

105TH CONGRESS
2D SESSION

S. 1725

To terminate the Office of the Surgeon General of the Public Health Service.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 1998

Mr. BURNS (for himself, Mr. HELMS, Mr. THOMAS, and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To terminate the Office of the Surgeon General of the Public Health Service.

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.**

4 This Act may be cited as the “Office of Surgeon Gen-
5 eral Sunset Act”.

6 **SEC. 2. DEFINITIONS.**

7 For purposes of this Act:

8 (1) ASSISTANT SECRETARY.—The term “Assist-
9 ant Secretary” means the Assistant Secretary for

1 Health of the Department of Health and Human
2 Services.

3 (2) FEDERAL AGENCY.—The term “Federal
4 agency” has the meaning given to the term “agen-
5 cy” by section 551(1) of title 5, United States Code.

6 (3) FUNCTION.—The term “function” means
7 any duty, obligation, power, authority, responsibility,
8 right, privilege, activity, or program.

9 (4) OFFICE.—The term “office” includes any
10 office, administration, agency, institute, unit, organi-
11 zational entity, or component thereof.

12 (5) OFFICE OF THE ASSISTANT SECRETARY.—
13 The term “Office of the Assistant Secretary” means
14 the Office of the Assistant Secretary for Health of
15 the Department of Health and Human Services.

16 **SEC. 3. TERMINATION AND TRANSFER OF FUNCTIONS.**

17 (a) TERMINATION.—The Office of the Surgeon Gen-
18 eral of the Public Health Service and the position of such
19 Surgeon General are terminated.

20 (b) TRANSFER OF FUNCTIONS.—There are trans-
21 ferred to Office of the Assistance Secretary for Health all
22 functions which the Surgeon General exercised before the
23 date of the enactment of this Act (including all related
24 functions of any officer or employee of the Office of the
25 Surgeon General).

1 **SEC. 4. DETERMINATIONS OF CERTAIN FUNCTIONS BY THE**
2 **OFFICE OF MANAGEMENT AND BUDGET.**

3 If necessary, the Office of Management and Budget
4 shall make any determination of the functions that are
5 transferred under section 3.

6 **SEC. 5. DELEGATION AND ASSIGNMENT.**

7 Except where otherwise expressly prohibited by law
8 or otherwise provided by this Act, the Assistant Secretary
9 may delegate any of the functions transferred to the As-
10 sistant Secretary by this Act and any function transferred
11 or granted to such Assistant Secretary after the effective
12 date of this Act to such officers and employees of the Of-
13 fice of the Assistant Secretary as the Assistant Secretary
14 may designate, and may authorize successive redelegations
15 of such functions as may be necessary or appropriate. No
16 delegation of functions by the Assistant Secretary under
17 this section or under any other provision of this Act shall
18 relieve such Assistant Secretary of responsibility for the
19 administration of such functions.

20 **SEC. 6. REORGANIZATION.**

21 The Assistant Secretary is authorized to allocate or
22 reallocate any function transferred under section 3 among
23 the officers of the Office of the Assistant Secretary, and
24 to establish, consolidate, alter, or discontinue such organi-
25 zational entities in the Office of the Assistant Secretary
26 as may be necessary or appropriate.

1 **SEC. 7. RULES.**

2 The Assistant Secretary is authorized to prescribe, in
3 accordance with the provisions of chapters 5 and 6 of title
4 5, United States Code, such rules and regulations as the
5 Assistant Secretary determines necessary or appropriate
6 to administer and manage the functions of the Office of
7 the Assistant Secretary.

8 **SEC. 8. TRANSFER AND ALLOCATIONS OF APPROPRIA-**
9 **TIONS AND PERSONNEL.**

10 Except as otherwise provided in this Act, the person-
11 nel employed in connection with, and the assets, liabilities,
12 contracts, property, records, and unexpended balances of
13 appropriations, authorizations, allocations, and other
14 funds employed, used, held, arising from, available to, or
15 to be made available in connection with the functions
16 transferred by this Act, subject to section 1531 of title
17 31, United States Code, shall be transferred to Office of
18 the Assistant Secretary. Unexpended funds transferred
19 pursuant to this section shall be used only for the purposes
20 for which the funds were originally authorized and appro-
21 priated.

22 **SEC. 9. INCIDENTAL TRANSFERS.**

23 (a) IN GENERAL.—The Director of the Office of
24 Management and Budget, at such time or times as the
25 Director shall provide, is authorized to make such deter-
26 minations as may be necessary with regard to the func-

1 tions transferred by this Act, and to make such additional
2 incidental dispositions of personnel, assets, liabilities,
3 grants, contracts, property, records, and unexpended bal-
4 ances of appropriations, authorizations, allocations, and
5 other funds held, used, arising from, available to, or to
6 be made available in connection with such functions, as
7 may be necessary to carry out the provisions of this Act.

8 (b) TERMINATION OF AFFAIRS.—The Director of the
9 Office of Management and Budget shall provide for the
10 termination of the affairs of all entities terminated by this
11 Act and for such further measures and dispositions as may
12 be necessary to effectuate the purposes of this Act.

13 **SEC. 10. EFFECT ON PERSONNEL.**

14 (a) IN GENERAL.—Except as otherwise provided by
15 this Act, the transfer pursuant to this Act of full-time per-
16 sonnel (except special Government employees) and part-
17 time personnel holding permanent positions shall not
18 cause any such employee to be separated or reduced in
19 grade or compensation for one year after the date of trans-
20 fer of such employee under this Act.

21 (b) EXECUTIVE SCHEDULE POSITIONS.—Except as
22 otherwise provided in this Act, any person who, on the
23 day preceding the effective date of this Act, held a position
24 compensated in accordance with the Executive Schedule
25 prescribed in chapter 53 of title 5, United States Code,

1 and who, without a break in service, is appointed in the
2 Office of the Assistant Secretary to a position having du-
3 ties comparable to the duties performed immediately pre-
4 ceding such appointment shall continue to be compensated
5 in such new position at not less than the rate provided
6 for such previous position, for the duration of the service
7 of such person in such new position.

8 (c) TERMINATION OF CERTAIN POSITIONS.—Posi-
9 tions whose incumbents are appointed by the President,
10 by and with the advice and consent of the Senate, the
11 functions of which are transferred by this Act, shall termi-
12 nate on the effective date of this Act.

13 **SEC. 11. SAVINGS PROVISIONS.**

14 (a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—
15 All orders, determinations, rules, regulations, permits,
16 agreements, grants, contracts, certificates, licenses, reg-
17 istrations, privileges, and other administrative actions—

18 (1) which have been issued, made, granted, or
19 allowed to become effective by the President, any
20 Federal agency or official thereof, or by a court of
21 competent jurisdiction, in the performance of func-
22 tions which are transferred under this Act, and

23 (2) which are in effect at the time this Act
24 takes effect, or were final before the effective date

1 of this Act and are to become effective on or after
2 the effective date of this Act,
3 shall continue in effect according to their terms until
4 modified, terminated, superseded, set aside, or revoked in
5 accordance with law by the President, the Assistant Sec-
6 retary or other authorized official, a court of competent
7 jurisdiction, or by operation of law.

8 (b) PROCEEDINGS NOT AFFECTED.—The provisions
9 of this Act shall not affect any proceedings, including no-
10 tices of proposed rulemaking, or any application for any
11 license, permit, certificate, or financial assistance pending
12 before the Office of the Surgeon General at the time this
13 Act takes effect, with respect to functions transferred by
14 this Act but such proceedings and applications shall be
15 continued. Orders shall be issued in such proceedings, ap-
16 peals shall be taken therefrom, and payments shall be
17 made pursuant to such orders, as if this Act had not been
18 enacted, and orders issued in any such proceedings shall
19 continue in effect until modified, terminated, superseded,
20 or revoked by a duly authorized official, by a court of com-
21 petent jurisdiction, or by operation of law. Nothing in this
22 subsection shall be deemed to prohibit the discontinuance
23 or modification of any such proceeding under the same
24 terms and conditions and to the same extent that such

1 proceeding could have been discontinued or modified if
2 this Act had not been enacted.

3 (c) SUITS NOT AFFECTED.—The provisions of this
4 Act shall not affect suits commenced before the effective
5 date of this Act, and in all such suits, proceedings shall
6 be had, appeals taken, and judgments rendered in the
7 same manner and with the same effect as if this Act had
8 not been enacted.

9 (d) NONABATEMENT OF ACTIONS.—No suit, action,
10 or other proceeding commenced by or against the Office
11 of the Surgeon General, or by or against any individual
12 in the official capacity of such individual as an officer of
13 the Office of the Surgeon General, shall abate by reason
14 of the enactment of this Act.

15 (e) ADMINISTRATIVE ACTIONS RELATING TO PRO-
16 MULGATION OF REGULATIONS.—Any administrative ac-
17 tion relating to the preparation or promulgation of a regu-
18 lation by the Office of the Surgeon General relating to
19 a function transferred under this Act may be continued
20 by the Office of the Assistant Secretary with the same ef-
21 fect as if this Act had not been enacted.

22 **SEC. 12. SEPARABILITY.**

23 If a provision of this Act or its application to any
24 person or circumstance is held invalid, neither the remain-

1 der of this Act nor the application of the provision to other
2 persons or circumstances shall be affected.

3 **SEC. 13. TRANSITION.**

4 The Assistant Secretary is authorized to utilize—

5 (1) the services of such officers, employees, and
6 other personnel of the Office of the Surgeon General
7 with respect to functions transferred to the Office of
8 the Assistant Secretary by this Act; and

9 (2) funds appropriated to such functions for
10 such period of time as may reasonably be needed to
11 facilitate the orderly implementation of this Act.

12 **SEC. 14. REFERENCES.**

13 Reference in any other Federal law, Executive order,
14 rule, regulation, or delegation of authority, or any docu-
15 ment of or relating to—

16 (1) the Surgeon General with regard to func-
17 tions transferred under section 3, shall be deemed to
18 refer to the Assistant Secretary for Health of the
19 Department of Health and Human Services; and

20 (2) the Office of the Surgeon General with re-
21 gard to functions transferred under section 3, shall
22 be deemed to refer to the Office of the Assistant
23 Secretary for Health of the Department of Health
24 and Human Services.

1 **SEC. 15. SAVINGS.**

2 Any amounts appropriated for the Office of the Sur-
3 geon General for fiscal year 1998 and remaining available
4 on the date of enactment of this Act shall be transferred
5 to the Secretary of Health and Human Services and uti-
6 lized to carry out child immunization programs.

7 **SEC. 16. ADDITIONAL CONFORMING AMENDMENTS.**

8 (a) RECOMMENDED LEGISLATION.—After consulta-
9 tion with the appropriate committees of the Congress and
10 the Director of the Office of Management and Budget, the
11 Assistant Secretary shall prepare and submit to the Con-
12 gress a legislative proposal in the form of an implementing
13 bill containing technical and conforming amendments to
14 reflect the changes made by this Act.

15 (b) SUBMISSION TO THE CONGRESS.—Not later than
16 6 months after the effective date of this Act, the Assistant
17 Secretary shall submit the implementing bill referred to
18 under subsection (a).

19 (c) REPEALS.—Sections 204 and 205 of the Public
20 Health Service Act (42 U.S.C. 205 and 206) are repealed.

21 (d) ADDITIONAL CONFORMING AMENDMENTS.—

22 (1) Section 202 of the Public Health Service
23 Act (42 U.S.C. 203) is amended—

24 (A) by striking paragraph (1); and

1 (B) by redesignating paragraphs (2), (3),
2 and (4) as paragraphs (1), (2), and (3), respec-
3 tively.

4 (2) Section 206(a) of the Public Health Service
5 Act (42 U.S.C. 207(a)) is amended—

6 (A) in the first sentence by striking “The
7 Surgeon General” and all that follows through
8 “the Chief Medical Officer” and inserting “The
9 Chief Medical Officer”; and

10 (B) by striking the second sentence.

11 **SEC. 17. EFFECTIVE DATE.**

12 This Act shall become effective on the date on
13 which the individual who is serving as the Surgeon Gen-
14 eral on the date of enactment of this Act resigns or is
15 terminated or the date on which the term of service of
16 such individual as Surgeon General expires, whichever oc-
17 curs first.

○