

105TH CONGRESS
1ST SESSION

H. R. 2939

To provide for the periodic review of the efficiency and public need for Federal agencies, to establish a Commission for the purpose of reviewing the efficiency and public need of such agencies, and to provide for the abolishment of agencies for which a public need does not exist.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 8, 1997

Mr. BRADY (for himself, Mr. KASICH, Mr. TURNER, Mr. DELAY, Mr. SMITH of Oregon, Mr. STENHOLM, Mr. BOEHNER, Mr. PETERSON of Minnesota, Mr. SESSIONS, Mr. PAXON, Mr. BURTON of Indiana, Mr. RODRIGUEZ, Ms. GRANGER, Mr. CONDIT, Mr. PICKERING, Mr. HILL, Mr. GOODE, Ms. DUNN, Mr. SMITH of Texas, Mr. SNOWBARGER, Mr. CANADY of Florida, Mr. SALMON, Mr. REDMOND, Mr. MCINTOSH, Mr. ROGAN, Mr. SCARBOROUGH, Mr. INGLIS of South Carolina, Mr. BOB SCHAFFER of Colorado, Mr. PITTS, Mr. THORNBERRY, Mr. GREEN, Mr. NUSSLE, Mr. DOOLITTLE, Mr. POMBO, Mr. ISTOOK, Mr. HALL of Texas, Mrs. MYRICK, Mr. COOK, Mr. SOUDER, Mr. COOKSEY, Mr. SAM JOHNSON of Texas, Mr. COMBEST, Mr. BONILLA, Mr. BLUNT, Mr. HERGER, Mr. HUTCHINSON, Mr. MINGE, Mr. BARTON of Texas, Mrs. CHENOWETH, Mr. PAUL, Mr. KLUG, Mr. ENGLISH of Pennsylvania, Mr. JOHN, Mr. COBURN, Mr. TIAHRT, Mr. LUCAS of Oklahoma, Mr. PETERSON of Pennsylvania, Mr. SANDLIN, Mr. WELDON of Florida, Mr. TAUZIN, Mr. FOX of Pennsylvania, Mr. SUNUNU, Mr. PAPPAS, Mr. ROMERO-BARCELÓ, Mr. ROYCE, Mr. ORTIZ, Mr. MCINTYRE, and Mr. LAMPSON) introduced the following bill; which was referred to the Committee on Government Reform and Oversight

A BILL

To provide for the periodic review of the efficiency and public need for Federal agencies, to establish a Commission for the purpose of reviewing the efficiency and pub-

lic need of such agencies, and to provide for the abolishment of agencies for which a public need does not exist.

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 “Federal Sunset Act
5 of 1998”.

6 **SEC. 2. REVIEW AND ABOLISHMENT OF FEDERAL AGEN-**
7 **CIES.**

8 (a) SCHEDULE FOR REVIEW.—Not later than one
9 year after the date of the enactment of this Act, the Fed-
10 eral Agency Sunset Commission established under section
11 3 (in this Act referred to as the “Commission”) shall sub-
12 mit to Congress a schedule for review by the Commission,
13 at least once every 12 years (or less, if determined appro-
14 priate by Congress), of the abolishment or reorganization
15 of each agency.

16 (b) REVIEW OF AGENCIES PERFORMING RELATED
17 FUNCTIONS.—In determining the schedule for review of
18 agencies under subsection (a), the Commission shall pro-
19 vide that agencies that perform similar or related func-
20 tions be reviewed concurrently to promote efficiency and
21 consolidation.

22 (c) ABOLISHMENT OF AGENCIES.—Each agency
23 shall—

1 (1) be reviewed according to the schedule cre-
2 ated pursuant to this section; and

3 (2) be abolished not later than one year after
4 the date that the Commission completes its review of
5 the agency pursuant to such schedule, unless the
6 agency is continued by Congress.

7 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

8 (a) **ESTABLISHMENT.**—There is established a com-
9 mission to be known as the “Federal Agency Sunset Com-
10 mission”.

11 (b) **COMPOSITION.**—The Commission shall be com-
12 posed of 12 members (in this Act referred to as the “mem-
13 bers”) who shall be appointed as follows:

14 (1) Six members shall be appointed by the
15 Speaker of the House of Representatives, one of
16 whom may include the Speaker of the House of Rep-
17 resentatives, with minority members appointed with
18 consent of the minority leader of the House.

19 (2) Six members shall be appointed by the ma-
20 jority leader of the Senate, one of whom may include
21 the majority leader of the Senate, with minority
22 members appointed with the consent of the minority
23 leader of the Senate.

24 (c) **QUALIFICATIONS OF MEMBERS.**—

1 (1) IN GENERAL.—(A) Of the members ap-
2 pointed under subsection (b)(1), four shall be mem-
3 bers of the House of Representatives (not more than
4 two of whom may be of the same political party),
5 and two shall be an individual described in subpara-
6 graph (C).

7 (B) Of the members appointed under subsection
8 (b)(2), four shall be members of the Senate (not
9 more than two of whom may be of the same political
10 party) and two shall be an individual described in
11 subparagraph (C).

12 (C) An individual under this subparagraph is
13 an individual—

- 14 (i) who is not a member of Congress; and
15 (ii) with expertise in the operation and ad-
16 ministration of Government programs.

17 (2) CONTINUATION OF MEMBERSHIP.—If a
18 member was appointed to the Commission as a
19 Member of Congress and the member ceases to be
20 a Member of Congress, that member shall cease to
21 be a member of the Commission. The validity of any
22 action of the Commission shall not be affected as a
23 result of a member becoming ineligible to serve as
24 a member for the reasons described in this para-
25 graph.

1 (d) INITIAL APPOINTMENTS.—All initial appoint-
2 ments to the Commission shall be made not later than 90
3 days after the date of the enactment of this Act.

4 (e) CHAIRMAN; VICE CHAIRMAN.—(1) An individual
5 shall be designated by the Speaker of the House of Rep-
6 resentatives from among the members initially appointed
7 under subsection (b)(1) to serve as chairman of the Com-
8 mission for a period of 2 years.

9 (2) An individual shall be designated by the majority
10 leader of the Senate from among the individuals initially
11 appointed under subsection (b)(2) to serve as vice-chair-
12 man of the Commission for a period of two years.

13 (3) Following the termination of the two-year period
14 described in paragraphs (1) and (2), the Speaker and the
15 majority leader shall alternate every two years in appoint-
16 ing the chairman and vice-chairman of the Commission.

17 (f) TERMS OF MEMBERS.—(1) Each member ap-
18 pointed to the Commission who is a member of Congress
19 shall serve for a term of six years, except that, of the mem-
20 bers first appointed under paragraphs (1) and (2) of sub-
21 section (b), 2 members shall be appointed to serve a term
22 of three years under each such paragraph.

23 (2) Each member of the Commission who is not a
24 member of Congress shall serve for a term of three years.

1 (3)(A) A member of the Commission who is a mem-
2 ber of Congress and who serves more than three years of
3 a term may not be appointed to another term as a mem-
4 ber.

5 (B) A member of the Commission who is not a mem-
6 ber of Congress and who serves as a member of the Com-
7 mission for more than 56 months may not be appointed
8 to another term as a member.

9 (g) POWERS OF COMMISSION.—

10 (1) HEARINGS AND SESSIONS.—The Commis-
11 sion may, for the purpose of carrying out this Act,
12 hold such hearings, sit and act at such times and
13 places, take such testimony, and receive such evi-
14 dence as the Commission considers appropriate. The
15 Commission may administer oaths to witnesses ap-
16 pearing before it.

17 (2) OBTAINING INFORMATION.—The Commis-
18 sion may secure directly from any department or
19 agency of the United States information necessary
20 to enable it to carry out this Act. Upon request of
21 the Chairman, the head of that department or agen-
22 cy shall furnish that information to the Commission
23 in a full and timely manner.

24 (3) SUBPOENA POWER.—(A) The Commission
25 may issue a subpoena to require the attendance and

1 testimony of witnesses and the production of evi-
2 dence relating to any matter under investigation by
3 the Commission.

4 (B) If a person refuses to obey an order or sub-
5 poena of the Commission that is issued in connection
6 with a Commission proceeding, the Commission may
7 apply to the United States district court in the judi-
8 cial district in which the proceeding is held for an
9 order requiring the person to comply with the sub-
10 poena or order.

11 (4) IMMUNITY.—The Commission is an agency
12 of the United States for purposes of part V of title
13 18, United States Code (relating to immunity of wit-
14 nesses).

15 (5) CONTRACT AUTHORITY.—The Commission
16 may contract with and compensate government and
17 private agencies or persons for services without re-
18 gard to section 3709 of the Revised Statutes (41
19 U.S.C. 5).

20 (h) COMMISSION PROCEDURES.—

21 (1) MEETINGS.—The Commission shall meet at
22 the call of the Chairman.

23 (2) QUORUM.—Seven members of the Commis-
24 sion shall constitute a quorum but a lesser number
25 may hold hearings.

1 (i) PERSONNEL MATTERS.—

2 (1) COMPENSATION.—Members shall not be
3 paid by reason of their service as members.

4 (2) TRAVEL EXPENSES.—Each member shall
5 receive travel expenses, including per diem in lieu of
6 subsistence, in accordance with sections 5702 and
7 5703 of title 5, United States Code.

8 (3) DIRECTOR.—The Commission shall have a
9 Director who shall be appointed by the Chairman.
10 The Director shall be paid at a rate not to exceed
11 the maximum rate of basic pay payable for GS–15
12 of the General Schedule.

13 (4) STAFF.—The Director may appoint and fix
14 the pay of additional personnel as the Director con-
15 siders appropriate.

16 (5) APPLICABILITY OF CERTAIN CIVIL SERVICE
17 LAWS.—The Director and staff of the Commission
18 shall be appointed subject to the provisions of title
19 5, United States Code, governing appointments in
20 the competitive service, and shall be paid in accord-
21 ance with the provisions of chapter 51 and sub-
22 chapter III of chapter 53 of that title relating to
23 classification and General Schedule pay rates.

24 (j) OTHER ADMINISTRATIVE MATTERS.—

1 (1) **POSTAL AND PRINTING SERVICES.**—The
2 Commission may use the United States mails and
3 obtain printing and binding services in the same
4 manner and under the same conditions as other de-
5 partments and agencies of the United States.

6 (2) **ADMINISTRATIVE SUPPORT SERVICES.**—
7 Upon the request of the Commission, the Adminis-
8 trator of General Services shall provide to the Com-
9 mission, on a reimbursable basis, the administrative
10 support services necessary for the Commission to
11 carry out its duties under this Act.

12 (3) **EXPERTS AND CONSULTANTS.**—The Com-
13 mission may procure temporary and intermittent
14 services under section 3109(b) of title 5, United
15 States Code.

16 (k) **SUNSET OF COMMISSION.**—The Commission shall
17 terminate on December 31, 2024, unless reauthorized by
18 Congress.

19 **SEC. 4. REVIEW OF EFFICIENCY AND NEED FOR FEDERAL**
20 **AGENCIES.**

21 (a) **IN GENERAL.**—The Commission shall review the
22 efficiency and public need for each agency in accordance
23 with the criteria described in section 5.

24 (b) **RECOMMENDATIONS; REPORT TO CONGRESS.**—
25 The Commission shall submit to Congress and the Presi-

1 dent not later than September 1 of each year a report
2 containing—

3 (1) an analysis of the efficiency of operation
4 and public need for each agency to be reviewed in
5 the year in which the report is submitted pursuant
6 to the schedule submitted to Congress under section
7 2;

8 (2) recommendations on whether each such
9 agency should be abolished or reorganized;

10 (3) recommendations on whether the functions
11 of any other agencies should be consolidated, trans-
12 ferred, or reorganized in an agency to be reviewed
13 in the year in which the report is submitted pursu-
14 ant to the schedule submitted to Congress under
15 section 2; and

16 (4) recommendations for administrative and
17 legislative action with respect to each such agency.

18 (c) DRAFT LEGISLATION.—The Commission shall
19 submit with to Congress and the President not later than
20 September 1 of each year a draft of legislation to carry
21 out the recommendations of the Commission under sub-
22 section (b).

23 (d) INFORMATION GATHERING.—The Commission
24 shall—

1 (1) conduct public hearings on the abolishment
2 of each agency reviewed under subsection (b);

3 (2) provide an opportunity for public comment
4 on the abolishment of each such agency;

5 (3) require the agency to provide information to
6 the Commission as appropriate; and

7 (4) consult with the General Accounting Office,
8 the Office of Management and Budget, the Comp-
9 troller General, and the chairman and ranking mi-
10 nority member of the committees of Congress with
11 oversight responsibility for the agency being re-
12 viewed regarding the operation of the agency.

13 **SEC. 5. CRITERIA FOR REVIEW.**

14 The Commission shall evaluate the efficiency and
15 public need for each agency pursuant to section 4(a) using
16 the following criteria:

17 (1) The effectiveness, and the efficiency of the
18 operation of, the programs carried out by each such
19 agency.

20 (2) Whether the programs carried out by the
21 agency are cost-effective.

22 (3) Whether the agency has acted outside the
23 scope of its original authority, and whether the origi-
24 nal objectives of the agency have been achieved.

1 (4) Whether less restrictive or alternative meth-
2 ods exist to carry out the functions of the agency.

3 (5) The extent to which the jurisdiction of, and
4 the programs administered by, the agency duplicate
5 or conflict with the jurisdiction and programs of
6 other agencies.

7 (6) The potential benefits of consolidating pro-
8 grams administered by the agency with similar or
9 duplicative programs of other agencies, and the po-
10 tential for consolidating such programs.

11 (7) The number and types of beneficiaries or
12 persons served by programs carried out by the agen-
13 cy.

14 (8) The extent to which any trends, develop-
15 ments, and emerging conditions that are likely to af-
16 fect the future nature and extent of the problems or
17 needs that the programs carried out by the agency
18 are intended to address.

19 (9) The extent to which the agency has com-
20 plied with the provisions contained in the Govern-
21 ment Performance and Results Act of 1993 (Pub.
22 Law 103–62; 107 Stat. 285).

23 (10) The promptness and effectiveness with
24 which the agency seeks public input and input from
25 State and local governments on the efficiency and ef-

1 fectiveness of the performance of the functions of
2 the agency.

3 (11) Whether the agency has worked to enact
4 changes in the law that are intended to benefit the
5 public as a whole rather than the specific business,
6 institution, or individuals that the agency regulates.

7 (12) The extent to which the agency has en-
8 couraged participation by the public as a whole in
9 making its rules and decisions rather than encourag-
10 ing participation solely by those it regulates.

11 (13) The extent to which the public participa-
12 tion in rulemaking and decisionmaking of the agency
13 has resulted in rules and decisions compatible with
14 the objectives of the agency.

15 (14) The extent to which the agency complies
16 with section 552 of title 5, United States Code (com-
17 monly known as the “Freedom of Information Act”).

18 (15) The extent of the regulatory, privacy, and
19 paperwork impacts of the programs carried out by
20 the agency.

21 (16) The extent to which the agency has coordi-
22 nated with State and local governments in perform-
23 ing the functions of the agency.

24 (17) The potential effects of abolishing the
25 agency on State and local governments.

1 (18) The extent to which changes are necessary
2 in the authorizing statutes of the agency in order
3 that the functions of the agency can be performed
4 in the most efficient and effective manner.

5 **SEC. 6. COMMISSION OVERSIGHT.**

6 (a) MONITORING OF IMPLEMENTATION OF REC-
7 OMMENDATIONS.—The Commission shall monitor imple-
8 mentation of laws enacting provisions that incorporate rec-
9 ommendations of the Commission with respect to abolish-
10 ment or reorganization of agencies.

11 (b) MONITORING OF OTHER RELEVANT LEGISLA-
12 TION.—

13 (1) IN GENERAL.—The Commission shall review
14 and report to Congress on all legislation introduced
15 in either house of Congress that would establish—

16 (A) a new agency;

17 (B) a new program to be carried out by an
18 existing agency.

19 (2) REPORT TO CONGRESS.—The Commission
20 shall include in each report submitted to Congress
21 under paragraph (1) an analysis of whether—

22 (A) the functions of the proposed agency
23 or program could be carried out by one or more
24 existing agencies;

1 (B) the functions of the proposed agency
2 or program could be carried out in a less re-
3 strictive manner than the manner proposed in
4 the legislation; and

5 (C) the legislation provides for public input
6 regarding the performance of functions by the
7 proposed agency or program.

8 **SEC. 7. RULEMAKING AUTHORITY.**

9 The Commission may promulgate such rules as nec-
10 essary to carry out this Act.

11 **SEC. 8. RELOCATION OF FEDERAL EMPLOYEES.**

12 If the position of an employee of an agency is elimi-
13 nated as a result of the abolishment of an agency in ac-
14 cordance with this Act, there shall be a reasonable effort
15 to relocate such employee to a position within another
16 agency.

17 **SEC. 9. DEFINITION OF AGENCY.**

18 As used in this Act, the term “agency” has the mean-
19 ing given that term by section 105 of title 5, United States
20 Code, except that such term includes an advisory commit-
21 tee as that term is defined in section 3(2) of the Federal
22 Advisory Committee Act.

1 **SEC. 10. OFFSET OF AMOUNTS APPROPRIATED.**

2 Amounts appropriated to carry out this Act shall be
3 offset by a reduction in amounts appropriated to carry out
4 programs of other Federal agencies.

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