menting bill is privileged in the Senate and is
12 not debatable. The motion is not subject to
13 amendment or to a motion to postpone consid-
14 eration of the implementing bill. A motion to
15 proceed to consideration of the implementing
16 bill may be made even though a previous mo-
17 tion to the same effect has been disagreed to.
18 A motion to proceed to the consideration of
19 other business shall not be in order. A motion
20 to reconsider the vote by which the motion to
21 proceed is agreed to or not agreed to shall not
22 be in order. If the motion to proceed is agreed
23 to, the Senate shall immediately proceed to con-
24 sideration of the implementing bill without in-
25 tervening motion, order, or other business, and

1 the implementing bill shall remain the unfin-
2 ished business of the Senate until disposed of.

3 (C) LIMITS ON DEBATE.—In the Senate,
4 consideration of the implementing bill and on
5 all debatable motions and appeals in connection
6 therewith shall not exceed a total of 100 hours,
7 which shall be divided equally between those fa-
8 voring and those opposing the implementing
9 bill. A motion further to limit debate on the im-
10 plementing bill is in order and is not debatable.
11 Any debatable motion or appeal is debatable for
12 not to exceed 1 hour, to be divided equally be-
13 tween those favoring and those opposing the
14 motion or appeal. All time used for consider-
15 ation of the implementing bill, including time
16 used for quorum calls and voting, shall be
17 counted against the total 100 hours of consider-
18 ation.

19 (D) NO AMENDMENTS.—No amendment to
20 the implementing bill shall be in order in the
21 Senate.

22 (E) MOTION TO RECOMMIT.—A motion to
23 recommit an implementing bill shall not be in
24 order under this paragraph.

1 (F) VOTE ON FINAL PASSAGE.—In the
2 Senate, immediately following the conclusion of
3 consideration of the implementing bill and a re-
4 quest to establish the presence of a quorum, the
5 vote on final passage of the implementing bill
6 shall occur and shall require an affirmative vote
7 of $\frac{3}{5}$ of the Members, duly chosen and sworn.

8 (G) OTHER MOTIONS NOT IN ORDER.—A
9 motion to postpone or a motion to proceed to
10 the consideration of other business is not in
11 order in the Senate. A motion to reconsider the
12 vote by which the implementing bill is agreed to
13 or not agreed to is not in order in the Senate.

14 (H) CONSIDERATION OF THE HOUSE
15 BILL.—

16 (i) IN GENERAL.—If the Senate has
17 received the House companion bill to the
18 implementing bill introduced in the Senate
19 prior to the vote required under subpara-
20 graph (F) and the House companion bill is
21 identical to the implementing bill intro-
22 duced in the Senate, then the Senate shall
23 consider, and the vote under subparagraph
24 (F) shall occur on, the House companion
25 bill.

1 (ii) PROCEDURE AFTER VOTE ON SEN-
2 ATE BILL.—If the Senate votes, pursuant
3 to subparagraph (F), on the bill introduced
4 in the Senate, the Senate bill shall be held
5 pending receipt of the House message on
6 the bill. Upon receipt of the House com-
7 panion bill, if the House bill is identical to
8 the Senate bill, the House bill shall be
9 deemed to be considered, read for the third
10 time, and the vote on passage of the Sen-
11 ate bill shall be considered to be the vote
12 on the bill received from the House.

13 (3) NO SUSPENSION.—No motion to suspend
14 the application of this subsection shall be in order
15 in the Senate or in the House of Representatives.

16 (e) RULES OF HOUSE OF REPRESENTATIVES AND
17 SENATE.—This section is enacted by the Congress—

18 (1) as an exercise of the rulemaking power of
19 the House of Representatives and the Senate, re-
20 spectively, and as such is deemed a part of the rules
21 of each House, respectively, but applicable only with
22 respect to the procedures to be followed in that
23 House in the case of an implementing bill; and it su-
24 persedes other rules only to the extent that it is in-
25 consistent with such other rules; and

1 (2) with the full recognition of the constitu-
2 tional right of either House to change the rules (so
3 far as relating to the procedures of that House) at
4 any time, in the same manner, and to the same ex-
5 tent as any other rule of that House.

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