

109TH CONGRESS
1ST SESSION

H. R. 973

To establish the Program Reform Commission to review unnecessary Federal programs and make recommendations for termination, modification, or retention of such programs, and to express the sense of the Congress that the Congress should promptly consider legislation that would make the changes in law necessary to implement the recommendations.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 2005

Mr. SMITH of Washington (for himself, Mr. SHAYS, Mr. SHERMAN, Mr. ENGLISH of Pennsylvania, Mr. KIND, Mr. WOLF, Mr. EMANUEL, Mr. HEFLEY, and Mr. DAVIS of Florida) introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To establish the Program Reform Commission to review unnecessary Federal programs and make recommendations for termination, modification, or retention of such programs, and to express the sense of the Congress that the Congress should promptly consider legislation that would make the changes in law necessary to implement the recommendations.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Program Reform Com-
3 mission Act”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds that—

6 (1) Federal programs which may have been en-
7 acted with a valid purpose can become obsolete, or
8 no longer in the public interest, making such pro-
9 grams unnecessary or undesired;

10 (2) it is unfair to force the United States tax-
11 payer to support unnecessary programs that do not
12 provide a substantial public benefit or serve the pub-
13 lic interest;

14 (3) the Congress has been unable to evaluate
15 methodically those Federal programs that are unfair
16 and unnecessary and require reform or elimination;
17 and

18 (4) a Commission to advise the Congress is es-
19 sential to a comprehensive review of such programs
20 and to the reform or elimination of such programs.

21 **SEC. 3. PURPOSE.**

22 The purpose of this Act is to establish a fair and de-
23 liberative process that will result in the timely identifica-
24 tion, review, and reform or elimination of programs of the
25 Federal Government.

1 **SEC. 4. DEFINITION.**

2 For purposes of this Act, the term “program”—

3 (1) except as provided in paragraph (2), means
4 a system of services or projects that is provided by
5 the Federal Government; and

6 (2) does not include a service or project that ex-
7 ists for the purposes of research and development in
8 the broad public interest on the basis of a peer re-
9 viewed or other open, competitive, merit-based proce-
10 dure.

11 **SEC. 5. THE COMMISSION.**

12 (a) ESTABLISHMENT.—There is established within
13 the legislative branch of the Federal Government an inde-
14 pendent commission to be known as the “Program Reform
15 Commission” (hereafter in this Act referred to as the
16 “Commission”).

17 (b) DUTIES.—The Commission shall—

18 (1) examine the programs of the Federal Gov-
19 ernment and identify programs that are no longer
20 necessary;

21 (2) review unnecessary programs; and

22 (3) submit the report required under section
23 6(c) to the Congress, making recommendations re-
24 garding the termination, modification, or retention
25 of programs.

26 (c) APPOINTMENT.—

1 (1) MEMBERS.—The Commission shall be com-
2 posed of 8 members, of whom—

3 (A) 2 shall be appointed by the Speaker of
4 the House of Representatives;

5 (B) 2 shall be appointed by the minority
6 leader of the House of Representatives;

7 (C) 2 shall be appointed by the majority
8 leader of the Senate, one of whom shall be des-
9 ignated by the majority leader to serve as a co-
10 chair; and

11 (D) 2 shall be appointed by the minority
12 leader of the Senate, one of whom shall be des-
13 ignated by the minority leader to serve as a co-
14 chair.

15 (2) CONSULTATION REQUIRED.—The Speaker
16 of the House of Representatives, the minority leader
17 of the House of Representatives, the majority leader
18 of the Senate, and the minority leader of the Senate
19 shall consult among themselves prior to the appoint-
20 ment of the members of the Commission in order to
21 achieve, to the maximum extent possible, fair and
22 equitable representation of various points of view
23 with respect to the matters to be studied by the
24 Commission under subsection (b).

1 (3) BACKGROUND.—The members of the Com-
2 mission shall represent a broad array of expertise
3 covering, to the extent practical, all subject matter,
4 programs, and laws the Commission is likely to re-
5 view.

6 (4) LIMITATION ON FEDERAL OFFICER.—No
7 officer or employee of a Federal agency may serve
8 as a member of the Commission.

9 (5) TERMS.—The members of the Commission
10 shall be appointed for the life of the Commission.

11 (d) MEETINGS.—

12 (1) INITIAL MEETING.—No later than April 1,
13 2006, the Commission shall conduct its first meet-
14 ing.

15 (2) OPEN MEETINGS.—Each meeting of the
16 Commission shall be open to the public, except that
17 in cases in which classified information, trade se-
18 crets, or personnel matters are discussed, the co-
19 chairs may close the meeting. All proceedings, infor-
20 mation, and deliberations of the Commission shall be
21 available, upon request, to the Chairman and rank-
22 ing minority member of the relevant Committee of
23 the Congress having jurisdiction to report legislation
24 regarding the subject matter thereof.

1 (e) VACANCIES.—A vacancy on the Commission shall
2 be filled in the same manner as the original appointment.

3 (f) PAY AND TRAVEL EXPENSES.—

4 (1) PAY.—Each member of the Commission,
5 other than the co-chairs, shall be paid at a rate
6 equal to the daily equivalent of the minimum annual
7 rate of basic pay for level IV of the Executive Sched-
8 ule under section 5315 of title 5, United States
9 Code, for each day (including travel time) during
10 which the member is engaged in the actual perform-
11 ance of duties vested in the Commission.

12 (2) CHAIRMEN.—The co-chairs shall be paid for
13 each day referred to in paragraph (1) at a rate equal
14 to the daily payment of the minimum annual rate of
15 basic pay payable for level III of the Executive
16 Schedule under section 5314 of title 5, United
17 States Code.

18 (3) TRAVEL EXPENSES.—Members of the Com-
19 mission shall receive travel expenses, including per
20 diem in lieu of subsistence, in accordance with sec-
21 tion 5702 and 5703 of title 5, United States Code.

22 (g) DIRECTOR OF STAFF.—

23 (1) QUALIFICATIONS.—The co-chairs shall ap-
24 point as Director an individual who has not, during
25 the 12 months preceding the date of such appoint-

1 ment, served in any of the entities or industries that
2 the Commission intends to review.

3 (2) PAY.—The Director shall be paid at the
4 rate of basic pay payable for level IV of the Execu-
5 tive Schedule under section 5315 of title 5, United
6 States Code.

7 (3) REPORTS.—The Director shall submit peri-
8 odic reports on administrative and personnel matters
9 to the co-chairs of the Commission and the Chair-
10 man and ranking minority member of the Committee
11 on Governmental Affairs of the Senate and the Com-
12 mittee on Government Reform of the House of the
13 Representatives.

14 (h) 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

1 53 of that title relating to classification and General
2 Schedule pay rates.

3 (3) LEGAL STAFF.—The Director shall appoint
4 under paragraph (2) such professional legal staff as
5 are necessary for the performance of the functions
6 of the Commission.

7 (4) DETAILEES.—Upon the request of the Di-
8 rector, the head of any Federal department or agen-
9 cy may detail any of the personnel of that depart-
10 ment or agency to the Commission to assist the
11 Commission in accordance with an agreement en-
12 tered into with the Commission.

13 (5) RESTRICTIONS ON PERSONNEL AND
14 DETAILEES.—The following restrictions shall apply
15 to personnel and detailees of the Commission:

16 (A) PERSONNEL.—No more than one-third
17 of the personnel detailed to the Commission
18 may be on detail from Federal agencies that
19 deal directly or indirectly with the Federal sub-
20 sidies the Commission intends to review.

21 (B) ANALYSTS.—No more than one-fifth of
22 the professional analysts of the Commission
23 may be persons detailed from a Federal agency
24 that deals directly or indirectly with the Federal
25 subsidies the Commission intends to review.

1 (C) LEAD ANALYST.—No person detailed
2 from a Federal agency to the Commission may
3 be assigned as the lead professional analyst
4 with respect to an entity or industry the Com-
5 mission intends to review if the person has been
6 involved in regulatory or policymaking decisions
7 affecting any such entity or industry in the 12
8 months preceding such assignment.

9 (D) DETAILEE.—A person may not be de-
10 tailed from a Federal agency to the Commission
11 if, within 12 months before the detail is to
12 begin, that person participated personally and
13 substantially in any matter within that par-
14 ticular agency concerning the preparation of
15 recommendations under this Act.

16 (E) FEDERAL OFFICER OR EMPLOYEE.—
17 No officer or employee of a Federal agency
18 may—

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

24 (ii) review the preparation of such re-
25 port; or

1 (iii) approve or disapprove such a re-
2 port.

3 (F) NUMBER OF STAFF.—

4 (i) RESTRICTION ON NUMBER OF
5 STAFF.—Subject to clause (ii), there may
6 not be more than 25 persons (including
7 any detailees) on the staff at any time.

8 (ii) NOTIFICATION OF INCREASE.—

9 The Commission may increase the member
10 of its personnel in excess of the limitation
11 under clause (i), 15 days after submitting
12 notification of such increase to the Com-
13 mittee on Governmental Affairs of the Sen-
14 ate and the Committee on Government Re-
15 form of the House of Representatives.

16 (G) PROHIBITION OF COMPENSATION.—

17 Members of the staff of the Commission who
18 are full-time officers or employees of the United
19 States may not receive additional pay, allow-
20 ances, or benefits by reason of their service for
21 the Commission.

22 (6) ASSISTANCE.—

23 (A) IN GENERAL.—The Comptroller Gen-
24 eral of the United States may provide assist-
25 ance, including the detailing of employees, to

1 the Commission in accordance with an agree-
2 ment entered into with the Commission.

3 (B) CONSULTATION.—The Commission
4 and the Comptroller General of the United
5 States shall consult with the Committee on
6 Governmental Affairs of the Senate and the
7 Committee on Government Reform of the
8 House of Representatives on the agreement re-
9 ferred to under subparagraph (A) before enter-
10 ing into such agreement.

11 (i) OTHER AUTHORITY.—

12 (1) EXPERTS AND CONSULTANTS.—The Com-
13 mission may procure by contract the temporary or
14 intermittent services of experts or consultants pursu-
15 ant to section 3109 of title 5, United States Code.

16 (2) LEASING.—The Commission may lease
17 space and acquire personal property.

18 (3) LIMITATION ON CONTRACT AUTHORITY.—
19 The authority to enter into contracts under this sub-
20 section shall be available only to the extent or in the
21 amounts provided in advance in appropriation Acts.

22 (j) FUNDING.—There are authorized to be appro-
23 priated to the Commission \$4,000,000 to carry out its du-
24 ties under this Act.

1 (k) TERMINATION.—The Commission shall terminate
2 on January 1, 2008.

3 **SEC. 6. PROCEDURE FOR MAKING RECOMMENDATIONS TO**
4 **TERMINATE PROGRAMS.**

5 (a) AGENCY PLAN.—

6 (1) IN GENERAL.—The head of each Federal
7 department or agency shall include in the documents
8 submitted in support of the budget of the agency for
9 fiscal year 2007 a list identifying all programs ad-
10 ministered by that department or agency that the
11 head of the department or agency determines no
12 longer are necessary.

13 (2) CONTENTS.—Such list shall include—

14 (A) a detailed description of each program
15 in question;

16 (B) a statement identifying and detailing
17 the extent to which each service or project of
18 the program meets the provisions of section 4;

19 (C) a statement summarizing the legisla-
20 tive history and purpose of such services or
21 projects and the laws or policies directly or indi-
22 rectly giving rise to the need for such programs;
23 and

1 (D) a recommendation to the Commission
2 regarding the termination, modification, or re-
3 tention of each program identified in the list.

4 (b) REVIEW BY THE COMMISSION.—

5 (1) IN GENERAL.—At any time after the sub-
6 mission of the budget documents to the Congress,
7 the Commission shall conduct public hearings on the
8 termination, modification, or retention of programs,
9 including the recommendations included in the lists
10 required under subsection (a).

11 (2) TESTIMONY UNDER OATH.—All testimony
12 before the Commission at a public hearing conducted
13 under this paragraph shall be presented under oath.

14 (c) REPORT AND RECOMMENDATIONS OF COMMIS-
15 SION.—

16 (1) REPORT TO CONGRESS.—

17 (A) REQUIREMENT.—No later than March
18 31, 2007, the Commission shall submit a report
19 to the Congress containing the Commission's
20 findings and recommendations for termination,
21 modification, or retention of each of the pro-
22 grams reviewed by the Commission.

23 (B) CONTENTS.—Such findings and rec-
24 ommendations shall specify—

1 (i) all actions, circumstances, and con-
2 siderations relating to or bearing upon the
3 recommendations; and

4 (ii) to the maximum extent prac-
5 ticable, the estimated effect of the rec-
6 ommendations upon the policies, laws, and
7 programs directly or indirectly affected by
8 the recommendations.

9 (C) SUPERMAJORITY REQUIREMENT.—The
10 Commission may not include a recommendation
11 in the report unless inclusion of the rec-
12 ommendation is approved by at least 6 mem-
13 bers of the Commission.

14 (2) INFORMATION AND JUSTIFICATIONS.—The
15 Commission shall include in its report information
16 specifying—

17 (A) the reasons and justifications for the
18 recommendations of the Commission;

19 (B) to the maximum extent practicable,
20 the estimated fiscal, economic, and budgetary
21 impact of accepting its recommendations;

22 (C) the amount of the projected savings re-
23 sulting from each of its recommendations;

24 (D) all actions, circumstances, and consid-
25 erations relating to or bearing upon the rec-

1 ommendations and to the maximum extent
2 practicable, the estimated effect of the rec-
3 ommendations upon the policies, laws and pro-
4 grams directly or indirectly affected by the rec-
5 ommendations; and

6 (E) the specific changes in Federal stat-
7 utes necessary to implement the recommenda-
8 tions, including citation of the relevant provi-
9 sions of existing law.

10 (3) SUBMISSION TO CONGRESS.—The report
11 submitted to the Congress under this subsection
12 shall be submitted to the Senate and the House of
13 Representatives on the same day, and shall be deliv-
14 ered to the Secretary of the Senate if the Senate is
15 not in session, and to the Clerk of the House of the
16 Representatives if the House is not in session.

17 (4) FEDERAL REGISTER.—The report sub-
18 mitted under this subsection shall be printed in the
19 first issue of the Federal Register after such submis-
20 sion.

21 (5) CHANGES IN AGENCY OR DEPARTMENT
22 RECOMMENDATIONS.—

23 (A) IN GENERAL.—Subject to the deadline
24 in paragraph (1) and to subparagraphs (B) and
25 (C) of this paragraph, in making its rec-

1 ommendations, the Commission may make
2 changes in any of the recommendations made
3 by a department or agency if the Commission
4 determines that such department or agency, in
5 treating any matter as an inequitable Federal
6 subsidy, deviated substantially from the provi-
7 sions of section 4.

8 (B) LIMITATION.—The Commission may
9 make a change in the recommendations made
10 by a department or agency, only if the Commis-
11 sion—

12 (i) makes the determination required
13 under subparagraph (B); and

14 (ii) conducts a public hearing on the
15 Commission’s proposed changes.

16 (C) APPLICATION OF LIMITATION.—Sub-
17 paragraph (B) shall apply only to a change by
18 the Commission in a department or agency rec-
19 ommendation that would—

20 (i) add or delete a program to or
21 from, respectively, the list recommended
22 for termination;

23 (ii) add or delete a program to or
24 from, respectively, the list recommended
25 for modification; or

1 (iii) increase or decrease the extent of
2 a recommendation to modify a program,
3 included in a department's or agency's rec-
4 ommendation.

5 (D) JUSTIFICATION.—The Commission
6 shall explain and justify in the report submitted
7 to the Congress under this subsection any rec-
8 ommendation made by the Commission that is
9 different from a recommendation made by an
10 agency under subsection (a).

11 (6) PROVISION OF INFORMATION TO MEMBERS
12 OF CONGRESS.—After March 31, 2007, the Commis-
13 sion shall, upon request, promptly provide to any
14 Member of Congress the information used by the
15 Commission in making its recommendations.

16 (7) COMPTROLLER GENERAL.—The Comp-
17 troller General of the United States shall—

18 (A) assist the Commission, to the extent
19 requested, in the Commission's review and anal-
20 ysis of the lists, statements, and recommenda-
21 tions made by departments and agencies under
22 subsection (a); and

23 (B) no later than 60 days after April 1,
24 2006, or 60 days after the public release of the
25 President's budget documents for fiscal year

