

111TH CONGRESS
2^D SESSION

H. R. 5407

To establish the Program Reform Commission to review and identify unnecessary Federal programs and make recommendations for termination, modification, or retention of such programs, and to express 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 introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To establish the Program Reform Commission to review and identify unnecessary Federal programs and make recommendations for termination, modification, or retention of such programs, and to express 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 “Program Reform Com-
3 mission Act”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds that—

6 (1) Federal programs which may have been en-
7 acted with a valid purpose can become obsolete, or
8 no longer in the public interest, making such pro-
9 grams unnecessary or undesired;

10 (2) it is unfair to force the United States tax-
11 payer to support unnecessary programs that do not
12 provide a substantial public benefit or serve the pub-
13 lic interest;

14 (3) the Congress has been unable to evaluate
15 methodically those Federal programs that are unfair
16 and unnecessary and require reform or elimination;
17 and

18 (4) a Commission to advise the Congress is es-
19 sential to a comprehensive review of such programs
20 and to the reform or elimination of such programs.

21 **SEC. 3. PURPOSE.**

22 The purpose of this Act is to establish a fair and de-
23 liberative process that will result in the timely identifica-
24 tion, review, and reform or elimination of programs of the
25 Federal Government.

1 **SEC. 4. PROGRAM CRITERIA.**

2 In order for a department, agency, or the Commission
3 to consider a program for recommendations under this
4 Act, the program—

5 (1) must be a system of services or projects
6 that is provided by the Federal Government; and

7 (2) may not be a service or project that exists
8 for the purposes of research and development in the
9 broad public interest on the basis of a peer reviewed
10 or other open, competitive, merit-based procedure.

11 **SEC. 5. PROGRAM REFORM COMMISSION.**

12 (a) ESTABLISHMENT.—There is established within
13 the legislative branch of the Federal Government an inde-
14 pendent commission to be known as the “Program Reform
15 Commission” (hereafter in this Act referred to as the
16 “Commission”).

17 (b) DUTIES.—The Commission shall—

18 (1) examine the programs of the Federal Gov-
19 ernment and identify programs that are no longer
20 necessary or that merit modification; and

21 (2) submit the report required under section
22 6(c) to the Congress, making recommendations re-
23 garding the termination, modification, or retention
24 of programs.

25 (c) APPOINTMENT.—

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

3 (A) 2 shall be appointed by the Speaker of
4 the House of Representatives;

5 (B) 2 shall be appointed by the minority
6 leader of the House of Representatives;

7 (C) 2 shall be appointed by the majority
8 leader of the Senate; and

9 (D) 2 shall be appointed by the minority
10 leader of the Senate.

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.

17 (3) BACKGROUND.—The members of the Com-
18 mission shall represent a broad array of expertise
19 and points of view with respect to the subject mat-
20 ter, programs, and laws the Commission is likely to
21 review.

22 (4) LIMITATION ON FEDERAL OFFICER.—No
23 officer or employee of a Federal agency may serve
24 as a member of the Commission.

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

3 (d) CO-CHAIRS.—

4 (1) IN GENERAL.—The Commission shall be co-
5 chaired by 2 members, selected by the 8 members of
6 the Commission.

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

9 (A) one shall be a member appointed
10 under subsection (c)(1)(A) or subsection
11 (c)(1)(B); and

12 (B) one shall be a member appointed
13 under subsection (c)(1)(C) or subsection
14 (c)(1)(D).

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

18 (e) MEETINGS.—

19 (1) INITIAL MEETING.—No later than April 1,
20 2011, the Commission shall conduct its first meet-
21 ing.

22 (2) OPEN MEETINGS.—Each meeting of the
23 Commission shall be open to the public, except that
24 in cases in which classified information, trade se-
25 crets, or personnel matters are discussed, the co-

1 chairs may close the meeting. All proceedings, infor-
2 mation, and deliberations of the Commission shall be
3 available, upon request, to the Speaker of the House
4 of Representatives, the majority leader and minority
5 leader of the House of Representatives, the majority
6 leader and minority leader of the Senate, and the
7 chairman and ranking minority member of the rel-
8 evant Committee of Congress having jurisdiction to
9 report legislation regarding the subject matter there-
10 of.

11 (f) VACANCIES.—A vacancy on the Commission shall
12 be filled in the same manner as the original appointment.

13 (g) PAY AND TRAVEL EXPENSES.—

14 (1) PAY.—Each member of the Commission,
15 other than the co-chairs, shall be paid at a rate
16 equal to the daily equivalent of the minimum annual
17 rate of basic pay for level IV of the Executive Sched-
18 ule under section 5315 of title 5, United States
19 Code, for each day (including travel time) during
20 which the member is engaged in the actual perform-
21 ance of duties vested in the Commission.

22 (2) CO-CHAIRS.—The co-chairs shall be paid for
23 each day referred to in paragraph (1) at a rate equal
24 to the daily payment of the minimum annual rate of
25 basic pay payable for level III of the Executive

1 Schedule under section 5314 of title 5, United
2 States Code.

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

7 (h) DIRECTOR OF STAFF.—

8 (1) QUALIFICATIONS.—The co-chairs shall ap-
9 point as Director an individual who has not, during
10 the 12 months preceding the date of such appoint-
11 ment, served in any of the entities, or worked di-
12 rectly with any of the programs, that the Commis-
13 sion intends to review.

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

18 (3) REPORTS.—The Director shall submit peri-
19 odic reports on administrative and personnel matters
20 to the co-chairs of the Commission and the chairman
21 and ranking minority member of the Committee on
22 Homeland Security and Governmental Affairs of the
23 Senate and the Committee on Oversight and Govern-
24 ment Reform of the House of the Representatives.

25 (i) STAFF.—

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

5 (2) APPOINTMENTS.—The Director may make
6 such appointments without regard to the provisions
7 of title 5, United States Code, governing appoint-
8 ments in the competitive service, and any personnel
9 so appointed may be paid without regard to the pro-
10 visions of chapter 51 and subchapter III of chapter
11 53 of that title relating to classification and General
12 Schedule pay rates.

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

17 (4) DETAILEES.—Upon the request of the Di-
18 rector, the head of any Federal department or agen-
19 cy may detail any of the personnel of that depart-
20 ment or agency to the Commission to assist the
21 Commission in accordance with an agreement en-
22 tered into with the Commission.

23 (5) RESTRICTIONS ON PERSONNEL AND
24 DETAILEES.—The following restrictions shall apply
25 to personnel and detailees of the Commission:

1 (A) PERSONNEL.—No more than one-third
2 of the personnel detailed to the Commission
3 may be on detail from Federal agencies that
4 deal directly or indirectly with the Federal pro-
5 grams the Commission intends to review.

6 (B) ANALYSTS.—No more than one-fifth of
7 the professional analysts of the Commission
8 may be persons detailed from a Federal agency
9 that deals directly or indirectly with the Federal
10 programs the Commission intends to review.

11 (C) LEAD ANALYST.—No person detailed
12 from a Federal agency to the Commission may
13 be assigned as the lead professional analyst
14 with respect to an entity or program the Com-
15 mission intends to review if the person has been
16 involved in regulatory or policymaking decisions
17 affecting any such entity or program in the 12
18 months preceding such assignment.

19 (D) DETAILEE.—A person may not be de-
20 tailed from a Federal agency to the Commission
21 if, within 12 months before the detail is to
22 begin, that person participated personally and
23 substantially in any matter within that par-
24 ticular agency concerning the preparation of
25 recommendations under this Act.

1 (E) LIMITATION ON STAFF SIZE.—

2 (i) RESTRICTION ON NUMBER OF
3 STAFF.—Subject to clause (ii), there may
4 not be more than 25 persons (including
5 any detailees) on the staff at any time.

6 (ii) NOTIFICATION OF INCREASE.—

7 The Commission may increase the number
8 of its personnel in excess of the limitation
9 under clause (i) 15 days after submitting
10 notification of such increase to the Com-
11 mittee on Homeland Security and Govern-
12 mental Affairs of the Senate and the Com-
13 mittee on Oversight and Government Re-
14 form of the House of Representatives.

15 (F) PROHIBITION OF COMPENSATION.—

16 Members of the staff of the Commission who
17 are full-time officers or employees of the United
18 States may not receive additional pay, allow-
19 ances, or benefits by reason of their service for
20 the Commission.

21 (6) ASSISTANCE.—

22 (A) IN GENERAL.—The Comptroller Gen-
23 eral of the United States shall provide assist-
24 ance, including the detailing of employees, to

1 the Commission in accordance with an agree-
2 ment entered into with the Commission.

3 (B) CONSULTATION.—The Commission
4 and the Comptroller General of the United
5 States shall consult with the Committee on
6 Homeland Security and Governmental Affairs
7 of the Senate and the Committee on Oversight
8 and Government Reform of the House of Rep-
9 resentatives on the agreement referred to under
10 subparagraph (A) before entering into such
11 agreement.

12 (j) OTHER AUTHORITY.—

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

17 (2) LEASING.—The Commission may lease
18 space and acquire personal property.

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

23 (k) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to the Commission such

1 sums as are necessary to carry out its duties under this
2 Act.

3 (l) TERMINATION.—The Commission shall terminate
4 on January 1, 2013.

5 **SEC. 6. PROCEDURE FOR MAKING RECOMMENDATIONS TO**
6 **TERMINATE PROGRAMS.**

7 (a) AGENCY PLAN.—

8 (1) IN GENERAL.—The head of each Federal
9 department or agency shall include in the documents
10 submitted in support of the budget of the agency for
11 fiscal year 2012 a list identifying all programs ad-
12 ministered by that department or agency that the
13 head of the department or agency determines no
14 longer are necessary.

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

16 (A) a detailed description of each program
17 in question;

18 (B) a statement identifying and detailing
19 the extent to which each service or project of
20 the program complies with the provisions of sec-
21 tion 4;

22 (C) a statement summarizing the legisla-
23 tive history and purpose of such services or
24 projects and the laws or policies directly or indi-

1 rectly giving rise to the need for such programs;
2 and

3 (D) a recommendation to the Commission
4 regarding the termination, modification, or re-
5 tention of each program identified in the list.

6 (b) REVIEW BY THE COMMISSION.—

7 (1) IN GENERAL.—At any time after the sub-
8 mission of the budget documents to the Congress,
9 the Commission shall conduct public hearings re-
10 garding, and review, the termination, modification,
11 or retention of all programs administered by each
12 Federal department or agency, including the rec-
13 ommendations included in the lists required under
14 subsection (a).

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

18 (c) REPORT AND RECOMMENDATIONS OF COMMIS-
19 SION.—

20 (1) REPORT TO CONGRESS.—

21 (A) REQUIREMENT.—No later than March
22 31, 2012, the Commission shall submit a report
23 to the Congress containing the Commission's
24 findings and recommendations for termination,

1 modification, or retention of each of the pro-
2 grams reviewed by the Commission.

3 (B) CONTENTS.—Such findings and rec-
4 ommendations shall specify—

5 (i) all actions, circumstances, and con-
6 siderations relating to or bearing upon the
7 recommendations; and

8 (ii) to the maximum extent prac-
9 ticable, the estimated effect of the rec-
10 ommendations upon the policies, laws, and
11 programs directly or indirectly affected by
12 the recommendations.

13 (C) SUPERMAJORITY REQUIREMENT.—The
14 Commission may not include a recommendation
15 in the report unless inclusion of the rec-
16 ommendation is approved by at least 6 mem-
17 bers of the Commission.

18 (2) INFORMATION AND JUSTIFICATIONS.—The
19 Commission shall include in its report information
20 specifying—

21 (A) the reasons and justifications for the
22 recommendations of the Commission;

23 (B) all actions, circumstances, and consid-
24 erations relating to or bearing upon the rec-
25 ommendations;

1 (C) to the maximum extent practicable, the
2 estimated economic impact of accepting its rec-
3 ommendations;

4 (D) the amount of the projected savings
5 and budgetary impact that would result from
6 the acceptance of each of its recommendations;
7 and

8 (E) the specific changes in Federal stat-
9 utes necessary to implement the recommenda-
10 tions, including citation of the relevant provi-
11 sions of existing law.

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

19 (4) FEDERAL REGISTER.—The report sub-
20 mitted under this subsection shall be printed in the
21 first issue of the Federal Register after such submis-
22 sion.

23 (5) CHANGES IN AGENCY OR DEPARTMENT
24 RECOMMENDATIONS.—

1 (A) IN GENERAL.—Subject to the deadline
2 in paragraph (1) and to subparagraphs (B) and
3 (C) of this paragraph, in making its rec-
4 ommendations, the Commission may make
5 changes in any of the recommendations made
6 by a department or agency.

7 (B) PUBLIC HEARING REQUIREMENT.—
8 Subject to subparagraph (C), the Commission
9 may make a change in the recommendations
10 made by a department or agency only if the
11 Commission conducts a public hearing on the
12 Commission’s proposed changes.

13 (C) LIMITATION ON PUBLIC HEARING RE-
14 QUIREMENT.—Subparagraph (B) shall apply
15 only to a change by the Commission in a de-
16 partment or agency recommendation that
17 would—

18 (i) add or delete a program to or
19 from, respectively, the list recommended
20 for termination;

21 (ii) add or delete a program to or
22 from, respectively, the list recommended
23 for modification; or

24 (iii) increase or decrease the extent of
25 a recommendation to modify a program,

1 included in a department's or agency's rec-
2 ommendation.

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

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

10 (A) assist the Commission, to the extent
11 requested, in the Commission's review and anal-
12 ysis of the lists, statements, and recommenda-
13 tions made by departments and agencies under
14 subsection (a); and

15 (B) no later than April 1, 2011, or 60
16 days after the public release of the President's
17 budget documents for fiscal year 2012, which-
18 ever is earlier, submit to the Congress and to
19 the Commission a report containing a detailed
20 analysis of the list, statements, and rec-
21 ommendations of each department or agency.

22 **SEC. 7. CONGRESSIONAL ACTION ON COMMISSION REC-**
23 **COMMENDATIONS.**

24 It is the sense of the Congress that, following submis-
25 sion of the report of the Program Reform Commission

1 under section 6, the House of Representatives and the
2 Senate should promptly consider legislation that would
3 enact changes in Federal statutes necessary to implement
4 the recommendations of the Commission.

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