

108TH CONGRESS  
1ST SESSION

# H. R. 2902

To establish the Corporate Subsidy Reform Commission to review inequitable Federal subsidies and make recommendations for termination, modification, or retention of such subsidies, and to state the sense of the Congress that the Congress should promptly consider legislation that would make the changes in law necessary to implement the recommendations.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2003

Mr. SMITH of Washington (for himself, Mr. SHAYS, Mr. CASE, Mr. TIERNEY, Mr. CARTER, Mr. DUNCAN, and Mr. EMANUEL) introduced the following bill; which was referred to the Committee on Government Reform, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To establish the Corporate Subsidy Reform Commission to review inequitable Federal subsidies and make recommendations for termination, modification, or retention of such subsidies, and to state 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 “Corporate Subsidy Re-  
3 form Commission Act of 2003”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds that—

6 (1) Federal subsidies, including tax advantages,  
7 which may have been enacted with a valid purpose  
8 for specific industries or industry segments can—

9 (A) fall subject to abuse, causing unantici-  
10 pated and unjustified windfalls to some indus-  
11 tries and industry segments; or

12 (B) become obsolete, anticompetitive, or no  
13 longer in the public interest, making such sub-  
14 sidies unnecessary or undesired;

15 (2) it is unfair to force the United States tax-  
16 payer to support unnecessary subsidies, including  
17 tax advantages, that do not provide a substantial  
18 public benefit or serve the public interest;

19 (3) the Congress has been unable to evaluate  
20 methodically those Federal subsidies that are unfair  
21 and unnecessary and require reform or elimination;  
22 and

23 (4) a Commission to advise the Congress is es-  
24 sential to a comprehensive review of such unfair cor-  
25 porate subsidies and to the reform or elimination of  
26 such subsidies.

1 **SEC. 3. PURPOSE.**

2       The purpose of this Act is to establish a fair and de-  
3 liberative process that will result in the timely identifica-  
4 tion, review, and reform or elimination of unnecessary and  
5 inequitable subsidies, including tax advantages, provided  
6 by the Federal Government to entities or industries en-  
7 gaged in profit-making enterprises.

8 **SEC. 4. DEFINITION.**

9       For purposes of this Act, the term “inequitable Fed-  
10 eral subsidy”—

11           (1) except as provided in paragraph (2), means  
12       a payment, benefit, service, or tax advantage that—

13                   (A) is provided by the Federal Government  
14           to any corporation, partnership, joint venture,  
15           association, or business trust other than—

16                           (i) a nonprofit organization described  
17                           under section 501(c)(3) of the Internal  
18                           Revenue Code of 1986 that is exempt from  
19                           taxation under section 501(a) of the Inter-  
20                           nal Revenue Code of 1986; or

21                           (ii) a State or local government or In-  
22                           dian Tribe; and

23                   (B) provides an unfair competitive advan-  
24           tage or financial windfall; and

25           (2) does not include a payment, benefit, service,  
26       or tax advantage that—

1 (A) is awarded for the purposes of re-  
2 search and development in the broad public in-  
3 terest on the basis of a peer reviewed or other  
4 open, competitive, merit-based procedure; and

5 (B) primarily benefits public health, safety,  
6 homeland security, the environment, or edu-  
7 cation.

8 **SEC. 5. THE COMMISSION.**

9 (a) ESTABLISHMENT.—There is established an inde-  
10 pendent commission to be known as the “Corporate Sub-  
11 sidy Reform Commission” (hereafter in this Act referred  
12 to as the “Commission”).

13 (b) DUTIES.—The Commission shall—

14 (1) examine the programs and laws of the Fed-  
15 eral Government and identify such programs and  
16 laws that provide inequitable Federal subsidies;

17 (2) review inequitable Federal subsidies; and

18 (3) submit the report required under section  
19 6(c) to the Congress, making recommendations re-  
20 garding the termination, modification, or retention  
21 of inequitable Federal subsidies.

22 (c) LIMITATIONS.—

23 (1) CREATION OF NEW PROGRAMS OR TAXES.—

24 This Act is not intended to result in the creation of  
25 new programs or taxes. The Commission established

1 in this section shall limit its activities to reviewing  
2 existing programs or laws with the goal of ensuring  
3 fairness and equity in the operation and application  
4 thereof.

5 (2) ELIMINATION OF AGENCIES AND DEPART-  
6 MENTS.—The Commission—

7 (A) shall limit its recommendations to the  
8 termination or reform of payments, benefits,  
9 services, or tax advantages; and

10 (B) shall not recommend the termination  
11 of any Federal agency or department.

12 (d) ADVISORY COMMITTEE.—The Commission shall  
13 be considered an advisory committee within the meaning  
14 of that term in the Federal Advisory Committee Act (5  
15 U.S.C. App.).

16 (e) APPOINTMENT.—

17 (1) MEMBERS.—The members of the Commis-  
18 sion—

19 (A) shall be appointed for the life of the  
20 Commission; and

21 (B) shall be composed of 8 members, of  
22 whom—

23 (i) 2 shall be appointed by the Speak-  
24 er of the House of Representatives;

1 (ii) 2 shall be appointed by the minor-  
2 ity leader of the House of Representatives;

3 (iii) 2 shall be appointed by the ma-  
4 jority leader of the Senate, one of whom  
5 shall be designated by the majority leader  
6 to serve as a co-chair; and

7 (iv) 2 shall be appointed by the minor-  
8 ity leader of the Senate, one of whom shall  
9 be designated by the minority leader to  
10 serve as a co-chair.

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

21 (3) BACKGROUND.—The members shall rep-  
22 resent a broad array of expertise covering, to the ex-  
23 tent practical, all subject matter, programs, and  
24 laws the Commission is likely to review.

25 (f) MEETINGS.—

1           (1) INITIAL MEETING.—No later than April 1,  
2           2004, the Commission shall conduct its first meet-  
3           ing.

4           (2) OPEN MEETINGS.—Each meeting of the  
5           Commission shall be open to the public, except that  
6           in cases in which classified information, trade se-  
7           crets, or personnel matters are discussed, the co-  
8           chairs may close the meeting. All proceedings, infor-  
9           mation, and deliberations of the Commission shall be  
10          available, upon request, to the Chairman and rank-  
11          ing minority member of the relevant Committee of  
12          the Congress having jurisdiction to report legislation  
13          regarding the subject matter thereof.

14          (g) VACANCIES.—A vacancy on the Commission shall  
15          be filled in the same manner as the original appointment.

16          (h) PAY AND TRAVEL EXPENSES.—

17                 (1) PAY.—Notwithstanding section 7 of the  
18                 Federal Advisory Committee Act (5 App. U.S.C.),  
19                 each member of the Commission, other than the co-  
20                 chairs, shall be paid at a rate equal to the daily  
21                 equivalent of the minimum annual rate of basic pay  
22                 for level IV of the Executive Schedule under section  
23                 5315 of title 5, United States Code, for each day  
24                 (including travel time) during which the member is

1 engaged in the actual performance of duties vested  
2 in the Commission.

3 (2) CHAIRMEN.—Notwithstanding section 7 of  
4 the Federal Advisory Committee Act (5 App.  
5 U.S.C.), the co-chairs shall be paid for each day re-  
6 ferred to in paragraph (1) at a rate equal to the  
7 daily payment of the minimum annual rate of basic  
8 pay payable for level III of the Executive Schedule  
9 under section 5314 of title 5, United States Code.

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

14 (i) DIRECTOR OF STAFF.—

15 (1) QUALIFICATIONS.—The co-chairs shall ap-  
16 point as Director an individual who has not, during  
17 the 12 months preceding the date of such appoint-  
18 ment, served in any of the entities or industries that  
19 the Commission intends to review.

20 (2) PAY.—Notwithstanding section 7 of the  
21 Federal Advisory Committee Act (5 App. U.S.C.),  
22 the Director shall be paid at the rate of basic pay  
23 payable for level IV of the Executive Schedule under  
24 section 5315 of title 5, United States Code.



1           (3) REPORTS.—The Director shall submit peri-  
2           odic reports on administrative and personnel matters  
3           to the co-chairs of the Commission and the Chair-  
4           man and ranking minority member of the Committee  
5           on Governmental Affairs of the Senate and the Com-  
6           mittee on Government Reform of the House of Rep-  
7           resentatives.

8           (j) STAFF.—

9           (1) ADDITIONAL PERSONNEL.—Subject to para-  
10          graphs (2) and (4), the Director, with the approval  
11          of the Commission, may appoint and fix the pay of  
12          additional personnel.

13          (2) APPOINTMENTS.—The Director may make  
14          such appointments without regard to the provisions  
15          of title 5, United States Code, governing appoint-  
16          ments in the competitive service, and any personnel  
17          so appointed may be paid without regard to the pro-  
18          visions of chapter 51 and subchapter III of chapter  
19          53 of that title relating to classification and General  
20          Schedule pay rates.

21          (3) LEGAL STAFF.—The Director shall appoint  
22          under paragraph (2) such professional legal staff as  
23          are necessary for the performance of the functions  
24          of the Commission.

1           (4) DETAILEES.—Upon the request of the Di-  
2           rector, the head of any Federal department or agen-  
3           cy may detail any of the personnel of that depart-  
4           ment or agency to the Commission to assist the  
5           Commission in accordance with an agreement en-  
6           tered into with the Commission.

7           (5) RESTRICTIONS ON PERSONNEL AND  
8           DETAILEES.—The following restrictions shall apply  
9           to personnel and detailees of the Commission:

10           (A) PERSONNEL.—No more than one-third  
11           of the personnel detailed to the Commission  
12           may be on detail from Federal agencies that  
13           deal directly or indirectly with the Federal sub-  
14           sidies the Commission intends to review.

15           (B) ANALYSTS.—No more than one-fifth of  
16           the professional analysts of the Commission  
17           may be persons detailed from a Federal agency  
18           that deals directly or indirectly with the Federal  
19           subsidies the Commission intends to review.

20           (C) LEAD ANALYST.—No person detailed  
21           from a Federal agency to the Commission may  
22           be assigned as the lead professional analyst  
23           with respect to an entity or industry the Com-  
24           mission intends to review if the person has been  
25           involved in regulatory or policy-making deci-

1 sions affecting any such entity or industry in  
2 the 12 months preceding such assignment.

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

10 (E) FEDERAL OFFICER OR EMPLOYEE.—  
11 No officer or employee of a Federal agency  
12 may—

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

18 (ii) review the preparation of such re-  
19 port; or

20 (iii) approve or disapprove such a re-  
21 port.

22 (F) LIMITATION ON STAFF SIZE.—(i) Sub-  
23 ject to clause (ii), there may not be more than  
24 25 persons (including any detailees) on the  
25 staff at any time.

1           (ii) The Commission may increase the  
2 member of its personnel in excess of the limita-  
3 tion under clause (i), 15 days after submitting  
4 notification of such increase to the Committee  
5 on Governmental Affairs of the Senate and the  
6 Committee on Government Reform of the  
7 House of Representatives.

8           (G) LIMITATION ON FEDERAL OFFICER.—  
9 No member of a Federal agency and no em-  
10 ployee of a Federal agency may serve as a  
11 member of the Commission or as a paid mem-  
12 ber of its staff.

13       (6) ASSISTANCE.—

14           (A) IN GENERAL.—The Comptroller Gen-  
15 eral of the United States may provide assist-  
16 ance, including the detailing of employees, to  
17 the Commission in accordance with an agree-  
18 ment entered into with the Commission.

19           (B) CONSULTATION.—The Commission  
20 and the Comptroller General of the United  
21 States shall consult with the Committee on  
22 Governmental Affairs of the Senate and the  
23 Committee on Government Reform of the  
24 House of Representatives on the agreement re-

1           ferred to under subparagraph (A) before enter-  
2           ing into such agreement.

3           (k) OTHER AUTHORITY.—

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

9           (2) LEASING.—The Commission may lease  
10          space and acquire personal property to the extent  
11          that funds are available.

12          (l) FUNDING.—

13          (1) COMMISSION.—There are authorized to be  
14          appropriated to the Commission such funds as are  
15          necessary to carry out its duties under this Act.

16          (2) COMPTROLLER GENERAL.—There are au-  
17          thorized to be appropriated to the Comptroller Gen-  
18          eral of the United States such funds as are nec-  
19          essary to carry out the Comptroller General's duties  
20          under subsection (k)(5) and section 6(b)(5).

21          (m) TERMINATION.—The Commission shall termi-  
22          nate on January 1, 2006.

23       **SEC. 6. PROCEDURE FOR MAKING RECOMMENDATIONS TO**  
24                               **TERMINATE CORPORATE SUBSIDIES.**

25          (a) AGENCY PLAN.—

1           (1) IN GENERAL.—The head of each Federal  
2 department or agency shall include in the documents  
3 submitted in support of the budget of the agency for  
4 fiscal year 2005 a list identifying all programs and  
5 laws administered by that department or agency  
6 that the head of the department or agency deter-  
7 mines provide inequitable Federal subsidies.

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

9           (A) a detailed description of each program  
10 or law in question;

11           (B) a statement identifying and detailing  
12 the extent to which each payment, benefit, serv-  
13 ice, or tax advantage under such program or  
14 law is an inequitable Federal subsidy;

15           (C) a statement summarizing the legisla-  
16 tive history and purpose of such payment, ben-  
17 efit, service, or tax advantage, and the laws or  
18 policies directly or indirectly giving rise to the  
19 need for such programs or law; and

20           (D) a recommendation to the Commission  
21 regarding the termination, modification, or re-  
22 tention of each inequitable Federal subsidy  
23 identified in the list.

24           (b) REVIEW BY THE COMMISSION.—

1           (1) IN GENERAL.—At any time after the sub-  
2 mission of the budget documents to the Congress,  
3 the Commission shall conduct public hearings on the  
4 termination, modification, or retention of inequitable  
5 Federal subsidies, including the recommendations in-  
6 cluded in the lists required under subsection (a).

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

10       (c) REPORT AND RECOMMENDATIONS OF COMMIS-  
11 SION.—

12           (1) REPORT TO CONGRESS.—

13               (A) REQUIREMENT.—No later than March  
14 31, 2005, the Commission shall submit a report  
15 to the Congress containing the Commission’s  
16 findings and recommendations for termination,  
17 modification, or retention of each of the inequi-  
18 table Federal subsidies reviewed by the Com-  
19 mission.

20               (B) CONTENTS.—Such findings and rec-  
21 ommendations shall specify—

22                   (i) all actions, circumstances, and con-  
23 siderations relating to or bearing upon the  
24 recommendations; and

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

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

11                  (2) INFORMATION AND JUSTIFICATIONS.—The  
12                  Commission shall include in its report information  
13                  specifying—

14                       (A) the reasons and justifications for the  
15                       recommendations of the Commission;

16                       (B) to the maximum extent practicable,  
17                       the estimated fiscal, economic, and budgetary  
18                       impact of accepting its recommendations;

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

21                       (D) all actions, circumstances, and consid-  
22                       erations relating to or bearing upon the rec-  
23                       ommendations and to the maximum extent  
24                       practicable, the estimated effect of the rec-  
25                       ommendations upon the policies, laws and pro-



1           grams directly or indirectly affected by the rec-  
2           ommendations; and

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

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

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

18          (5) CHANGES IN AGENCY OR DEPARTMENT  
19          RECOMMENDATIONS.—

20                   (A) IN GENERAL.—Subject to the deadline  
21          in paragraph (1) and to subparagraphs (B) and  
22          (C) of this paragraph, in making its rec-  
23          ommendations, the Commission may make  
24          changes in any of the recommendations made  
25          by a department or agency if the Commission

1 determines that such department or agency, in  
2 treating any matter as an inequitable Federal  
3 subsidy, deviated substantially from the provi-  
4 sions of section 4.

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

9 (i) makes the determination required  
10 under subparagraph (B); and

11 (ii) conducts a public hearing on the  
12 Commission’s proposed changes.

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

17 (i) add or delete a payment, benefit,  
18 service, or tax advantage to or from, re-  
19 spectively, the list recommended for termi-  
20 nation;

21 (ii) add or delete a payment, benefit,  
22 service, or tax advantage to or from, re-  
23 spectively, the list recommended for modi-  
24 fication; or

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

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

12          (6) PROVISION OF INFORMATION TO MEMBERS  
13          OF CONGRESS.—After March 31, 2005, the Commis-  
14          sion shall, upon request, promptly provide to any  
15          Member of Congress the information used by the  
16          Commission in making its recommendations.

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

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

24                 (B) no later than 60 days after April 1,  
25                 2004, or the public release of the President's

1 budget documents in 2004, whichever is earlier,  
2 submit to the Congress and to the Commission  
3 a report containing a detailed analysis of the  
4 list, statements, and recommendations of each  
5 department or agency.

6 **SEC. 7. CONGRESSIONAL ACTION ON COMMISSION REC-**  
7 **COMMENDATIONS.**

8 It is the sense of the Congress that, following submis-  
9 sion of the report of the Corporate Subsidy Reform Com-  
10 mission under section 6, the House of Representatives and  
11 the Senate should promptly consider legislation that would  
12 enact changes in Federal statutes necessary to implement  
13 the recommendations of the Commission.

○