

110TH CONGRESS  
2D SESSION

# H. R. 5794

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

APRIL 15, 2008

Mr. BRADY of Texas (for himself, Mr. AKIN, Mr. BACHUS, Mr. BARRETT of South Carolina, Mr. BARTLETT of Maryland, Mr. BILBRAY, Mrs. BLACKBURN, Mr. BLUNT, Mr. BROUN of Georgia, Ms. GINNY BROWN-WAITE of Florida, Mr. BURTON of Indiana, Mr. CAMPBELL of California, Mr. CARTER, Mr. CHABOT, Mr. COLE of Oklahoma, Mr. CONAWAY, Mr. EDWARDS, Mr. ENGLISH of Pennsylvania, Mr. FEENEY, Mr. FLAKE, Ms. FOXX, Mr. GARRETT of New Jersey, Mr. GOHMERT, Mr. GOODE, Mr. HALL of Texas, Mr. HENSARLING, Mr. HERGER, Mr. HOEKSTRA, Mr. INGLIS of South Carolina, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. KING of Iowa, Mr. KINGSTON, Mr. LAMBORN, Mr. McCAUL of Texas, Mr. McCOTTER, Mr. McKEON, Mr. MACK, Mrs. BONO MACK, Mr. MARCHANT, Mrs. MYRICK, Mr. MILLER of Florida, Mr. MORAN of Kansas, Mr. NEUGEBAUER, Mr. PAUL, Mr. PENCE, Mr. PITTS, Mr. PRICE of Georgia, Mr. RYAN of Wisconsin, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. SHIMKUS, Mr. STEARNS, Mr. TERRY, Mr. THORNBERRY, Mr. WELLER of Illinois, and Mr. WESTMORELAND) introduced the following bill; which was referred to the Committee on Oversight and 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 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; TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
 5 “Federal Sunset Act of 2008”.

6       (b) **TABLE OF CONTENTS.**—The table of contents for  
 7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Review and abolishment of Federal agencies.
- Sec. 3. Establishment of Commission.
- Sec. 4. Review of efficiency and need for Federal agencies.
- Sec. 5. Criteria for review.
- Sec. 6. Commission oversight.
- Sec. 7. Rulemaking authority.
- Sec. 8. Relocation of Federal employees.
- Sec. 9. Program inventory.
- Sec. 10. Definition of agency.
- Sec. 11. Offset of amounts appropriated.

8 **SEC. 2. REVIEW AND ABOLISHMENT OF FEDERAL AGEN-**  
 9 **CIES.**

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

1 (b) REVIEW OF AGENCIES PERFORMING RELATED  
2 FUNCTIONS.—In determining the schedule for review of  
3 agencies under subsection (a), the Commission shall pro-  
4 vide that agencies that perform similar or related func-  
5 tions be reviewed concurrently to promote efficiency and  
6 consolidation.

7 (c) ABOLISHMENT OF AGENCIES.—

8 (1) IN GENERAL.—Each agency shall—

9 (A) be reviewed according to the schedule  
10 created pursuant to this section; and

11 (B) be abolished not later than one year  
12 after the date that the Commission completes  
13 its review of the agency pursuant to such sched-  
14 ule, unless the agency is reauthorized by the  
15 Congress.

16 (2) EXTENSION.—The deadline for abolishing  
17 an agency may be extended for an additional two  
18 years after the date described in paragraph (1)(B)  
19 if the Congress enacts legislation extending such  
20 deadline by a vote of a super majority of the House  
21 of Representatives and the Senate.

22 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

23 (a) ESTABLISHMENT.—There is established a com-  
24 mission to be known as the “Federal Agency Sunset Com-  
25 mission”.

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

4 (1) Six members shall be appointed by the  
5 Speaker of the House of Representatives, one of  
6 whom may include the Speaker of the House of Rep-  
7 resentatives, with minority members appointed with  
8 the consent of the minority leader of the House of  
9 Representatives.

10 (2) Six members shall be appointed by the ma-  
11 jority leader of the Senate, one of whom may include  
12 the majority leader of the Senate, with minority  
13 members appointed with the consent of the minority  
14 leader of the Senate.

15 (c) QUALIFICATIONS OF MEMBERS.—

16 (1) IN GENERAL.—(A) Of the members ap-  
17 pointed under subsection (b)(1), four shall be mem-  
18 bers of the House of Representatives (not more than  
19 two of whom may be of the same political party),  
20 and two shall be an individual described in subpara-  
21 graph (C).

22 (B) Of the members appointed under subsection  
23 (b)(2), four shall be members of the Senate (not  
24 more than two of whom may be of the same political

1 party) and two shall be an individual described in  
2 subparagraph (C).

3 (C) An individual under this subparagraph is  
4 an individual—

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

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

8 (2) CONTINUATION OF MEMBERSHIP.—If a  
9 member was appointed to the Commission as a  
10 Member of Congress and the member ceases to be  
11 a Member of Congress, that member shall cease to  
12 be a member of the Commission. The validity of any  
13 action of the Commission shall not be affected as a  
14 result of a member becoming ineligible to serve as  
15 a member for the reasons described in this para-  
16 graph.

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

20 (e) CHAIRMAN; VICE CHAIRMAN.—

21 (1) INITIAL CHAIRMAN.—An individual shall be  
22 designated by the Speaker of the House of Rep-  
23 resentatives from among the members initially ap-  
24 pointed under subsection (b)(1) to serve as chairman  
25 of the Commission for a period of 2 years.

1           (2) INITIAL VICE-CHAIRMAN.—An individual  
2 shall be designated by the majority leader of the  
3 Senate from among the individuals initially ap-  
4 pointed under subsection (b)(2) to serve as vice-  
5 chairman of the Commission for a period of two  
6 years.

7           (3) ALTERNATE APPOINTMENTS OF CHAIRMEN  
8 AND VICE-CHAIRMEN.—Following the termination of  
9 the two-year period described in paragraphs (1) and  
10 (2), the Speaker and the majority leader shall alter-  
11 nate every two years in appointing the chairman and  
12 vice-chairman of the Commission.

13 (f) TERMS OF MEMBERS.—

14           (1) MEMBERS OF CONGRESS.—Each member  
15 appointed to the Commission who is a member of  
16 Congress shall serve for a term of six years, except  
17 that, of the members first appointed under para-  
18 graphs (1) and (2) of subsection (b), 2 members  
19 shall be appointed to serve a term of three years  
20 under each such paragraph.

21           (2) OTHER MEMBERS.—Each member of the  
22 Commission who is not a member of Congress shall  
23 serve for a term of three years.

24           (3) TERM LIMIT.—(A) A member of the Com-  
25 mission who is a member of Congress and who

1 serves more than three years of a term may not be  
2 appointed to another term as a member.

3 (B) A member of the Commission who is not a  
4 member of Congress and who serves as a member of  
5 the Commission for more than 56 months may not  
6 be appointed to another term as a member.

7 (g) POWERS OF COMMISSION.—

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

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

22 (3) SUBPOENA POWER.—(A) The Commission  
23 may issue a subpoena to require the attendance and  
24 testimony of witnesses and the production of evi-

1        dence relating to any matter under investigation by  
2        the Commission.

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

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

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

19        (h) COMMISSION PROCEDURES.—

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

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

25        (i) PERSONNEL MATTERS.—



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

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

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

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

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

23          (j) OTHER ADMINISTRATIVE MATTERS.—

24           (1) POSTAL AND PRINTING SERVICES.—The  
25    Commission may use the United States mails and

1 obtain printing and binding services in the same  
2 manner and under the same conditions as other de-  
3 partments and agencies of the United States.

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

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

14 (k) SUNSET OF COMMISSION.—The Commission shall  
15 terminate on December 31, 2033, unless reauthorized by  
16 Congress.

17 **SEC. 4. REVIEW OF EFFICIENCY AND NEED FOR FEDERAL**  
18 **AGENCIES.**

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

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

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

6           (2) recommendations on whether each such  
7           agency should be abolished or reorganized;

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

14          (4) recommendations for administrative and  
15          legislative action with respect to each such agency,  
16          but not including recommendations for appropriation  
17          levels.

18          (c) DRAFT LEGISLATION.—The Commission shall  
19          submit to Congress and the President not later than Sep-  
20          tember 1 of each year a draft of legislation to carry out  
21          the recommendations of the Commission under subsection  
22          (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 members of the committees of Congress with  
11 oversight responsibility for the agency being re-  
12 viewed regarding the operation of the agency.

13       (e) USE OF PROGRAM INVENTORY.—The Commis-  
14 sion shall use the program inventory prepared under sec-  
15 tion 9 in reviewing the efficiency and public need for each  
16 agency under subsection (a).

17 **SEC. 5. CRITERIA FOR REVIEW.**

18       The Commission shall evaluate the efficiency and  
19 public need for each agency pursuant to section 4 using  
20 the following criteria:

21           (1) The effectiveness, and the efficiency of the  
22 operation of, the programs carried out by each such  
23 agency.

24           (2) Whether the programs carried out by the  
25 agency are cost-effective.

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

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

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

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

14          (7) The number and types of beneficiaries or  
15          persons served by programs carried out by the agen-  
16          cy.

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

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

1           (10) The promptness and effectiveness with  
2           which the agency seeks public input and input from  
3           State and local governments on the efficiency and ef-  
4           fectiveness of the performance of the functions of  
5           the agency.

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

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

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

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

21          (15) The extent to which the agency complies  
22          with equal employment opportunity requirements re-  
23          garding equal employment opportunity.

1           (16) The extent of the regulatory, privacy, and  
2 paperwork impacts of the programs carried out by  
3 the agency.

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

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

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

13 **SEC. 6. COMMISSION OVERSIGHT.**

14       (a) **MONITORING OF IMPLEMENTATION OF REC-**  
15 **COMMENDATIONS.**—The Commission shall monitor imple-  
16 mentation of laws enacting provisions that incorporate rec-  
17 ommendations of the Commission with respect to abolish-  
18 ment or reorganization of agencies.

19       (b) **MONITORING OF OTHER RELEVANT LEGISLA-**  
20 **TION.**—

21           (1) **IN GENERAL.**—The Commission shall review  
22 and report to Congress on all legislation introduced  
23 in either house of Congress that would establish—

24                   (A) a new agency; or

1 (B) a new program to be carried out by an  
2 existing agency.

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

6 (A) the functions of the proposed agency  
7 or program could be carried out by one or more  
8 existing agencies;

9 (B) the functions of the proposed agency  
10 or program could be carried out in a less re-  
11 strictive manner than the manner proposed in  
12 the legislation; and

13 (C) the legislation provides for public input  
14 regarding the performance of functions by the  
15 proposed agency or program.

16 **SEC. 7. RULEMAKING AUTHORITY.**

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

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

20 If the position of an employee of an agency is elimi-  
21 nated as a result of the abolishment of an agency in ac-  
22 cordance with this Act, there shall be a reasonable effort  
23 to relocate such employee to a position within another  
24 agency.



1 **SEC. 9. PROGRAM INVENTORY.**

2 (a) PREPARATION.—The Comptroller General and  
3 the Director of the Congressional Budget Office, in co-  
4 operation with the Director of the Congressional Research  
5 Service, shall prepare an inventory of Federal programs  
6 (in this Act referred to as the “program inventory”) with-  
7 in each agency.

8 (b) PURPOSE.—The purpose of the program inven-  
9 tory is to advise and assist the Congress and the Commis-  
10 sion in carrying out the requirements of this Act. Such  
11 inventory shall not in any way bind the committees of the  
12 Senate or the House of Representatives with respect to  
13 their responsibilities under this Act and shall not infringe  
14 on the legislative and oversight responsibilities of such  
15 committees. The Comptroller General shall compile and  
16 maintain the inventory and the Director of the Congres-  
17 sional Budget Office shall provide budgetary information  
18 for inclusion in the inventory.

19 (c) INVENTORY CONTENT.—The program inventory  
20 shall set forth for each program each of the following mat-  
21 ters:

22 (1) The specific provision or provisions of law  
23 authorizing the program.

24 (2) The committees of the Senate and the  
25 House of Representatives which have legislative or  
26 oversight jurisdiction over the program.

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

3           (4) The committees which have jurisdiction over  
4           legislation providing new budget authority for the  
5           program, including the appropriate subcommittees of  
6           the Committees on Appropriations of the Senate and  
7           the House of Representatives.

8           (5) The agency and, if applicable, the subdivi-  
9           sion thereof responsible for administering the pro-  
10          gram.

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

13          (7) The next reauthorization date for the pro-  
14          gram.

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

17          (9) The year in which the program was origi-  
18          nally established and, where applicable, the year in  
19          which the program expires.

20          (10) Where applicable, the year in which new  
21          budget authority for the program was last author-  
22          ized and the year in which current authorizations of  
23          new budget authority expire.

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

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

5 (2) authorized in a specific dollar amount but  
6 without limit of time;

7 (3) authorized without limit of time or dollar  
8 amounts;

9 (4) not specifically authorized; or

10 (5) permanently provided,

11 as determined by the Director of the Congressional Budg-  
12 et Office.

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

17 (1) The amounts of new budget authority au-  
18 thorized and provided for the program for each of  
19 the preceding four fiscal years and, where applicable,  
20 the four succeeding fiscal years.

21 (2) The functional and subfunctional category  
22 in which the program is presently classified and was  
23 classified under the fiscal year 2009 budget.

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

4           (f) MUTUAL EXCHANGE OF INFORMATION.—The  
5           General Accounting Office, the Congressional Research  
6           Service, and the Congressional Budget Office shall permit  
7           the mutual exchange of available information in their pos-  
8           session which would aid in the compilation of the program  
9           inventory.

10          (g) ASSISTANCE BY EXECUTIVE BRANCH.—The Of-  
11          fice of Management and Budget, and the Executive agen-  
12          cies and the subdivisions thereof shall, to the extent nec-  
13          essary and possible, provide the General Accounting Office  
14          with assistance requested by the Comptroller General in  
15          the compilation of the program inventory.

16          **SEC. 10. DEFINITION OF AGENCY.**

17          As used in this Act, the term “agency” has the mean-  
18          ing given that term by section 105 of title 5, United States  
19          Code, except that such term includes an advisory com-  
20          mittee as that term is defined in section 102(2) of the  
21          Federal Advisory Committee Act.

1 **SEC. 11. 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.

○