

114TH CONGRESS
2D SESSION

S. 3294

To establish the Mandatory Bureaucratic Realignment and Consolidation Commission to reduce outlays flowing from direct spending.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 7, 2016

Mr. COATS introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish the Mandatory Bureaucratic Realignment and Consolidation Commission to reduce outlays flowing from direct spending.

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 “Mandatory Bureau-
5 cratic Realignment and Consolidation Commission Act of
6 2016” or the “Mandatory BRACC Act”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act—

9 (1) the terms “account”, “budgetary re-
10 sources”, “direct spending”, “discretionary appro-

1 priations”, and “sequestration” have the meaning
2 given such terms in section 250(c) of the Balanced
3 Budget and Emergency Deficit Control Act of 1985
4 (2 U.S.C. 900(c));

5 (2) the term “Commission” means the Manda-
6 tory Bureaucratic Realignment and Consolidation
7 Commission established under section 4(a);

8 (3) the term “Commission bill” means a bill
9 consisting of the proposed legislative language rec-
10 ommended by the Commission under section 4(b)(3)
11 and introduced under section 5(a);

12 (4) the term “outlays” has the meaning given
13 that term under section 3 of the Congressional
14 Budget Act of 1974 (2 U.S.C. 622); and

15 (5) the term “total spending”—

16 (A) means all outlays of the Government;

17 (B) includes outlays from off-budget enti-
18 ties and budget authority and outlays flowing
19 therefrom, as applicable, designated as emer-
20 gencies; and

21 (C) does not include net interest.

22 **SEC. 3. PURPOSE.**

23 The purpose of this Act is to reduce outlays flowing
24 from direct spending such that—

1 (1) total spending for each fiscal year is not
2 more than total revenues for the fiscal year; and

3 (2) outlays flowing from direct spending are not
4 more than 50 percent of total spending.

5 **SEC. 4. ESTABLISHMENT OF MANDATORY BUREAUCRATIC**
6 **REALIGNMENT AND CONSOLIDATION COM-**
7 **MISSION.**

8 (a) **ESTABLISHMENT.**—There is established in the
9 legislative branch a commission to be known as the “Man-
10 datory Bureaucratic Realignment and Consolidation Com-
11 mission”.

12 (b) **DUTIES.**—

13 (1) **IN GENERAL.**—The Commission—

14 (A) shall review all direct spending by the
15 Federal Government to—

16 (i) identify changes in law (which may
17 include ways to streamline functions and
18 increase efficiency within agencies or pro-
19 grams) that will reduce outlays flowing
20 from the direct spending;

21 (ii) identify the goals of each direct
22 spending program;

23 (iii) determine whether there are ef-
24 fective methods to measure the outcomes
25 of each direct spending program;

- 1 (iv) evaluate the usefulness of each di-
2 rect spending program;
- 3 (v) evaluate whether each direct
4 spending program could be consolidated
5 with another direct spending program, or a
6 program subject to the availability of dis-
7 cretionary appropriations, with similar
8 goals and make recommendations for con-
9 solidating the spending programs that are
10 identified;
- 11 (vi) evaluate the potential benefits of
12 eliminating any direct spending program
13 that does not have proven beneficial out-
14 comes or usefulness and make recommen-
15 dations regarding eliminating direct spend-
16 ing programs that are identified;
- 17 (vii) identify opportunities and make
18 recommendations regarding ways for the
19 Federal Government to reduce the cost or
20 increase the efficiency of direct spending
21 programs by contracting with private enti-
22 ties, or delegating authority to States, to
23 perform activities relating to the program;
- 24 (viii) identify direct spending pro-
25 grams and entitlement authorities that

1 should be modified to be carried out sub-
2 ject to the availability of discretionary ap-
3 propriations; and

4 (ix) identify other ways to achieve the
5 requirements described in paragraph
6 (3)(B), as determined by the Commission;
7 and

8 (B) may review the offsetting receipts and
9 discretionary appropriations of the Federal
10 Government, as determined appropriate by the
11 Commission.

12 (2) CONSULTATION AND WORKING GROUPS.—

13 (A) IN GENERAL.—In carrying out the re-
14 view under paragraph (1)(A), the Commission
15 shall—

16 (i) consult with experts in company
17 restructuring, reorganizing, and cost cut-
18 ting; and

19 (ii) establish working groups for direct
20 spending programs, as determined appro-
21 priate by the Commission, to provide rec-
22 ommendations to the Commission.

23 (B) MEMBERS OF WORKING GROUPS.—The
24 individuals serving on a working group estab-
25 lished under subparagraph (A)(ii) shall be em-

1 employees or contractors of the Commission with
2 expertise in a program reviewed by the working
3 group.

4 (3) REPORTING AND PROPOSED LEGISLA-
5 TION.—

6 (A) IN GENERAL.—The Commission—

7 (i) shall identify changes in law that
8 will result in the reduction of outlays that
9 will achieve the requirements described in
10 subparagraph (B);

11 (ii) not later than 6 months after the
12 date on which all members of the Commis-
13 sion are appointed, and upon an affirma-
14 tive vote of a majority of the members of
15 the Commission, shall submit to Congress
16 and make publicly available a report con-
17 taining—

18 (I) a detailed statement of the
19 findings, conclusions, and recommen-
20 dations of the Commission;

21 (II) the assumptions, scenarios,
22 and alternatives considered in reach-
23 ing such findings, conclusions, and
24 recommendations; and

1 (III) proposed legislative lan-
2 guage to carry out the changes in law
3 identified under clause (i); and

4 (iii) may include in the proposed legis-
5 lative language submitted under clause
6 (ii)(III) changes in law that reduce outlays
7 such that the requirements under subpara-
8 graph (B) are exceeded.

9 (B) REQUIREMENTS.—The requirements
10 under this subparagraph are that, according to
11 the most recent budget estimates by the Con-
12 gressional Budget Office as of the date on
13 which the recommendations of the Commission
14 are issued, outlays flowing from direct spending
15 are reduced such that—

16 (i) total spending is gradually reduced
17 during the period of fiscal years 2018
18 through 2027;

19 (ii) not later than the start of fiscal
20 year 2027, and for each fiscal year there-
21 after, total spending is not more than total
22 revenues; and

23 (iii) not later than the start of fiscal
24 year 2027, and for each fiscal year there-
25 after, outlays flowing from direct spending

1 are not more than 50 percent of total
2 spending.

3 (c) MEMBERSHIP.—

4 (1) IN GENERAL.—The Commission shall be
5 composed of 12 members, appointed as follows:

6 (A) The President shall appoint 2 mem-
7 bers.

8 (B) The majority leader of the Senate shall
9 appoint 2 members.

10 (C) The minority leader of the Senate shall
11 appoint 2 members.

12 (D) The Speaker of the House of Rep-
13 resentatives shall appoint 2 members.

14 (E) The minority leader of the House of
15 Representatives shall appoint 2 members.

16 (F) The majority leader of the Senate or
17 the minority leader of the Senate shall appoint
18 2 members, as necessary for there to be an
19 equal number of appointments of members of
20 the Commission made by members of each of
21 the 2 major political parties.

22 (2) DISQUALIFICATIONS.—An individual may
23 not be appointed as a member of the Commission if
24 the individual—

1 (A) was an officer or employee of any es-
2 tablishment in the Federal Government at any
3 time during the 5-year period ending on the
4 date of the appointment; or

5 (B) was registered as a lobbyist under the
6 Lobbying Disclosure Act of 1995 (2 U.S.C.
7 1601 et seq.) at any time during the 5-year pe-
8 riod ending on the date of the appointment.

9 (3) CHAIRPERSON.—The members of the Com-
10 mission shall select a Chairperson from among the
11 members of the Commission.

12 (4) DATE.—Not later than 1 month after the
13 date of enactment of this Act, all members of the
14 Commission shall be appointed.

15 (5) PERIOD OF DESIGNATION.—Members shall
16 be appointed for the life of the Commission. Any va-
17 cancy in the Commission shall not affect its powers,
18 but shall be filled not later than 14 days after the
19 date on which the vacancy occurs in the same man-
20 ner as the original appointment.

21 (6) COMPENSATION.—

22 (A) IN GENERAL.—Each member of the
23 Commission shall be compensated at a rate
24 equal to the daily equivalent of the annual rate
25 of basic pay prescribed for a position at level

1 III of the Executive Schedule under section
2 5314 of title 5, United States Code, for each
3 day (including travel time) during which such
4 member is engaged in the performance of the
5 duties of the Commission.

6 (B) TRAVEL EXPENSES.—Members may be
7 allowed travel expenses, including per diem in
8 lieu of subsistence, in accordance with sections
9 5702 and 5703 of title 5, United States Code,
10 while away from their homes or regular places
11 of business in performance of services for the
12 Commission.

13 (d) POWERS OF THE COMMISSION.—

14 (1) HEARINGS.—The Commission may, for the
15 purpose of carrying out this Act—

16 (A) hold such hearings, sit and act at such
17 times and places, take such testimony, receive
18 such evidence, and administer such oaths as the
19 Commission considers advisable to carry out its
20 duties; and

21 (B) require, by subpoena or otherwise, the
22 attendance and testimony of such witnesses and
23 the production of such books, records, cor-
24 respondence, memoranda, papers, documents,

1 tapes, and materials as the Commission con-
2 siders advisable to carry out its duties.

3 (2) INFORMATION FROM FEDERAL AGENCIES.—

4 The Commission may request directly, or require, by
5 subpoena or otherwise, from any Federal agency
6 such information as the Commission considers nec-
7 essary to carry out its duties. Upon a request of the
8 Chairperson of the Commission, the head of a Fed-
9 eral agency shall furnish such information to the
10 Commission.

11 (3) ISSUANCE AND ENFORCEMENT OF SUB-
12 POENAS.—

13 (A) ISSUANCE.—Subpoenas issued under
14 paragraph (1) or (2) shall bear the signature of
15 the Chairperson of the Commission and shall be
16 served by any person or class of persons des-
17 ignated by the Chairperson for that purpose.

18 (B) ENFORCEMENT.—In the case of contu-
19 macy or failure to obey a subpoena issued
20 under paragraph (1) or (2), the United States
21 district court for the judicial district in which
22 the subpoenaed person resides, is served, or
23 may be found may issue an order requiring
24 such person to appear at any designated place
25 to testify or to produce documentary or other

1 evidence. Any failure to obey the order of the
2 court may be punished by the court as a con-
3 tempt of that court.

4 (4) WITNESS ALLOWANCES AND FEES.—Section
5 1821 of title 28, United States Code, shall apply to
6 witnesses requested or subpoenaed to appear at any
7 hearing of the Commission. The per diem and mile-
8 age allowances for witnesses shall be paid from
9 funds available to pay the expenses of the Commis-
10 sion.

11 (5) INFORMATION FROM THE CONGRESSIONAL
12 BUDGET OFFICE.—The Commission may secure di-
13 rectly from the Congressional Budget Office such in-
14 formation, including estimates and analysis, as the
15 Commission considers advisable to carry out its du-
16 ties. Upon request of the Chairperson of the Com-
17 mission, the Director of the Congressional Budget
18 Office shall furnish such information, including esti-
19 mates and analysis, to the Commission.

20 (e) STAFF OF THE COMMISSION.—

21 (1) APPOINTMENT AND COMPENSATION OF
22 STAFF.—The Chairperson may appoint and fix the
23 compensation of a staff director and such other em-
24 ployees as may be necessary to enable the Commis-
25 sion to carry out its functions, without regard to the

1 provisions of title 5, United States Code, governing
2 appointments in the competitive service, but at rates
3 not to exceed the annual rate of basic pay prescribed
4 for a position at level V of the Executive Schedule
5 under section 5316 of title 5 of the United States
6 Code.

7 (2) AGENCY ASSISTANCE.—Upon the request of
8 the Chairperson, the head of any agency may detail
9 an employee of the agency to the Commission with-
10 out reimbursement, and such detail shall be without
11 interruption or loss of civil service status or privi-
12 lege.

13 (f) CONSULTANT, TEMPORARY, AND INTERMITTENT
14 SERVICES.—The Chairperson of the Commission is au-
15 thorized to procure the services of experts and consultants
16 and temporary and intermittent services in accordance
17 with section 3109 of title 5, United States Code, but at
18 rates not to exceed the daily rate paid a person occupying
19 a position at level V of the Executive Schedule under sec-
20 tion 5316 of title 5, United States Code, for each day dur-
21 ing which such consultant or expert is engaged in the per-
22 formance of the duties of the Commission.

23 (g) TERMINATION.—The Commission shall terminate
24 on the day after the earlier of—

1 (1) the date on which the Commission bill is en-
2 acted into law; or

3 (2) the date on which the period during which
4 Congress may consider the Commission bill (includ-
5 ing the consideration of any veto message) expires
6 under section 5.

7 (h) FACA.—The Federal Advisory Committee Act (5
8 U.S.C. App.) shall not apply to the Commission.

9 **SEC. 5. EXPEDITED PROCEDURES.**

10 (a) INTRODUCTION.—The proposed legislative lan-
11 guage recommended by the Commission under section
12 4(b)(3)—

13 (1) shall be introduced in the Senate (by re-
14 quest), with any technical changes necessary to
15 carry out the intent of the proposed legislative lan-
16 guage, by the majority leader of the Senate or by a
17 Member of the Senate designated by the majority
18 leader of the Senate not later than 10 legislative
19 days after the date on which the proposed legislation
20 is submitted to Congress; and

21 (2) shall be introduced in the House of Rep-
22 resentatives (by request), with any technical changes
23 necessary to carry out the intent of the proposed
24 legislative language, by the Speaker of the House of
25 Representatives or by a Member of the House of

1 Representatives designated by the Speaker of the
2 House of Representatives not later than 10 legisla-
3 tive days after the date on which the proposed legis-
4 lation is submitted to Congress.

5 (b) EXPEDITED CONSIDERATION IN HOUSE OF REP-
6 RESENTATIVES.—

7 (1) PLACEMENT ON CALENDAR.—Upon intro-
8 duction in the House of Representatives, the Com-
9 mission bill shall be placed immediately on the ap-
10 propriate calendar.

11 (2) PROCEEDING TO CONSIDERATION.—

12 (A) IN GENERAL.—It shall be in order, not
13 later than 60 legislative days after the date the
14 Commission bill is introduced in the House of
15 Representatives, to move to proceed to consider
16 the Commission bill in the House of Represent-
17 atives.

18 (B) PROCEDURE.—For a motion to pro-
19 ceed to consider the Commission bill—

20 (i) all points of order against the mo-
21 tion are waived;

22 (ii) such a motion shall not be in
23 order after the House of Representatives
24 has disposed of a motion to proceed on the
25 Commission bill;

1 (iii) the previous question shall be
2 considered as ordered on the motion to its
3 adoption without intervening motion;

4 (iv) the motion shall not be debatable;
5 and

6 (v) a motion to reconsider the vote by
7 which the motion is disposed of shall not
8 be in order.

9 (3) CONSIDERATION.—If the House of Rep-
10 resentatives proceeds to consideration of the Com-
11 mission bill—

12 (A) the Commission bill shall be considered
13 as read;

14 (B) all points of order against the Com-
15 mission bill and against its consideration are
16 waived;

17 (C) the previous question shall be consid-
18 ered as ordered on the Commission bill to its
19 passage without intervening motion except 10
20 hours of debate equally divided and controlled
21 by the proponent and an opponent;

22 (D) an amendment to the Commission bill
23 shall not be in order; and

1 (E) a motion to reconsider the vote on pas-
2 sage of the Commission bill shall not be in
3 order.

4 (4) VOTE ON PASSAGE.—In the House of Rep-
5 resentatives, the Commission bill shall be agreed to
6 upon a vote of a majority of the Members present
7 and voting, a quorum being present.

8 (c) EXPEDITED CONSIDERATION IN SENATE.—

9 (1) PLACEMENT ON CALENDAR.—Upon intro-
10 duction in the Senate, the Commission bill shall be
11 placed immediately on the calendar.

12 (2) PROCEEDING TO CONSIDERATION.—

13 (A) IN GENERAL.—Notwithstanding rule
14 XXII of the Standing Rules of the Senate, it is
15 in order, not later than 60 legislative days after
16 the date the Commission bill is introduced in
17 the Senate (even though a previous motion to
18 the same effect has been disagreed to) to move
19 to proceed to the consideration of the Commis-
20 sion bill.

21 (B) PROCEDURE.—For a motion to pro-
22 ceed to the consideration of the Commission
23 bill—

24 (i) all points of order against the mo-
25 tion are waived;

- 1 (ii) the motion is not debatable;
- 2 (iii) the motion is not subject to a mo-
3 tion to postpone;
- 4 (iv) a motion to reconsider the vote by
5 which the motion is agreed to or disagreed
6 to shall not be in order; and
- 7 (v) if the motion is agreed to, the
8 Commission bill shall remain the unfin-
9 ished business until disposed of.

10 (3) FLOOR CONSIDERATION.—

11 (A) IN GENERAL.—If the Senate proceeds
12 to consideration of the Commission bill—

13 (i) all points of order against the
14 Commission bill (and against consideration
15 of the Commission bill) are waived;

16 (ii) consideration of the Commission
17 bill, and all debatable motions and appeals
18 in connection therewith, shall be limited to
19 not more than 30 hours, which shall be di-
20 vided equally between the majority and mi-
21 nority leaders or their designees;

22 (iii) a motion further to limit debate
23 is in order and not debatable;

1 (iv) an amendment to, a motion to
2 postpone, or a motion to commit the Com-
3 mission bill is not in order; and

4 (v) a motion to proceed to the consid-
5 eration of other business is not in order.

6 (B) VOTE ON PASSAGE.—In the Senate—

7 (i) the vote on passage shall occur im-
8 mediately following the conclusion of the
9 consideration of the Commission bill, and a
10 single quorum call at the conclusion of the
11 debate if requested in accordance with the
12 rules of the Senate; and

13 (ii) the Commission bill shall be
14 agreed to upon a vote of a majority of the
15 Members present and voting, a quorum
16 being present.

17 (C) RULINGS OF THE CHAIR ON PROCE-
18 DURE.—Appeals from the decisions of the Chair
19 relating to the application of this subsection or
20 the rules of the Senate, as the case may be, to
21 the procedure relating to the Commission bill
22 shall be decided without debate.

23 (d) RULES RELATING TO SENATE AND HOUSE OF
24 REPRESENTATIVES.—

1 (1) COORDINATION WITH ACTION BY OTHER
2 HOUSE.—If, before the passage by one House of the
3 Commission bill of that House, that House receives
4 from the other House the Commission bill—

5 (A) the Commission bill of the other House
6 shall not be referred to a committee; and

7 (B) with respect to the Commission bill of
8 the House receiving the resolution—

9 (i) the procedure in that House shall
10 be the same as if no Commission bill had
11 been received from the other House; and

12 (ii) the vote on passage shall be on
13 the Commission bill of the other House.

14 (2) TREATMENT OF COMMISSION BILL OF
15 OTHER HOUSE.—If one House fails to introduce or
16 consider the Commission bill under this section, the
17 Commission bill of the other House shall be entitled
18 to expedited floor procedures under this section.

19 (3) TREATMENT OF COMPANION MEASURES.—
20 If, following passage of the Commission bill in the
21 Senate, the Senate receives the companion measure
22 from the House of Representatives, the companion
23 measure shall not be debatable.

24 (4) VETOES.—If the President vetoes the Com-
25 mission bill, consideration of a veto message in the

1 Senate under this section shall be not more than 10
2 hours equally divided between the majority and mi-
3 nority leaders or their designees.

4 (e) RULES OF HOUSE OF REPRESENTATIVES AND
5 SENATE.—This section is enacted by Congress—

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

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

19 **SEC. 6. GROWTH LIMITATIONS IN SPENDING IF SAVINGS**
20 **ARE NOT ENACTED.**

21 (a) DETERMINATION.—Not later than November 1,
22 2017, and November 1 of every fiscal year thereafter, the
23 Office of Management and Budget shall determine wheth-
24 er total spending for the previous fiscal year was more
25 than total revenues for the previous fiscal year.

1 (b) FAILURE TO ENACT SAVINGS.—Except as pro-
2 vided in subsection (d), if the Commission bill to achieve
3 the requirements described in section 4(b)(3)(B) is not en-
4 acted, notwithstanding section 251A of the Balanced
5 Budget and Emergency Deficit Control Act of 1985 (2
6 U.S.C. 901a), effective on the first October 1 occurring
7 after consideration of the Commission bill in the Senate
8 and the House of Representatives, and October 1 of every
9 fiscal year thereafter, the President shall limit the annual
10 growth in outlays by ordering a sequestration, effective
11 upon issuance, that ensures projected total spending for
12 the fiscal year is not more than 3 percent greater than
13 total spending for the previous fiscal year by reducing each
14 nonexempt account by the uniform percentage necessary,
15 unless—

16 (1) the Office of Management and Budget de-
17 termines that, as a result of reductions in budgetary
18 resources under this subsection, total spending for
19 the previous fiscal year was not more than total rev-
20 enues for the previous fiscal year; or

21 (2) changes in law have been enacted that will
22 achieve the requirements described in section
23 4(b)(3)(B).

24 (c) IMPLEMENTATION.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), each sequestration under subsection (b)
3 shall be implemented in accordance with the Bal-
4 anced Budget and Emergency Deficit Control Act of
5 1985 (2 U.S.C. 900 et seq.).

6 (2) NO EXEMPTIONS, OTHER THAN PAYMENTS
7 ON INTEREST, OR MAXIMUM REDUCTIONS.—Sub-
8 sections (a), (b), and (d) through (k) of section 255
9 of the Balanced Budget and Emergency Deficit Con-
10 trol Act of 1985 (2 U.S.C. 905) and subsections
11 (d)(2) and (e) of section 256 of such Act (2 U.S.C.
12 906) shall not apply to the sequestration under sub-
13 section (b).

14 (d) WAIVER.—

15 (1) IN GENERAL.—A sequestration required to
16 be ordered under subsection (b) for a fiscal year
17 shall not be implemented if a bill or joint resolution
18 is enacted, upon an affirmative vote of two-thirds of
19 the Members of each House of Congress, waiving
20 subsection (b) for such fiscal year.

21 (2) SINGLE FISCAL YEAR.—A bill or joint reso-
22 lution described in paragraph (1) may only waive
23 subsection (b) for a single fiscal year.

○