

1 Purpose: To improve the bill.

2
3

4 S. 3137

5 To provide for reforming agencies of the Federal Government to
6 improve efficiency and effectiveness.

7 Referred to the Committee on _____ and ordered to be
8 printed

9 Ordered to lie on the table and to be printed

10 AMENDMENTS INTENDED TO BE PROPOSED BY MS. HEITKAMP

11 Viz:

12 On page 3, strike lines 8 through 17 and insert the following:

13 (2) REORGANIZATION PLANS.—Chapter 9 of title 5, United States Code, is amended—

14 (A) in section 903—

15 (i) in the section heading by inserting “; permissible actions” after
16 “Reorganization plans”;

17 (ii) in subsection (a)—

18 (I) by striking “(a) Whenever” and inserting “Whenever”;

19 (II) in paragraph (5), by striking “or”;

20 (III) in paragraph (6), by striking the period and inserting “; or”;

21 (IV) by inserting after paragraph (6) following:

22 “(7) the creation of a new agency that is not a component or part of an existing executive
23 department or independent agency.”; and

24 (V) by striking the matter following paragraph (7), as so added; and

25 (iii) by striking subsections (b) and (c); and

26 (B) in section 904—

27 (i) by striking the section heading and inserting “Contents of reorganization
28 plans; amendment procedures”;

29 (ii) by striking the matter preceding paragraph (1) and inserting the following:

30 “(a) A reorganization plan prepared by the President under section 903—”.

31 (iii) by redesignating paragraph (1) and (2) as paragraphs (9) and (10),
32 respectively;

33 (iv) in paragraph (4), by striking “and” at the end;

- 1 (v) in paragraph (5), by striking the period at the end and inserting a semicolon;
- 2 (vi) by redesignating paragraphs (3), (4), and (5) as paragraphs (6), (7), and (8),
3 respectively;
- 4 (vii) by inserting after the matter preceding paragraph (9), as so redesignated,
5 the following:
- 6 “(1) shall be transmitted by the President (bearing an identification number) to Congress
7 together with a declaration that, with respect to each reorganization included in the plan, the
8 President has found, in consultation with the affected agencies, that the reorganization is
9 necessary to carry out a policy set forth in section 901(a);
- 10 “(2) shall be delivered to both Houses on the same day and to each House while it is in
11 session;
- 12 “(3) shall specify with respect to each transfer, consolidation, coordination, authorization,
13 abolition, or creation of a function included in the plan the statutory authority for the
14 exercise of the function;
- 15 “(4) shall—
- 16 “(A) provide a financial analysis estimating any reduction or increase in
17 expenditures (itemized so far as practicable) associated with maximizing the net
18 benefits of implementation of the plan, using both quantitative and qualitative
19 measures, according to cost-benefit analysis practices set by Executive orders and the
20 Office of Management and Budget; and
- 21 “(B) describe any improvements in management, delivery of Federal services, or
22 execution of the laws and any increases in efficiency of Government operations that
23 are expected to be realized as a result of the reorganizations included in the plan;
- 24 “(5) shall include an implementation section that shall—
- 25 “(A) describe in detail—
- 26 “(i) the actions necessary or planned to complete the reorganization;
- 27 “(ii) the anticipated nature and substance of any orders, directives, or other
28 administrative or operational actions that are expected to be required for
29 completing or implementing the reorganization; and
- 30 “(iii) any preliminary actions that have been taken in the implementation
31 process;
- 32 “(B) contain a projected timetable for completion of the implementation process;
33 and
- 34 “(C) describe how the affected agencies and the Office of Management and Budget
35 will measure performance of the implementation of the reorganization plan;”;
- 36 (viii) by transferring paragraphs (9) and (10), as so redesignated, to appear after
37 paragraph (8), as so redesignated;
- 38 (ix) in paragraph (9), as redesignated and transferred, by inserting “and” at the
39 end;

1 (x) in paragraph (10), by striking “, except that” and all that follows through the
2 semicolon and inserting a period; and

3 (xi) by adding at the end the following:

4 “(b) Not later than 30 days after the date of the request, the President shall submit to Congress
5 any background or other information requested by Congress in connection with its consideration
6 of a reorganization plan.

7 “(c) Any time during the period of 60 calendar days of continuous session of Congress after
8 the date on which a reorganization plan is transmitted to Congress, unless a resolution described
9 in section 909 relating to the plan has been ordered reported in either House, the President may
10 make amendments or modifications to the plan, consistent with sections 903 and 905 and this
11 section, which modifications or revisions shall thereafter be treated as a part of the
12 reorganization plan originally transmitted and shall not affect the time limits otherwise provided
13 for in this chapter. The President may withdraw the plan any time before the end of the period of
14 90 calendar days of continuous session of Congress following the date on which the plan is
15 submitted to Congress.

16 “(d) A reorganization plan transmitted by the President in accordance with subsection
17 (a)(10)—

18 “(1) may not eliminate an enforcement function or statutory program;

19 “(2) may provide that the head of an agency be an individual or a commission or board
20 with more than 1 member; and

21 “(3) in the case of an appointment of the head of such an agency—

22 “(A) may not fix the term of office at more than 4 years;

23 “(B) may not fix the rate of basic pay to be in excess of the amount found by the
24 President to be applicable to comparable officers in the executive branch; and

25 “(C) if the appointment is not to a position in the competitive service, shall require
26 appointment to the position to be by the President, by and with the advice and consent
27 of the Senate.

28 “(e) Not more than 3 reorganization plans may be pending before Congress at 1 time.”.

29 (3) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 9 of title 5, United States
30 Code, is amended—

31 (A) in section 910(a), by striking “903” and inserting “904”; and

32 (B) in the table of sections, by striking the items relating to sections 903 and 904 and
33 inserting the following:

34 “903. Reorganization plans; permissible actions.

35 “904. Contents of reorganization plans; amendment procedures.”.

36 On page 3, line 19, strike “Section 905(b)” and insert the following:

37 (1) TRANSMISSION TO CONGRESS.—Section 905(b)

38 On page 3, line 23, strike “section 903(b)” and insert “section 904”).

1 On page 4, between lines 1 and 2, insert the following:

2 (2) APPROVAL.—Section 905 of title 5, United States Code, is amended by adding at the
3 end the following:

4 “(c) Any reorganization plan prepared by the President (in accordance section 903 and
5 subsection (a) of this section) that purports to advance the policies described in section 901(a)
6 shall be subject to the approval process under this chapter, absent an independent statutory
7 authority to implement the plan. If the President implements a reorganization plan that advances
8 policies described in section 901(a) and relies on an independent statutory authority, the
9 President shall transmit to Congress an explanation of the plan and its independent statutory
10 authority consistent with the requirements of sections 903 and 904 and this section, which
11 Congress may use, at its discretion, to conduct oversight of the reorganization plan for any
12 purpose consistent with the mandates of Congress under Article I of the Constitution of the
13 United States.”.

14 (b) Effective Date and Publication of Reorganization Plans.—Section 906 of title 5, United
15 States Code, is amended by adding at the end the following:

16 “(e) Not later than 1 year after the date on which a reorganization plan takes effect, and upon
17 request by any Member of Congress, the President shall transmit to Congress a report describing
18 in detail—

19 “(1) the steps taken to implement the reorganization plan;

20 “(2) any improvements to performance that occurred as a result of implementation of the
21 reorganization plan;

22 “(3) the costs expended and amounts saved during the period beginning on the date on
23 which the reorganization plan became effective and ending on the date on which the report
24 is submitted; and

25 “(4) the costs projected to be expended and amounts projected to be saved during—

26 “(A) the period beginning on the date on which the reorganization plan took effect
27 and ending on the date that is 5 years after that effective date; and

28 “(B) the period beginning on the date on which the reorganization plan took effect
29 and ending on the date that is 10 years after that effective date.”.

30 On page 4, line 2, strike “(b)” and insert “(c)”.

31 On page 4, line 4, insert “section 903(b) of this” before “chapter”).

32 On page 4, line 5, strike “title)” and insert “section 904)”.

33 On page 4, line 8, strike “(c)” and insert “(d)”.

34 On page 4, strike line 18 and insert the following:

35 (2) by striking “section 903(c) of this chapter” and inserting “section 904(c)”.

36 On page 4, between lines 18 and 19, insert the following:

37 (e) Introduction and Reference of Resolution.—Section 910 of title 5, United States Code, is
38 amended—

1 (1) in subsection (a)—

2 (A) by striking “Government Operations Committee of the House” and inserting
3 “Committee on Oversight and Government Reform of the House of Representatives”;
4 and

5 (B) by striking “Governmental Affairs Committee of the Senate” and inserting
6 “Committee on Homeland Security and Governmental Affairs of the Senate”;

7 (2) in subsection (b), by striking “Committee on Governmental Affairs of the Senate and
8 the Committee on Government Operations of the House” and inserting “Committee on
9 Homeland Security and Governmental Affairs of the Senate and the Committee on
10 Oversight and Government Reform of the House of Representatives”; and

11 (3) by adding at the end the following:

12 “(c)(1) After a resolution with respect to a reorganization plan is referred to committee under
13 subsection (b), the Congressional Budget Office shall perform a financial analysis of the
14 reorganization plan.

15 “(2) The 75-day period under subsection (b) and section 911 shall be tolled and it shall not be
16 in order in the Senate or House of Representatives for a committee to report or for a Member to
17 move to discharge the resolution until the earlier of—

18 “(A) 45 days after the date on which the resolution was referred to the committee; or

19 “(B) the date on which the committee receives the financial analysis of the Congressional
20 Budget Office.”.

21 (f) Procedure After Report or Discharge of Committee, Debate, Vote on Final Passage.—
22 Section 912 of title 5, United States Code, is amended—

23 (1) in subsection (b)—

24 (A) in the first sentence, by striking “ten” and inserting “30”; and

25 (B) in the second sentence, by striking “is in order and not debatable” and inserting
26 “is not in order”; and

27 (2) by striking subsection (c) and inserting the following:

28 “(c)(1)(A) In the Senate, immediately following the conclusion of the period of debate on a
29 resolution relating to a reorganization plan under subsection (b), including any debate on any
30 motions and appeals, and a single quorum call at the conclusion of the debate, if requested in
31 accordance with the rules of the Senate, the Senate shall vote on passage of the resolution.

32 “(B) A vote under subparagraph (A) shall be agreed to only upon the affirmative vote of three-
33 fifths of the Members, duly chosen and sworn, unless the resolution is cosponsored by not less
34 than 5 Senators who are members of, or caucus with, the party in the minority in the Senate, in
35 which case the resolution shall be agreed to upon an affirmative vote of a majority of those
36 present and voting, a quorum being present.

37 “(2) In the House of Representatives, immediately following the conclusion of the debate on
38 the resolution with respect to a reorganization plan, and a single quorum call at the conclusion of
39 the debate if requested in accordance with the rules of the House of Representatives, the House
40 of Representatives shall vote on passage of the resolution.”.