

107TH CONGRESS  
1ST SESSION

# H. R. 2373

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.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2001

Mr. BRADY of Texas (for himself, Mr. DOGGETT, Mr. SCARBOROUGH, Mr. TURNER, Mr. SESSIONS, Mr. SUNUNU, Mr. BASS, Mr. BARTON of Texas, Mr. SAM JOHNSON of Texas, Mr. GOODE, Mr. THORNBERRY, Ms. HART, Ms. GRANGER, Mr. CULBERSON, Mrs. NORTHUP, Mr. ENGLISH, Mr. HEFLEY, Mr. DOOLITTLE, Mrs. MYRICK, Mr. COMBEST, Mr. HOEKSTRA, Mr. TANCREDO, Mr. HUTCHINSON, Mr. GREEN of Wisconsin, Mr. RODRIGUEZ, Mr. ISTOOK, Mr. ROYCE, Mr. ISAKSON, Mr. COOKSEY, Mr. SCHAFFER, Mr. GOODLATTE, Mr. FLAKE, and Mr. TOOMEY) introduced the following bill; which was referred to the Committee on Government Reform

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## 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 public 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Abolishment of Obso-  
3 lete Agencies and Federal Sunset Act of 2001”.

4 **SEC. 2. REVIEW AND ABOLISHMENT OF FEDERAL AGEN-**  
5 **CIES.**

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

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

20 (c) ABOLISHMENT OF AGENCIES.—

21 (1) IN GENERAL.—Each agency shall—

22 (A) be reviewed according to the schedule  
23 created pursuant to this section; and

24 (B) be abolished not later than one year  
25 after the date that the Commission completes  
26 its review of the agency pursuant to such sched-

1           ule, unless the agency is reauthorized by the  
2           Congress.

3           (2) **EXTENSION.**—The deadline for abolishing  
4           an agency may be extended for an additional two  
5           years after the date described in paragraph (1)(B)  
6           if the Congress enacts legislation extending such  
7           deadline by a vote of a super majority of the House  
8           of Representatives and the Senate.

9   **SEC. 3. ESTABLISHMENT OF COMMISSION.**

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

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

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

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

1 members appointed with the consent of the minority  
2 leader of the Senate.

3 (c) QUALIFICATIONS OF MEMBERS.—

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

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

15 (C) An individual under this subparagraph is  
16 an individual—

17 (i) who is not a member of Congress; and

18 (ii) with expertise in the operation and ad-  
19 ministration of Government programs.

20 (2) CONTINUATION OF MEMBERSHIP.—If a  
21 member was appointed to the Commission as a  
22 Member of Congress and the member ceases to be  
23 a Member of Congress, that member shall cease to  
24 be a member of the Commission. The validity of any  
25 action of the Commission shall not be affected as a

1 result of a member becoming ineligible to serve as  
2 a member for the reasons described in this para-  
3 graph.

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

7 (e) CHAIRMAN; VICE CHAIRMAN.—

8 (1) INITIAL CHAIRMAN.—An individual shall be  
9 designated by the Speaker of the House of Rep-  
10 resentatives from among the members initially ap-  
11 pointed under subsection (b)(1) to serve as chairman  
12 of the Commission for a period of 2 years.

13 (2) INITIAL VICE-CHAIRMAN.—An individual  
14 shall be designated by the majority leader of the  
15 Senate from among the individuals initially ap-  
16 pointed under subsection (b)(2) to serve as vice-  
17 chairman of the Commission for a period of two  
18 years.

19 (3) ALTERNATE APPOINTMENTS OF CHAIRMEN  
20 AND VICE-CHAIRMEN.—Following the termination of  
21 the two-year period described in paragraphs (1) and  
22 (2), the Speaker and the majority leader shall alter-  
23 nate every two years in appointing the chairman and  
24 vice-chairman of the Commission.

25 (f) TERMS OF MEMBERS.—

1           (1) MEMBERS OF CONGRESS.—Each member  
2 appointed to the Commission who is a member of  
3 Congress shall serve for a term of six years, except  
4 that, of the members first appointed under para-  
5 graphs (1) and (2) of subsection (b), 2 members  
6 shall be appointed to serve a term of three years  
7 under each such paragraph.

8           (2) OTHER MEMBERS.—Each member of the  
9 Commission who is not a member of Congress shall  
10 serve for a term of three years.

11           (3) TERM LIMIT.—(A) A member of the Com-  
12 mission who is a member of Congress and who  
13 serves more than three years of a term may not be  
14 appointed to another term as a member.

15           (B) A member of the Commission who is not a  
16 member of Congress and who serves as a member of  
17 the Commission for more than 56 months may not  
18 be appointed to another term as a member.

19           (g) POWERS OF COMMISSION.—

20           (1) HEARINGS AND SESSIONS.—The Commis-  
21 sion may, for the purpose of carrying out this Act,  
22 hold such hearings, sit and act at such times and  
23 places, take such testimony, and receive such evi-  
24 dence as the Commission considers appropriate. The

1 Commission may administer oaths to witnesses ap-  
2 pearing before it.

3 (2) OBTAINING INFORMATION.—The Commis-  
4 sion may secure directly from any department or  
5 agency of the United States information necessary  
6 to enable it to carry out its duties under this Act.  
7 Upon request of the Chairman, the head of that de-  
8 partment or agency shall furnish that information to  
9 the Commission in a full and timely manner.

10 (3) SUBPOENA POWER.—(A) The Commission  
11 may issue a subpoena to require the attendance and  
12 testimony of witnesses and the production of evi-  
13 dence relating to any matter under investigation by  
14 the Commission.

15 (B) If a person refuses to obey an order or sub-  
16 poena of the Commission that is issued in connection  
17 with a Commission proceeding, the Commission may  
18 apply to the United States district court in the judi-  
19 cial district in which the proceeding is held for an  
20 order requiring the person to comply with the sub-  
21 poena or order.

22 (4) IMMUNITY.—The Commission is an agency  
23 of the United States for purposes of part V of title  
24 18, United States Code (relating to immunity of wit-  
25 nesses).

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

6           (h) COMMISSION PROCEDURES.—

7           (1) MEETINGS.—The Commission shall meet at  
8           the call of the Chairman.

9           (2) QUORUM.—Seven members of the Commis-  
10          sion shall constitute a quorum but a lesser number  
11          may hold hearings.

12          (i) PERSONNEL MATTERS.—

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

15          (2) TRAVEL EXPENSES.—Each member shall  
16          receive travel expenses, including per diem in lieu of  
17          subsistence, in accordance with sections 5702 and  
18          5703 of title 5, United States Code.

19          (3) DIRECTOR.—The Commission shall have a  
20          Director who shall be appointed by the Chairman.  
21          The Director shall be paid at a rate not to exceed  
22          the maximum rate of basic pay payable for GS-15  
23          of the General Schedule.



1           (4) STAFF.—The Director may appoint and fix  
2 the pay of additional personnel as the Director con-  
3 siders appropriate.

4           (5) APPLICABILITY OF CERTAIN CIVIL SERVICE  
5 LAWS.—The Director and staff of the Commission  
6 shall be appointed subject to the provisions of title  
7 5, United States Code, governing appointments in  
8 the competitive service, and shall be paid in accord-  
9 ance with the provisions of chapter 51 and sub-  
10 chapter III of chapter 53 of that title relating to  
11 classification and General Schedule pay rates.

12       (j) OTHER ADMINISTRATIVE MATTERS.—

13           (1) POSTAL AND PRINTING SERVICES.—The  
14 Commission may use the United States mails and  
15 obtain printing and binding services in the same  
16 manner and under the same conditions as other de-  
17 partments and agencies of the United States.

18           (2) ADMINISTRATIVE SUPPORT SERVICES.—  
19 Upon the request of the Commission, the Adminis-  
20 trator of General Services shall provide to the Com-  
21 mission, on a reimbursable basis, the administrative  
22 support services necessary for the Commission to  
23 carry out its duties under this Act.

24           (3) EXPERTS AND CONSULTANTS.—The Com-  
25 mission may procure temporary and intermittent

1 services under section 3109(b) of title 5, United  
2 States Code.

3 (k) SUNSET OF COMMISSION.—The Commission shall  
4 terminate on December 31, 2026, unless reauthorized by  
5 Congress.

6 **SEC. 4. REVIEW OF EFFICIENCY AND NEED FOR FEDERAL**  
7 **AGENCIES.**

8 (a) IN GENERAL.—The Commission shall review the  
9 efficiency and public need for each agency in accordance  
10 with the criteria described in section 5.

11 (b) RECOMMENDATIONS; REPORT TO CONGRESS.—  
12 The Commission shall submit to Congress and the Presi-  
13 dent not later than September 1 of each year a report  
14 containing—

15 (1) an analysis of the efficiency of operation  
16 and public need for each agency to be reviewed in  
17 the year in which the report is submitted pursuant  
18 to the schedule submitted to Congress under section  
19 2;

20 (2) recommendations on whether each such  
21 agency should be abolished or reorganized;

22 (3) recommendations on whether the functions  
23 of any other agencies should be consolidated, trans-  
24 ferred, or reorganized in an agency to be reviewed  
25 in the year in which the report is submitted pursu-

1 ant to the schedule submitted to Congress under  
2 section 2; and

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

5 (c) DRAFT LEGISLATION.—The Commission shall  
6 submit to Congress and the President not later than Sep-  
7 tember 1 of each year a draft of legislation to carry out  
8 the recommendations of the Commission under subsection  
9 (b).

10 (d) INFORMATION GATHERING.—The Commission  
11 shall—

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

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

16 (3) require the agency to provide information to  
17 the Commission as appropriate; and

18 (4) consult with the General Accounting Office,  
19 the Office of Management and Budget, the Comp-  
20 troller General, and the chairman and ranking mi-  
21 nority members of the committees of Congress with  
22 oversight responsibility for the agency being re-  
23 viewed regarding the operation of the agency.

24 (e) USE OF PROGRAM INVENTORY.—The Commis-  
25 sion shall use the program inventory prepared under sec-

1 tion 9 in reviewing the efficiency and public need for each  
2 agency under subsection (a).

3 **SEC. 5. CRITERIA FOR REVIEW.**

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

7 (1) The effectiveness, and the efficiency of the  
8 operation of, the programs carried out by each such  
9 agency.

10 (2) Whether the programs carried out by the  
11 agency are cost-effective.

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

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

17 (5) The extent to which the jurisdiction of, and  
18 the programs administered by, the agency duplicate  
19 or conflict with the jurisdiction and programs of  
20 other agencies.

21 (6) The potential benefits of consolidating pro-  
22 grams administered by the agency with similar or  
23 duplicative programs of other agencies, and the po-  
24 tential for consolidating such programs.

1           (7) The number and types of beneficiaries or  
2 persons served by programs carried out by the agen-  
3 cy.

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

9           (9) The extent to which the agency has com-  
10 plied with the provisions contained in the Govern-  
11 ment Performance and Results Act of 1993 (Public  
12 Law 103–62; 107 Stat. 285).

13           (10) The promptness and effectiveness with  
14 which the agency seeks public input and input from  
15 State and local governments on the efficiency and ef-  
16 fectiveness of the performance of the functions of  
17 the agency.

18           (11) Whether the agency has worked to enact  
19 changes in the law that are intended to benefit the  
20 public as a whole rather than the specific business,  
21 institution, or individuals that the agency regulates.

22           (12) The extent to which the agency has en-  
23 couraged participation by the public as a whole in  
24 making its rules and decisions rather than encour-  
25 aging participation solely by those it regulates.

1           (13) The extent to which the public participa-  
2           tion in rulemaking and decisionmaking of the agency  
3           has resulted in rules and decisions compatible with  
4           the objectives of the agency.

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

8           (15) The extent to which the agency complies  
9           with equal employment opportunity requirements re-  
10          garding equal employment opportunity.

11          (16) The extent of the regulatory, privacy, and  
12          paperwork impacts of the programs carried out by  
13          the agency.

14          (17) The extent to which the agency has coordi-  
15          nated with State and local governments in per-  
16          forming the functions of the agency.

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

19          (19) The extent to which changes are necessary  
20          in the authorizing statutes of the agency in order  
21          that the functions of the agency can be performed  
22          in the most efficient and effective manner.

23 **SEC. 6. COMMISSION OVERSIGHT.**

24          (a) MONITORING OF IMPLEMENTATION OF REC-  
25          COMMENDATIONS.—The Commission shall monitor imple-

1 mentation of laws enacting provisions that incorporate rec-  
2 ommendations of the Commission with respect to abolish-  
3 ment or reorganization of agencies.

4 (b) MONITORING OF OTHER RELEVANT LEGISLA-  
5 TION.—

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

9 (A) a new agency;

10 (B) a new program to be carried out by an  
11 existing agency.

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

15 (A) the functions of the proposed agency  
16 or program could be carried out by one or more  
17 existing agencies;

18 (B) the functions of the proposed agency  
19 or program could be carried out in a less re-  
20 strictive manner than the manner proposed in  
21 the legislation; and

22 (C) the legislation provides for public input  
23 regarding the performance of functions by the  
24 proposed agency or program.

1 **SEC. 7. RULEMAKING AUTHORITY.**

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

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

5       If the position of an employee of an agency is elimi-  
6 nated as a result of the abolishment of an agency in ac-  
7 cordance with this Act, there shall be a reasonable effort  
8 to relocate such employee to a position within another  
9 agency.

10 **SEC. 9. PROGRAM INVENTORY.**

11       (a) PREPARATION.—The Comptroller General and  
12 the Director of the Congressional Budget Office, in co-  
13 operation with the Director of the Congressional Research  
14 Service, shall prepare an inventory of Federal programs  
15 (in this Act referred to as the “program inventory”) with-  
16 in each agency.

17       (b) PURPOSE.—The purpose of the program inven-  
18 tory is to advise and assist the Congress and the Commis-  
19 sion in carrying out the requirements of this Act. Such  
20 inventory shall not in any way bind the committees of the  
21 Senate or the House of Representatives with respect to  
22 their responsibilities under this Act and shall not infringe  
23 on the legislative and oversight responsibilities of such  
24 committees. The Comptroller General shall compile and  
25 maintain the inventory and the Director of the Congres-



1 sional Budget Office shall provide budgetary information  
2 for inclusion in the inventory.

3 (c) INVENTORY CONTENT.—The program inventory  
4 shall set forth for each program each of the following mat-  
5 ters:

6 (1) The specific provision or provisions of law  
7 authorizing the program.

8 (2) The committees of the Senate and the  
9 House of Representatives which have legislative or  
10 oversight jurisdiction over the program.

11 (3) A brief statement of the purpose or pur-  
12 poses to be achieved by the program.

13 (4) The committees which have jurisdiction over  
14 legislation providing new budget authority for the  
15 program, including the appropriate subcommittees of  
16 the Committees on Appropriations of the Senate and  
17 the House of Representatives.

18 (5) The agency and, if applicable, the subdivi-  
19 sion thereof responsible for administering the pro-  
20 gram.

21 (6) The grants-in-aid, if any, provided by such  
22 program to State and local governments.

23 (7) The next reauthorization date for the pro-  
24 gram.

1           (8) A unique identification number which links  
2           the program and functional category structure.

3           (9) The year in which the program was origi-  
4           nally established and, where applicable, the year in  
5           which the program expires.

6           (10) Where applicable, the year in which new  
7           budget authority for the program was last author-  
8           ized and the year in which current authorizations of  
9           new budget authority expire.

10          (d) BUDGET AUTHORITY.—The report also shall set  
11         forth for each program whether the new budget authority  
12         provided for such programs is—

13                 (1) authorized for a definite period of time;

14                 (2) authorized in a specific dollar amount but  
15         without limit of time;

16                 (3) authorized without limit of time or dollar  
17         amounts;

18                 (4) not specifically authorized; or

19                 (5) permanently provided,

20         as determined by the Director of the Congressional  
21         Budget Office.

22          (e) CBO INFORMATION.—For each program or group  
23         of programs, the program inventory also shall include in-  
24         formation prepared by the Director of the Congressional  
25         Budget Office indicating each of the following matters:

1           (1) The amounts of new budget authority au-  
2           thorized and provided for the program for each of  
3           the preceding four fiscal years and, where applicable,  
4           the four succeeding fiscal years.

5           (2) The functional and subfunctional category  
6           in which the program is presently classified and was  
7           classified under the fiscal year 2001 budget.

8           (3) The identification code and title of the ap-  
9           propriation account in which budget authority is  
10          provided for the program.

11         (f) **MUTUAL EXCHANGE OF INFORMATION.**—The  
12         General Accounting Office, the Congressional Research  
13         Service, and the Congressional Budget Office shall permit  
14         the mutual exchange of available information in their pos-  
15         session which would aid in the compilation of the program  
16         inventory.

17         (g) **ASSISTANCE BY EXECUTIVE BRANCH.**—The Of-  
18         fice of Management and Budget, and the Executive agen-  
19         cies and the subdivisions thereof shall, to the extent nec-  
20         essary and possible, provide the General Accounting Office  
21         with assistance requested by the Comptroller General in  
22         the compilation of the program inventory.

23         **SEC. 10. DEFINITION OF AGENCY.**

24         As used in this Act, the term “agency” has the mean-  
25         ing given that term by section 105 of title 5, United States

1 Code, except that such term includes an advisory com-  
2 mittee as that term is defined in section 3(2) of the Fed-  
3 eral Advisory Committee Act.

4 **SEC. 11. OFFSET OF AMOUNTS APPROPRIATED.**

5       Amounts appropriated to carry out this Act shall be  
6 offset by a reduction in amounts appropriated to carry out  
7 programs of other Federal agencies.

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