

104TH CONGRESS
1ST SESSION

S. 1376

To terminate unnecessary and inequitable Federal corporate subsidies.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 1, 1995

Mr. MCCAIN (for himself, Mr. THOMPSON, Mr. KERRY, Mr. FEINGOLD, Mr. KENNEDY, and Mr. COATS) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To terminate unnecessary and inequitable Federal corporate subsidies.

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

3 **TITLE XX—CORPORATE SUBSIDY REVIEW,**

4 **REFORM AND TERMINATION COMMISSION**

5 **SECTION 2001. SHORT TITLE AND PURPOSE.**

6 (a) SHORT TITLE.—This title may be cited as the
7 “Corporate Subsidy Review, Reform and Termination Act
8 of 1995”.

9 (b) PURPOSE.—The purpose of this title is to estab-
10 lish a fair process that will result in the timely review,

1 reform, and elimination of unnecessary subsidies, benefits,
2 or financial advantages provided by the Federal Govern-
3 ment to individuals or organizations engaged in profit-
4 making enterprises.

5 **SEC. 2002. THE COMMISSION.**

6 (a) ESTABLISHMENT.—There is established an inde-
7 pendent commission to be known as the “Corporate Sub-
8 sidy Termination Commission”. The Commission shall be
9 composed of 8 members appointed as provided in sub-
10 section (c)(3).

11 (b) DUTIES.—The duties of the Commission are to
12 examine Federal programs based on the following criteria:

13 (1) To examine the programs of the Federal
14 Government and identify such programs that provide
15 direct payments, services, or benefits to entities and
16 industries engaged in profitmaking enterprise. In re-
17 viewing such programs the Commission shall deter-
18 mine if such payment, service, or benefit—

19 (A) predominantly serves the pecuniary in-
20 terests of the specific entity or industry rather
21 than a clear and compelling public interest;

22 (B) provides an unfair competitive advan-
23 tage to one entity within an industry or market
24 segment, or to one particular industry; or

1 (C) has the effect of creating any other in-
2 equitable federal direct or indirect subsidy.

3 (2) To examine the tax system of the Federal
4 Government to determine if current laws and prac-
5 tices result in—

6 (A) inequitable tax advantages that provide
7 financial benefits to an entity or industry in ex-
8 cess of that intended by the applicable law;

9 (B) benefits to an entity or entities that
10 are disproportionate to those available to simi-
11 lar entities within the same industry; or

12 (C) benefits to an industry or industries
13 that are disproportionate to those available to
14 comparably sized industries that are not eligible
15 for such benefits, and which create an undue
16 tax advantage for such industries; or

17 (D) the creation of any other inequitable
18 tax benefit or advantage.

19 (3) To report programs which satisfy any of the
20 conditions stated in paragraph (1) or paragraph (2)
21 to the Congress with specific recommendations for—

22 (A) termination;

23 (B) modification; or

24 (C) retention.

1 (4) EXCLUSION.—This Act is not intended to
2 result in the creation of new programs or taxes, and
3 the Commission established in this section shall limit
4 its activities to reviewing existing programs or tax
5 codes with the goal of ensuring fairness and equity
6 in the operation and application thereof.

7 (c) APPOINTMENT.—

8 (1) NOMINATIONS.—The President shall trans-
9 mit to the Senate the nominations for appointment
10 to the Commission by no later than January 31,
11 1997.

12 (2) FAILURE TO APPOINT.—If the President
13 does not transmit to Congress the nominations for
14 appointment to the Commission on or before the
15 date specified in paragraph (1), the process estab-
16 lished under this Act shall be terminated.

17 (3) MEMBERS.—In selecting individuals for
18 nominations for appointments to the Commission,
19 the President should consult with—

20 (A) the Speaker of the House of Rep-
21 resentatives concerning the appointment of 2
22 members;

23 (B) the majority leader of the Senate con-
24 cerning the appointment of 2 members;

1 (C) the minority leader of the House of
2 Representatives concerning the appointment of
3 1 member; and

4 (D) the minority leader of the Senate con-
5 cerning the appointment of 1 member.

6 (4) CHAIRMAN.—At the time the President
7 nominates individuals for appointment to the Com-
8 mission the President shall designate 1 such individ-
9 ual who shall serve as chairman of the Commission.

10 (5) BACKGROUND.—The members should rep-
11 resent a broad array of expertise covering, to the ex-
12 tent practical, all subject matter, programs and poli-
13 cies the Commission is likely to review.

14 (d) TERMS.—Each member of the Commission in-
15 cluding the Chairman shall serve until the termination of
16 the Commission, not later than December 31, 1997.

17 (e) MEETINGS.—

18 (1) INITIAL MEETING.—The Commission shall
19 meet during calendar year 1997.

20 (2) OPEN MEETINGS.—Each meeting of the
21 Commission, other than meetings in which classified
22 information is to be discussed, shall be open to the
23 public. All proceedings, information, and delibera-
24 tions of the Commission shall be available, upon re-

1 quest, to the chairman and ranking member of the
2 relevant committees of Congress.

3 (f) VACANCIES.—A vacancy on the Commission shall
4 be filled in the same manner as the original appointment,
5 but the individual appointed to fill the vacancy shall serve
6 only for the unexpired portion of the term for which the
7 individual's predecessor was appointed.

8 (g) PAY AND TRAVEL EXPENSES.—

9 (1) PAY.—Each Commissioner, other than the
10 chairman, shall be paid at a rate equal to the daily
11 equivalent of the minimum annual rate of basic pay
12 for level IV of the Executive Schedule under section
13 5315 of title 5, United States Code, for each day
14 (including travel time) during which the member is
15 engaged in the actual performance of duties vested
16 in the Commission.

17 (2) CHAIRMAN.—The chairman shall be paid
18 for each day referred to in paragraph (1) at a rate
19 equal to the daily equivalent of the minimum annual
20 rate of basic pay payable for level III of the Execu-
21 tive Schedule under section 5314 of title 5, United
22 States Code.

23 (3) TRAVEL EXPENSES.—Members shall receive
24 travel expenses, including per diem in lieu of subsist-

1 ence, in accordance with sections 5702 and 5703 of
2 title 5, United States Code.

3 (h) DIRECTOR OF STAFF.—

4 (1) QUALIFICATIONS.—The Chairman shall,
5 without regard to section 5311(b) of title 5, United
6 States Code, appoint a Director who has not served
7 in any of the entities that the Commission intends
8 to review during the 1 year period preceding the
9 date of such appointment.

10 (2) PAY.—The Director shall be paid at the
11 rate of basic pay payable for level IV of the Execu-
12 tive Schedule under section 5325 of title 5, United
13 States Code.

14 (i) STAFF.—

15 (1) ADDITIONAL PERSONNEL.—Subject to para-
16 graphs (2) and (4), the Director, with the approval
17 of the Commission, may appoint and fix the pay of
18 additional personnel.

19 (2) APPOINTMENTS.—The Director may make
20 such appointments without regard to the provisions
21 of title 5, United States Code, governing appoint-
22 ments in the competitive service, and any personnel
23 so appointed may be paid without regard to the pro-
24 visions of chapter 51 and subchapter III of chapter
25 53 of that title relating to classification and General

1 Schedule pay rates, except that an individual so ap-
2 pointed may not receive pay in excess of the annual
3 rate of basic pay payable for GS-18 of the General
4 Schedule.

5 (3) DETAILEES.—Upon request of the Director,
6 the head of any Federal department or agency may
7 detail any of the personnel of that department or
8 agency to the Commission to assist the Commission
9 in accordance with an agreement entered into with
10 the Commission.

11 (4) RESTRICTIONS ON PERSONNEL AND
12 DETAILEES.—The following restrictions shall apply
13 to personnel and detailees of the Commission:

14 (A) Not more than one-third of the person-
15 nel detailed to the Commission may be on detail
16 from Federal agencies that deal directly or indi-
17 rectly with the programs and policies the Com-
18 mission intends to review.

19 (B) Not more than one-fifth of the profes-
20 sional analysts of the Commission staff may be
21 persons detailed from a Federal agency that
22 deals directly or indirectly with the programs or
23 policies the Commission intends to review.

24 (C) No person detailed from a Federal
25 agency to the Commission may be assigned as

1 the lead professional analyst with respect to an
2 entity the Commission intends to review if the
3 person has been involved in regulatory or pol-
4 icy-making decisions affecting such an entity in
5 the 12 months preceding this assignment.

6 (D) A person may not be detailed from a
7 Federal agency to the Commission if, within 12
8 months before the detail is to begin, that person
9 participated personally and substantially in any
10 matter within that particular agency concerning
11 the preparation of recommendations under this
12 Act.

13 (E) No member of a Federal agency, and
14 no officer or employee of a Federal agency,
15 may—

16 (i) prepare any report concerning the
17 effectiveness, fitness, or efficiency of the
18 performance on the staff of the Commis-
19 sion of any person detailed from a Federal
20 agency to that staff;

21 (ii) review the preparation of such re-
22 port; or

23 (iii) approve or disapprove such a re-
24 port.

1 (F) There may not be more than 25 per-
2 sons on the staff at any one time.

3 (G) No member of a Federal agency and
4 no employee of a Federal agency may serve as
5 a Commissioner or as a paid member of the
6 staff.

7 (5) ASSISTANCE.—The Comptroller General of
8 the United States shall provide assistance, including
9 the detailing of employees, to the Commission in ac-
10 cordance with an agreement entered into with the
11 Commission.

12 (j) OTHER AUTHORITY.—

13 (1) EXPERTS AND CONSULTANTS.—The Com-
14 mission may procure by contract, to the extent funds
15 are available, the temporary or intermittent services
16 of experts or consultants pursuant to section 3109
17 of title 5, United States Code.

18 (2) LEASING.—The Commission may lease
19 space and acquire personal property to the extent
20 that funds are available.

21 (k) FUNDING.—

22 (1) IN GENERAL.—There are authorized to be
23 appropriated to the Commission such funds as are
24 necessary to carry out its duties under this part.
25 Such funds shall remain available until expended.

1 (2) APPROPRIATION.—

2 (A) FUNDING REQUIREMENT.—Such funds
3 as are deemed necessary to support the oper-
4 ation of the Commission shall be appropriated
5 in the Legislative Branch Appropriations Act.

6 (B) FAILURE TO APPROPRIATE.—If no
7 funds are appropriated to the Commission by
8 the end of the second session of the 104th Con-
9 gress, the Secretary of the Treasury may trans-
10 fer, during calendar year 1997, to the Commis-
11 sion funds from the general fund. Such funds
12 shall remain available until expended. Funds
13 not expended shall be returned to the Treasury
14 upon termination of the Commission.

15 (l) TERMINATION.—The Commission shall terminate
16 on December 31, 1997.

17 (m) PROHIBITION AGAINST RESTRICTING COMMU-
18 NICATIONS.—Section 1034 of title 10, and section 7211
19 of title 5, United States Code, shall apply with respect
20 to communications with the Commission.

21 **SEC. 2003. PROCEDURE FOR MAKING RECOMMENDATIONS**
22 **TO TERMINATE CORPORATE SUBSIDIES.**

23 (a) AGENCY PLAN.—

24 (1) IN GENERAL.—No later than the date budg-
25 et documents are submitted to Congress in January

1 1997 in support of the budgets of each Federal
2 agency or department, the head of each agency or
3 department shall include a list identifying all pro-
4 grams or policies that in their own view satisfy the
5 conditions stated in Section 2002(b) (1) and (2).

6 (2) CONTENTS.—Such a list shall include—

7 (A) a detailed description of each program
8 or policy in question;

9 (B) a statement detailing the magnitude of
10 the consistency of the program or policy with
11 section 2002(b)(1) and (2); and

12 (C) a recommendation to the Commission
13 regarding actions to be taken under section
14 2002(b)(3).

15 Such list shall also be submitted to the Commission
16 upon the confirmation of the Chairman.

17 (b) REVIEW AND RECOMMENDATIONS BY THE COM-
18 MISSION.—

19 (1) REVIEW AND HEARINGS.—After receiving
20 the recommendations from the agency pursuant to
21 subsection (a), the Commission shall conduct public
22 hearings on the recommendations. All testimony be-
23 fore the Commission at a public hearing conducted
24 under this paragraph shall be presented under oath.

25 (2) REPORT OF COMMISSION.—

1 (A) REPORT TO PRESIDENT.—The Com-
2 mission shall, by no later than July 1, 1997,
3 transmit to the President a report containing
4 the Commission’s findings and recommenda-
5 tions for termination, modification, or retention
6 of programs and policies reviewed by the com-
7 mission.

8 (B) CHANGES IN RECOMMENDATIONS.—
9 Subject to subparagraph (A), in making its rec-
10 ommendations, the Commission may make
11 changes in any of the recommendations made
12 by an agency if the Commission determines that
13 the agency deviated substantially from the cri-
14 teria in section 2002(b) (1) and (2).

15 (C) CHANGES.—In the case of a change in
16 the recommendations made by the agencies, the
17 Commission may make the change only if the
18 Commission—

19 (i) makes the determination required
20 by subparagraph (B); and

21 (ii) conducts public hearings on the
22 proposed changes.

23 (D) APPLICATION.—Subparagraph (C)
24 shall apply to a change by the Commission in
25 an agency’s recommendation that would—

1 (i) add or delete a program or policy
2 to the list recommended for termination;

3 (ii) add or delete a program or policy
4 to the list recommended for modification;

5 or

6 (iii) increase or decrease the extent of
7 a recommendation to modify a program in-
8 cluded in an agency's recommendation.

9 (3) JUSTIFICATION.—The Commission shall ex-
10 plain and justify in its report submitted to the Presi-
11 dent pursuant to paragraph (2) any recommendation
12 made by the Commission that is different from a
13 recommendation made by an agency pursuant to
14 subsection (a).

15 (4) REPORT TO CONGRESS.—After July 1,
16 1997, when the Commission transmits recommenda-
17 tions to the President the Commission shall prompt-
18 ly provide, upon request, to any Member of Congress
19 information used by the Commission in making its
20 recommendations.

21 (5) COMPTROLLER GENERAL.—The Comptrol-
22 ler General of the United States shall—

23 (A) assist the Commission, to the extent
24 requested, in the Commission's review and anal-

1 ysis of the recommendations made by agencies
2 pursuant to section 2003(a); and

3 (B) by no later than April 15, 1997, trans-
4 mit to the Congress and to the Commission a
5 report containing a detailed analysis of the
6 agencies' recommendations.

7 (c) REVIEW BY THE PRESIDENT.—

8 (1) IN GENERAL.—The President shall, not
9 later than July 15, 1997 transmit to the Commis-
10 sion and to the Congress a report containing the
11 President's approval or disapproval of the Commis-
12 sion's recommendations submitted under subsection
13 (b).

14 (2) APPROVAL.—If the President approves all
15 the recommendations of the Commission, the Presi-
16 dent shall transmit a copy of such recommendations
17 to the Congress, together with a certification of such
18 approval.

19 (3) DISAPPROVAL.—If the President dis-
20 approves the recommendations of the Commission in
21 whole or in part, the President shall transmit to the
22 Commission and the Congress the reasons for that
23 disapproval. The Commission shall then transmit to
24 the President, not later than August 15, 1997, a re-
25 vised list of recommendations.

1 (4) REVISION.—If the President approves all of
2 the revised recommendations of the Commission
3 transmitted to the President under paragraph (3),
4 the President shall transmit a copy of such revised
5 recommendations to the Congress, together with a
6 certification of such approval.

7 (5) APPROVAL OF ENTIRE PACKAGE.—The
8 President may only submit an approval certificate
9 that pertains to the entire package of recommenda-
10 tions submitted by the Commission, pursuant to
11 paragraph (b)(2) or (c)(3).

12 (6) FAILURE TO TRANSMIT.—If the President
13 does not transmit to the Congress an approval and
14 certification described in paragraph (2) or (4) by
15 September 1, 1997, the process established under
16 this Act shall be terminated.

17 **SEC. 2004. CONGRESSIONAL CONSIDERATION.**

18 (a) PRESIDENTIAL SPECIAL MESSAGE.—After receiv-
19 ing the recommendations of the Commission, if the Presi-
20 dent chooses to forward them to the Congress consistent
21 with the guidelines stated in section 2003(c), such rec-
22 ommendations shall be forwarded in legislative form for
23 congressional action, with information specifying—

24 (1) the reasons and justifications for the rec-
25 ommendations;

1 (2) to the maximum extent practicable, the esti-
2 mated fiscal, economic, and budgetary impact of ac-
3 cepting the recommendations;

4 (3) the amount of projected savings resulting
5 from each recommendation; and

6 (4) all actions, circumstances, and consider-
7 ations relating to or bearing upon the recommenda-
8 tions and to the maximum extent practicable, the es-
9 timated effect of the recommendations upon the poli-
10 cies and programs for which they are recommended.

11 (b) TRANSMISSION OF RECOMMENDATIONS TO
12 HOUSE AND SENATE.—

13 (1) SUBMISSION TO CONGRESS.—The rec-
14 ommendations submitted by the President to the
15 Congress under this Act shall be submitted to the
16 House of Representatives and the Senate on the
17 same day, and shall be delivered to the Clerk of the
18 House of Representatives if the House is not in ses-
19 sion, and the Secretary of the Senate if the Senate
20 is not in session. The recommendations shall be de-
21 livered in legislative form and shall be printed as a
22 document in each House.

23 (2) FEDERAL REGISTER.—Any recommenda-
24 tions transmitted under this Act shall be printed in

1 the first issue of the Federal Register after such
2 transmittal.

3 (c) REFERRAL TO COMMITTEE.—

4 (1) IN GENERAL.—The recommendations shall
5 be referred to the appropriate committees of the
6 House of Representatives and the Senate.

7 (2) DISCHARGE.—If, after 20 days, any com-
8 mittees to which the recommendations have been re-
9 ferred have not reported a bill to the appropriate
10 house with recommendations, those committees will
11 be automatically discharged, and the sections of the
12 bill which were referred to those committees in the
13 form submitted by the President, will be placed on
14 the legislative calender of the appropriate House.

15 (d) PROCEDURE IN HOUSE OF REPRESENTATIVES
16 AFTER REPORT OF COMMITTEE; DEBATE.—

17 (1) MOTION TO CONSIDER.—When the relevant
18 committees of the House of Representatives have re-
19 ported a bill under this title, it is in order at any
20 time after the fifth day (excluding Saturdays, Sun-
21 days, and legal holidays) following the day on which
22 the reports upon such legislation by the relevant
23 committees have been available to Members of the
24 House to move to proceed to the consideration of the
25 legislation. The motion is highly privileged and is

1 not debatable. An amendment to the motion is not
2 in order, and it is not in order to move to reconsider
3 the vote by which the motion is agreed to or dis-
4 agreed to.

5 (2) DEBATE.—General debate on a bill in the
6 House of Representatives shall be limited to not
7 more than 10 hours, which shall be divided equally
8 between the majority and minority parties. A motion
9 further to limit debate is not debatable. A motion to
10 postpone debate is not in order. A motion to recom-
11 mit the bill is not in order, and it is not in order
12 to move to reconsider the vote by which the bill is
13 agreed to or disagreed to.

14 (3) TERMS OF CONSIDERATION.—Consideration
15 of a bill by the House of Representatives shall be in
16 the Committee of the Whole, and the legislation
17 shall be considered for amendment under the five-
18 minute rule in accordance with the applicable provi-
19 sions of rule XXIII of the Rules of the House of
20 Representatives. After the committee rises and re-
21 ports the bill back to the House, the previous ques-
22 tion shall be considered as ordered on the bill and
23 any amendments thereto to final passage without in-
24 tervening motion.

1 (4) LIMIT ON DEBATE.—Debate in the House
2 of Representatives on the conference report on a bill
3 shall be limited to not more than 5 hours, which
4 shall be divided equally between the majority and
5 minority parties. A motion further to limit debate is
6 not debatable. A motion to recommit the conference
7 report is not in order, and it is not in order to move
8 to reconsider the vote by which the conference report
9 is agreed to or disagreed to. A motion to postpone
10 is not in order.

11 (5) APPEALS.—Appeals from decisions of the
12 Chair relating to the application of the Rules of the
13 House of Representatives to the procedure relating
14 to a bill shall be decided without debate.

15 (e) PROCEDURE IN SENATE AFTER REPORT OF COM-
16 MITTEE; DEBATE; AMENDMENTS.—

17 (1) DEBATE ON BILL.—Debate in the Senate
18 on a bill under this title, and all amendments there-
19 to and debatable motions and appeals in connection
20 therewith, shall be limited to not more than 20
21 hours. The time shall be equally divided between,
22 and controlled by, the majority leader and the mi-
23 nority leader or their designees.

24 (2) DEBATE ON AMENDMENTS.—Debate in the
25 Senate on any amendment to a bill shall be limited

1 to 1 hour, to be equally divided between, and con-
2 trolled by, the mover and the manager of the bill,
3 and debate on any amendment to an amendment,
4 debatable motion, or appeal shall be limited to 30
5 minutes, to be equally divided between, and con-
6 trolled by, the mover and the manager of the bill, ex-
7 cept that in the event the manager of the concurrent
8 resolution is in favor of any such amendment, mo-
9 tion, or appeal, the time in opposition thereto shall
10 be controlled by the minority leader or his designee.

11 (3) LIMIT OF DEBATE.—A motion to further
12 limit debate is not debatable. A motion to recommit
13 is not in order. A motion to postpone debate is not
14 in order.

15 (4) ACTION ON CONFERENCE REPORTS IN THE
16 SENATE.—

17 (A) MOTION TO PROCEED.—A motion to
18 proceed to the consideration of the conference
19 report on a bill may be made even though a
20 previous motion to the same effect has been dis-
21 agreed to.

22 (B) TIME LIMITATION.—During the con-
23 sideration in the Senate of the conference re-
24 port (or a message between Houses) on a bill,
25 and all amendments in disagreement, and all

1 amendments thereto, and debatable motions
2 and appeals in connection therewith, debate
3 shall be limited to 5 hours, to be equally divided
4 between, and controlled by, the majority leader
5 and minority leader or their designees. Debate
6 on any debatable motion or appeal related to
7 the conference report (or a message between
8 Houses) shall be limited to 30 minutes, to be
9 equally divided between, and controlled by, the
10 mover and the manager of the conference re-
11 port (or a message between Houses).

12 (C) DEFEAT OF REPORT.—Should the con-
13 ference report be defeated, debate on any re-
14 quest for a new conference and the appointment
15 of conferees shall be limited to 1 hour, to be
16 equally divided between, and controlled by, the
17 manager of the conference report and the mi-
18 nority leader or his designee, and should any
19 motion be made to instruct the conferees before
20 the conferees are named, debate on such motion
21 shall be limited to one-half hour, to be equally
22 divided between, and controlled by, the mover
23 and the manager of the conference report. De-
24 bate on any amendment to any such instruc-
25 tions shall be limited to 20 minutes, to be

1 equally divided between and controlled by the
2 mover and the manager of the conference re-
3 port. In all cases when the manager of the con-
4 ference report is in favor of any motion, appeal,
5 or amendment, the time in opposition shall be
6 under the control of the minority leader or his
7 designee.

8 (D) AMENDMENTS IN DISAGREEMENT.—In
9 any case in which there are amendments in dis-
10 agreement, time on each amendment shall be
11 limited to 30 minutes, to be equally divided be-
12 tween, and controlled by, the manager of the
13 conference report and the minority leader or his
14 designee.

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

17 (1) as an exercise of the rulemaking power of
18 the Senate and House of Representatives, respec-
19 tively, and as such it is deemed a part of the rules
20 of each House, respectively, but applicable only with
21 respect to the procedure to be followed in that
22 House in the case of a resolution described in sub-
23 section (a), and it supersedes other rules only to the
24 extent that it is inconsistent with such rules; and

1 (2) with full recognition of the constitutional
2 right of either House to change the rules so far as
3 relating to the procedure of that House at any time,
4 in the same manner, and to the same extent as in
5 the case of any other rule of that House.

○

S 1376 IS—2

S 1376 IS—3