### 109TH CONGRESS 1ST SESSION H.R.974

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.

#### 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, 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

## 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 Re3 form Commission Act".
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 unantici10 pated and unjustified windfalls to some indus11 tries and industry segments; or

12 (B) become obsolete, anticompetitive, or no
13 longer in the public interest, making such sub14 sidies unnecessary or undesired;

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

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

(4) a Commission to advise the Congress is essential to a comprehensive review of such unfair corporate subsidies and to the reform or elimination of
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 is awarded for the purposes
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1	of research and development in the broad public in-
2	terest on the basis of a peer reviewed or other open,
3	competitive, merit-based procedure.
4	SEC. 5. THE COMMISSION.
5	(a) ESTABLISHMENT.—There is established in the
6	legislative branch an independent commission to be known
7	as the "Corporate Subsidy Reform Commission" (herein-
8	after in this Act referred to as the "Commission").
9	(b) DUTIES.—The Commission shall—
10	(1) examine the programs and laws of the Fed-
11	eral Government and identify any programs or laws
12	that provide inequitable Federal subsidies;
13	(2) review inequitable Federal subsidies; and
14	(3) submit the report required under section
15	6(c) to the Congress, making recommendations re-
16	garding the termination, modification, or retention
17	of inequitable Federal subsidies.
18	(c) LIMITATIONS.—
19	(1) CREATION OF NEW PROGRAMS OR TAXES.—
20	This Act is not intended to result in the creation of
21	new programs or taxes. The Commission established
22	in this section shall limit its activities to reviewing
23	existing programs and laws with the goal of ensuring
24	fairness and equity in the operation and application
25	of such programs and laws.

1	(2) Elimination of agencies and depart-
2	MENTS.—The Commission—
3	(A) shall limit its recommendations to the
4	termination, modification, or retention of in-
5	equitable Federal subsidies; and
6	(B) shall not recommend the termination
7	of any Federal agency or department.
8	(d) APPOINTMENT.—
9	(1) MEMBERS.—The Commission shall be com-
10	posed of 8 members, of whom—
11	(A) 2 shall be appointed by the Speaker of
12	the House of Representatives;
13	(B) 2 shall be appointed by the minority
14	leader of the House of Representatives;
15	(C) 2 shall be appointed by the majority
16	leader of the Senate, one of whom shall be des-
17	ignated by the majority leader to serve as a co-
18	chair; and
19	(D) 2 shall be appointed by the minority
20	leader of the Senate, one of whom shall be des-
21	ignated by the minority leader to serve as a co-
22	chair.
23	(2) Consultation Required.—The Speaker
24	of the House of Representatives, the minority leader
25	of the House of Representatives, the majority leader

1	of the Senate, and the minority leader of the Senate
2	shall consult with one another before making any
3	appointments under this subsection in order to
4	achieve, to the maximum extent possible, fair and
5	equitable representation of various points of view
6	with respect to the matters to be studied by the
7	Commission under subsection (b).
8	(3) BACKGROUND.—The members shall rep-
9	resent a broad array of expertise covering, to the ex-
10	tent practical, all subject matter, programs, and
11	laws the Commission is likely to review.
12	(4) LIMITATION ON FEDERAL OFFICER.—No
13	officer or employee of a Federal agency may serve
14	as a member of the Commission.
15	(5) TERMS.—The members of the Commission
16	shall be appointed for the life of the Commission.
17	(e) Meetings.—
18	(1) INITIAL MEETING.—No later than April 1,
19	2006, the Commission shall conduct its first meet-
20	ing.
21	(2) Open meetings.—Each meeting of the
22	Commission shall be open to the public, except that
23	in cases in which classified information, trade se-
24	crets, or personnel matters are discussed, the co-
25	chairs may close the meeting. All proceedings, infor-

mation, and deliberations of the Commission shall be
available, upon request, to the Chairman and ranking minority member of the relevant Committee of
the Congress having jurisdiction to report legislation
regarding the subject matter thereof.

6 (f) VACANCIES.—A vacancy on the Commission shall
7 be filled in the same manner as the original appointment.
8 (g) PAY AND TRAVEL EXPENSES.—

9 (1) PAY.—Each member of the Commission, 10 other than the co-chairs, shall be paid at a rate 11 equal to the daily equivalent of the 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) CO-CHAIRS.—The co-chairs shall be paid for
18 each day referred to in paragraph (1) at a rate equal
19 to the daily equivalent of the rate of basic pay for
20 level III of the Executive Schedule under section
21 5314 of title 5, United States Code.

(3) TRAVEL EXPENSES.—Members of the Commission shall receive travel expenses, including per
diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

1 (h) DIRECTOR OF STAFF.—

(1) QUALIFICATIONS.—The co-chairs shall appoint as Director an individual who has not, during
the 12 months preceding the date of such appointment, served in any of the entities or industries that
are or might be affected by any of the programs or
laws the Commission intends to review.
(2) PAY.—The Director shall be paid at the

9 rate of basic pay payable for level IV of the Execu10 tive Schedule under section 5315 of title 5, United
11 States Code.

(3) REPORTS.—The Director shall submit periodic reports on administrative and personnel matters
to the co-chairs of the Commission and the chairman
and ranking minority member of the Committee on
Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

19 (i) Staff.—

20 (1) ADDITIONAL PERSONNEL.—Subject to para21 graphs (2) and (4), the Director, with the approval
22 of the Commission, may appoint and fix the pay of
23 additional personnel.

24 (2) APPOINTMENTS.—The Director may make25 such appointments without regard to the provisions

1 of title 5, United States Code, governing appoint-2 ments in the competitive service, and any personnel 3 so appointed may be paid without regard to the pro-4 visions of chapter 51 and subchapter III of chapter 5 53 of that title relating to classification and General 6 Schedule pay rates. 7 (3) LEGAL STAFF.—The Director shall appoint 8 under paragraph (2) such professional legal staff as 9 are necessary for the performance of the functions 10 of the Commission. (4) DETAILEES.—Upon the request of the Di-

(4) DETAILEES.—Upon the request of the Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the
Commission in accordance with an agreement entered into with the Commission.

17 (5) RESTRICTIONS ON PERSONNEL AND
18 DETAILEES.—The following restrictions shall apply
19 to personnel and detailees of the Commission:

20 (A) PERSONNEL.—No more than one-third
21 of the personnel detailed to the Commission
22 may be on detail from Federal agencies that
23 deal directly or indirectly with the programs or
24 laws the Commission intends to review.

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(B) ANALYSTS.—No more than one-fifth of

2 the professional analysts of the Commission 3 may be persons detailed from a Federal agency 4 that deals directly or indirectly with the pro-5 grams or laws the Commission intends to re-6 view. 7 (C) LEAD ANALYST.—No person detailed 8 from a Federal agency to the Commission may 9 be assigned as the lead professional analyst 10 with respect to an entity or industry that is or 11 might be affected by the programs or laws the 12 Commission intends to review if the person has 13 been involved in regulatory or policy-making de-14 cisions affecting any such entity or industry in 15 the 12 months preceding such assignment. 16 (D) DETAILEE.—A person may not be de-17 tailed from a Federal agency to the Commission 18 if, within 12 months before the detail is to 19 begin, that person participated personally and substantially in any matter within that par-20 21 ticular agency concerning the preparation of 22 recommendations under this Act. 23 (E) FEDERAL OFFICER OR EMPLOYEE. 24 No officer or employee of a Federal agency

25 may—

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1	(i) prepare any report concerning the
2	effectiveness, fitness, or efficiency of the
3	performance on the staff of the Commis-
4	sion of any person detailed from a Federal
5	agency to that staff;
6	(ii) review the preparation of such re-
7	port; or
8	(iii) approve or disapprove such a re-
9	port.
10	(F) Limitation on staff size.—(i) Sub-
11	ject to clause (ii), there may not be more than
12	25 persons (including any detailees) on the
13	staff at any time.
14	(ii) The Commission may increase the
15	number of its personnel in excess of the limita-
16	tion under clause (i), 15 days after submitting
17	notification of such increase to the Committee
18	on Governmental Affairs of the Senate and the
19	Committee on Government Reform of the
20	House of Representatives.
21	(G) PROHIBITION OF COMPENSATION.—
22	Members of the staff of the Commission who
23	are full-time officers or employees of the United
24	States may not receive additional pay, allow-

1	ances, or benefits by reason of their service for
2	the Commission.
3	(6) Assistance.—
4	(A) IN GENERAL.—The Comptroller Gen-
5	eral of the United States may provide assist-
6	ance, including the detailing of employees, to
7	the Commission in accordance with an agree-
8	ment entered into with the Commission.
9	(B) CONSULTATION.—The Commission
10	and the Comptroller General of the United
11	States shall consult with the Committee on
12	Governmental Affairs of the Senate and the
13	Committee on Government Reform of the
14	House of Representatives on the agreement re-
15	ferred to under subparagraph (A) before enter-
16	ing into such agreement.
17	(j) Other Authority.—
18	(1) EXPERTS AND CONSULTANTS.—The Com-
19	mission may procure by contract the temporary or
20	intermittent services of experts or consultants pursu-
21	ant to section 3109 of title 5, United States Code.
22	(2) LEASING.—The Commission may lease
23	space and acquire personal property.
24	(3) Limitation on contract authority.—
25	The authority to enter into contracts under this sub-

section shall be available only to the extent or in the
 amounts provided in advance in appropriation Acts.
 (k) FUNDING.—There is authorized to be appro priated to the Commission \$4,000,000 to carry out its du ties under this Act.

6 (1) TERMINATION.—The Commission shall terminate7 on January 1, 2008.

# 8 SEC. 6. PROCEDURE FOR MAKING RECOMMENDATIONS TO 9 TERMINATE CORPORATE SUBSIDIES.

10 (a) AGENCY PLAN.—

(1) IN GENERAL.—The head of each Federal
department or agency shall include in the documents
submitted in support of the budget of the agency for
fiscal year 2007 a list identifying all programs and
laws administered by that department or agency
that the head of the department or agency determines provide inequitable Federal subsidies.

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

19 (A) a detailed description of each program20 or law in question;

(B) a statement identifying and detailing
the extent to which each payment, benefit, service, or tax advantage under such program or
law is an inequitable Federal subsidy;

1	(C) a statement summarizing the legisla-
2	tive history and purpose of such payment, ben-
3	efit, service, or tax advantage, and the laws or
4	policies directly or indirectly giving rise to the
5	need for such programs or law; and
6	(D) a recommendation to the Commission
7	regarding the termination, modification, or re-
8	tention of each inequitable Federal subsidy
9	identified in the list.
10	(b) REVIEW BY THE COMMISSION.—
11	(1) IN GENERAL.—At any time after the sub-
12	mission of the budget documents to the Congress,
13	the Commission shall conduct public hearings on the
14	termination, modification, or retention of inequitable
15	Federal subsidies, including the recommendations in-
16	cluded in the lists required under subsection (a).
17	(2) TESTIMONY UNDER OATH.—All testimony
18	before the Commission at a public hearing conducted
19	under this paragraph shall be presented under oath.
20	(c) Report and Recommendations of Commis-
21	SION.—
22	(1) Report to congress.—
23	(A) REQUIREMENT.—No later than March
24	31, 2007, the Commission shall submit a report
25	to the Congress containing the Commission's

findings and recommendations for termination,
modification, or retention of each of the inequi-
table Federal subsidies reviewed by the Com-
mission.
(B) CONTENTS.—Such findings and rec-
ommendations shall specify—
(i) all actions, circumstances, and con-
siderations relating to or bearing upon the
recommendations; and
(ii) to the maximum extent prac-
ticable, the estimated effect of the rec-
ommendations upon the policies, laws, and
programs directly or indirectly affected by
the recommendations.
(C) SUPERMAJORITY REQUIREMENT.—The
Commission may not include a recommendation
in the report unless inclusion of the rec-
ommendation is approved by at least 6 mem-
bers of the Commission.
(2) INFORMATION AND JUSTIFICATIONS.—The
Commission shall include in its report information
specifying—
(A) the reasons and justifications for the
recommendations of the Commission;

1	(B) to the maximum extent practicable,
2	the estimated fiscal, economic, and budgetary
3	impact of accepting its recommendations;
4	(C) the amount of the projected savings re-
5	sulting from each it its recommendations;
6	(D) all actions, circumstances, and consid-
7	erations relating to or bearing upon the rec-
8	ommendations and to the maximum extent
9	practicable, the estimated effect of the rec-
10	ommendations upon the policies, laws and pro-
11	grams directly or indirectly affected by the rec-
12	ommendations; and
13	(E) the specific changes in Federal stat-
14	utes necessary to implement the recommenda-
15	tions, including citation of the relevant provi-
16	sions of existing law.
17	(3) SUBMISSION TO CONGRESS.—The report
18	submitted to the Congress under this subsection
19	shall be submitted to the Senate and the House of
20	Representatives on the same day, and shall be deliv-
21	ered to the Secretary of the Senate if the Senate is
22	not in session, and to the Clerk of the House of the
23	Representatives if the House is not in session.
24	(4) FEDERAL REGISTER.—The report sub-
25	mitted under this subsection shall be published in

1	the first issue of the Federal Register after such
2	submission.
3	(5) CHANGES IN AGENCY OR DEPARTMENT
4	RECOMMENDATIONS.—
5	(A) IN GENERAL.—Subject to the deadline
6	in paragraph (1) and to subparagraphs (B) and
7	(C) of this paragraph, in making its rec-
8	ommendations, the Commission may make
9	changes in any of the recommendations made
10	by a department or agency if the Commission
11	determines that such department or agency, in
12	treating any matter as an inequitable Federal
13	subsidy, deviated substantially from the provi-
14	sions of section 4.
15	(B) LIMITATION.—The Commission may
16	make a change in the recommendations made
17	by a department or agency, only if the Commis-
18	sion—
19	(i) makes the determination required
20	under subparagraph (A); and
21	(ii) conducts a public hearing on the
22	Commission's proposed changes.
23	(C) Application of limitation.—Sub-
24	paragraph (B) shall apply only to a change by

1	the Commission in a department or agency rec-
2	ommendation that would—
3	(i) add or delete a payment, benefit,
4	service, or tax advantage to or from, re-
5	spectively, the list recommended for termi-
6	nation;
7	(ii) add or delete a payment, benefit,
8	service, or tax advantage to or from, re-
9	spectively, the list recommended for modi-
10	fication; or
11	(iii) increase or decrease the extent of
12	a recommendation to modify a payment,
13	benefit, service, or tax advantage included
14	in a department's or agency's rec-
15	ommendation.
16	(D) JUSTIFICATION.—The Commission
17	shall explain and justify in the report submitted
18	to the Congress under this subsection any rec-
19	ommendation made by the Commission that is
20	different from a recommendation made by an
21	agency under subsection (a).
22	(6) Provision of information to members
23	OF CONGRESS.—After March 31, 2007, the Commis-
24	sion shall, upon request, promptly provide to any

1	Member of Congress the information used by the
2	Commission in making its recommendations.
3	(7) Comptroller general.—The Comp-
4	troller General shall—
5	(A) assist the Commission, to the extent
6	requested, in the Commission's review and anal-
7	ysis of the lists, statements, and recommenda-
8	tions made by departments and agencies under
9	subsection (a); and
10	(B) no later than 60 days after April 1,
11	2006, or 60 days after the public release of the
12	President's budget documents for fiscal year
13	2007, whichever is earlier, submit to the Con-
14	gress and to the Commission a report con-
15	taining a detailed analysis of the list, state-
16	ments, and recommendations of each depart-
17	ment or agency.
18	SEC. 7. CONGRESSIONAL ACTION ON COMMISSION REC-
19	OMMENDATIONS.
20	It is the sense of the Congress that, following submis-
21	sion of the report of the Corporate Subsidy Reform Com-
22	mission under section 6, the House of Representatives and
23	the Senate should promptly consider legislation that would

- 1 enact changes in Federal statutes necessary to implement
- 2 the recommendations of the Commission.