

111TH CONGRESS
2^D SESSION

H. R. 5406

To establish the Corporate Subsidy Reform Commission to review and identify 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

MAY 26, 2010

Mr. SMITH of Washington (for himself and Ms. SHEA-PORTER) introduced the following bill; which was referred to the Committee on Oversight and 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 and identify 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”.

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 (26 U.S.C.
19 501(c)(3)) that is exempt from taxation
20 under section 501(a) of the Internal Rev-
21 enue Code of 1986 (26 U.S.C. 501(a)); or

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

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

1 (2) does not include a payment, benefit, service,
2 or tax advantage that is awarded for the purposes
3 of research and development in the broad public in-
4 terest on the basis of a peer reviewed or other open,
5 competitive, merit-based procedure.

6 **SEC. 5. CORPORATE SUBSIDY REFORM COMMISSION.**

7 (a) ESTABLISHMENT.—There is established in the
8 legislative branch an independent commission to be known
9 as the “Corporate Subsidy Reform Commission” (herein-
10 after in this Act referred to as the “Commission”).

11 (b) DUTIES.—The Commission shall—

12 (1) examine the programs and laws of the Fed-
13 eral Government and identify any programs or laws
14 that provide inequitable Federal subsidies;

15 (2) review inequitable Federal subsidies; and

16 (3) submit the report required under section
17 6(c) to the Congress, making recommendations re-
18 garding the termination, modification, or retention
19 of inequitable Federal subsidies.

20 (c) LIMITATIONS.—

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

22 This Act is not intended to result in the creation of
23 new programs or taxes. The Commission established
24 in this section shall limit its activities to reviewing
25 existing programs and laws with the goal of ensuring

1 fairness and equity in the operation and application
2 of such programs and laws.

3 (2) ELIMINATION OF AGENCIES AND DEPART-
4 MENTS.—The Commission—

5 (A) shall limit its recommendations to the
6 termination, modification, or retention of in-
7 equitable Federal subsidies; and

8 (B) shall not recommend the termination
9 of any Federal agency or department.

10 (d) APPOINTMENT.—

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

13 (A) 2 shall be appointed by the Speaker of
14 the House of Representatives;

15 (B) 2 shall be appointed by the minority
16 leader of the House of Representatives;

17 (C) 2 shall be appointed by the majority
18 leader of the Senate; and

19 (D) 2 shall be appointed by the minority
20 leader of the Senate.

21 (2) CONSULTATION REQUIRED.—The Speaker
22 of the House of Representatives, the minority leader
23 of the House of Representatives, the majority leader
24 of the Senate, and the minority leader of the Senate

1 shall consult among themselves prior to the appoint-
2 ment of the members of the Commission.

3 (3) BACKGROUND.—The members shall rep-
4 resent a broad array of expertise and points of view
5 with respect to the subject matter, programs, and
6 laws the Commission is likely to review.

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

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

12 (e) CO-CHAIRS.—

13 (1) IN GENERAL.—The Commission shall be co-
14 chaired by 2 members, selected by the 8 members of
15 the Commission.

16 (2) HOUSE AND SENATE REPRESENTATION.—
17 Of the members selected to be co-chairs—

18 (A) one shall be a member appointed
19 under subsection (d)(1)(A) or subsection
20 (d)(1)(B); and

21 (B) one shall be a member appointed
22 under subsection (d)(1)(C) or subsection
23 (d)(1)(D).

1 (3) POLITICAL AFFILIATION.—The two mem-
2 bers selected to be co-chairs may not be of the same
3 political party.

4 (f) MEETINGS.—

5 (1) INITIAL MEETING.—No later than April 1,
6 2011, the Commission shall conduct its first meet-
7 ing.

8 (2) OPEN MEETINGS.—Each meeting of the
9 Commission shall be open to the public, except that
10 in cases in which classified information, trade se-
11 crets, or personnel matters are discussed, the co-
12 chairs may close the meeting. All proceedings, infor-
13 mation, and deliberations of the Commission shall be
14 available, upon request, to the Speaker of the House
15 of Representatives, the majority leader and minority
16 leader of the House of Representatives, the majority
17 leader and minority leader of the Senate, and the
18 chairman and ranking minority member of the rel-
19 evant Committee of Congress having jurisdiction to
20 report legislation regarding the subject matter there-
21 of.

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

24 (h) PAY AND TRAVEL EXPENSES.—

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

9 (2) CO-CHAIRS.—The co-chairs shall be paid for
10 each day referred to in paragraph (1) at a rate equal
11 to the daily equivalent of the rate of basic pay for
12 level III of the Executive Schedule under section
13 5314 of title 5, United States Code.

14 (3) TRAVEL EXPENSES.—Members of the Com-
15 mission shall receive travel expenses, including per
16 diem in lieu of subsistence, in accordance with sec-
17 tions 5702 and 5703 of title 5, United States Code.

18 (i) DIRECTOR OF STAFF.—

19 (1) QUALIFICATIONS.—The co-chairs shall ap-
20 point as Director an individual who has not, during
21 the 12 months preceding the date of such appoint-
22 ment, served in any of the entities or industries that
23 are or might be affected by any of the programs or
24 laws the Commission intends to review.

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

5 (3) REPORTS.—The Director shall submit peri-
6 odic reports on administrative and personnel matters
7 to the co-chairs of the Commission and the chairman
8 and ranking minority member of the Committee on
9 Homeland Security and Governmental Affairs of the
10 Senate and the Committee on Oversight and Govern-
11 ment Reform of the House of Representatives.

12 (j) STAFF.—

13 (1) ADDITIONAL PERSONNEL.—Subject to para-
14 graphs (2) and (5), the Director, with the approval
15 of the Commission, may appoint and fix the pay of
16 additional personnel.

17 (2) APPOINTMENTS.—The Director may make
18 such appointments without regard to the provisions
19 of title 5, United States Code, governing appoint-
20 ments in the competitive service, and any personnel
21 so appointed may be paid without regard to the pro-
22 visions of chapter 51 and subchapter III of chapter
23 53 of that title relating to classification and General
24 Schedule pay rates.

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

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

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

14 (A) PERSONNEL.—No more than one-third
15 of the personnel detailed to the Commission
16 may be on detail from Federal agencies that
17 deal directly or indirectly with the programs,
18 laws, or subsidies the Commission intends to re-
19 view.

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

1 (C) LEAD ANALYST.—No person detailed
2 from a Federal agency to the Commission may
3 be assigned as the lead professional analyst
4 with respect to an entity or industry that is or
5 might be affected by the programs, laws, or
6 subsidies the Commission intends to review if
7 the person has been involved in regulatory or
8 policy-making decisions affecting any such enti-
9 ty or industry in the 12 months preceding such
10 assignment.

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

18 (E) LIMITATION ON STAFF SIZE.—

19 (i) RESTRICTION ON NUMBER OF
20 STAFF.—Subject to clause (ii), there may
21 not be more than 25 persons (including
22 any detailees) on the staff at any time.

23 (ii) NOTIFICATION OF INCREASE.—
24 The Commission may increase the number
25 of its personnel in excess of the limitation

1 under clause (i) 15 days after submitting
2 notification of such increase to the Com-
3 mittee on Homeland Security and Govern-
4 mental Affairs of the Senate and the Com-
5 mittee on Oversight and Government Re-
6 form of the House of Representatives.

7 (F) PROHIBITION OF COMPENSATION.—

8 Members of the staff of the Commission who
9 are full-time officers or employees of the United
10 States may not receive additional pay, allow-
11 ances, or benefits by reason of their service for
12 the Commission.

13 (6) ASSISTANCE.—

14 (A) IN GENERAL.—The Comptroller Gen-
15 eral of the United States shall 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 Homeland Security and Governmental Affairs
23 of the Senate and the Committee on Oversight
24 and Government Reform of the House of Rep-
25 resentatives on the agreement referred to under

1 subparagraph (A) before entering into such
2 agreement.

3 (k) OTHER AUTHORITY.—

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

8 (2) LEASING.—The Commission may lease
9 space and acquire personal property.

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

14 (l) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Commission such
16 sums as are necessary to carry out its duties under this
17 Act.

18 (m) TERMINATION.—The Commission shall termi-
19 nate on January 1, 2013.

20 **SEC. 6. PROCEDURE FOR MAKING RECOMMENDATIONS TO**
21 **TERMINATE INEQUITABLE FEDERAL SUB-**
22 **SIDIES.**

23 (a) AGENCY PLAN.—

24 (1) IN GENERAL.—The head of each Federal
25 department or agency shall include in the documents

1 submitted in support of the budget of the agency for
2 fiscal year 2012 a list identifying all programs and
3 laws administered by that department or agency
4 that the head of the department or agency deter-
5 mines provide inequitable Federal subsidies.

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

7 (A) a detailed description of each program
8 or law in question;

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

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

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

22 (b) REVIEW BY THE COMMISSION.—

23 (1) IN GENERAL.—At any time after the sub-
24 mission of the budget documents to the Congress,
25 the Commission shall conduct public hearings re-

1 garding, and review, the termination, modification,
2 or retention of all inequitable Federal subsidies pro-
3 vided by each Federal department or agency, includ-
4 ing the recommendations included in the lists re-
5 quired under subsection (a).

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

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

11 (1) REPORT TO CONGRESS.—

12 (A) REQUIREMENT.—No later than March
13 31, 2012, the Commission shall submit a report
14 to the Congress containing the Commission’s
15 findings and recommendations for termination,
16 modification, or retention of each of the inequi-
17 table Federal subsidies reviewed by the Com-
18 mission.

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

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

24 (ii) to the maximum extent prac-
25 ticable, the estimated effect of the rec-

1 ommendations upon the policies, laws, and
2 programs directly or indirectly affected by
3 the recommendations.

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

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

12 (A) the reasons and justifications for the
13 recommendations of the Commission;

14 (B) all actions, circumstances, and consid-
15 erations relating to or bearing upon the rec-
16 ommendations;

17 (C) to the maximum extent practicable, the
18 estimated economic impact of accepting its rec-
19 ommendations;

20 (D) the amount of the projected savings
21 and budgetary impact that would result from
22 the acceptance of each of its recommendations;
23 and

24 (E) the specific changes in Federal stat-
25 utes necessary to implement the recommenda-

1 tions, including citation of the relevant provi-
2 sions of existing law.

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

10 (4) FEDERAL REGISTER.—The report sub-
11 mitted under this subsection shall be published in
12 the first issue of the Federal Register after such
13 submission.

14 (5) CHANGES IN AGENCY OR DEPARTMENT
15 RECOMMENDATIONS.—

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

22 (B) PUBLIC HEARING REQUIREMENT.—
23 Subject to subparagraph (C), the Commission
24 may make a change in the recommendations
25 made by a department or agency only if the

1 Commission conducts a public hearing on the
2 Commission's proposed changes.

3 (C) LIMITATION ON PUBLIC HEARING RE-
4 QUIREMENT.—Subparagraph (B) shall apply
5 only to a change by the Commission in a de-
6 partment or agency recommendation that
7 would—

8 (i) add or delete a payment, benefit,
9 service, or tax advantage to or from, re-
10 spectively, the list recommended for termi-
11 nation;

12 (ii) add or delete a payment, benefit,
13 service, or tax advantage to or from, re-
14 spectively, the list recommended for modi-
15 fication; or

16 (iii) increase or decrease the extent of
17 a recommendation to modify a payment,
18 benefit, service, or tax advantage included
19 in a department's or agency's rec-
20 ommendation.

21 (6) PROVISION OF INFORMATION TO MEMBERS
22 OF CONGRESS.—After March 31, 2012, the Commis-
23 sion shall, upon request, promptly provide to any
24 Member of Congress the information used by the
25 Commission in making its recommendations.

1 (7) COMPTROLLER GENERAL.—The Comp-
2 troller General shall—

3 (A) assist the Commission, to the extent
4 requested, in the Commission’s review and anal-
5 ysis of the lists, statements, and recommenda-
6 tions made by departments and agencies under
7 subsection (a); and

8 (B) no later than April 1, 2011, or 60
9 days after the public release of the President’s
10 budget documents for fiscal year 2012, which-
11 ever is earlier, submit to the Congress and to
12 the Commission a report containing a detailed
13 analysis of the list, statements, and rec-
14 ommendations of each department or agency.

15 **SEC. 7. CONGRESSIONAL ACTION ON COMMISSION REC-**
16 **COMMENDATIONS.**

17 It is the sense of the Congress that, following submis-
18 sion of the report of the Corporate Subsidy Reform Com-
19 mission under section 6, the House of Representatives and
20 the Senate should promptly consider legislation that would
21 enact changes in Federal statutes necessary to implement
22 the recommendations of the Commission.

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