

108TH CONGRESS  
2D SESSION

# H. R. 3761

To establish the Program Reform Commission to review unnecessary Federal programs and make recommendations for termination, modification, or retention of such programs, 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.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2004

Mr. SMITH of Washington (for himself, Mr. SHAYS, Mr. CASE, Mr. TIERNEY, Mr. CARTER, Mr. DUNCAN, Mr. EMANUEL, Mr. BEAUPREZ, Mr. HEFLEY, and Mr. KIND) introduced the following bill; which was referred to the Committee on Government Reform

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## A BILL

To establish the Program Reform Commission to review unnecessary Federal programs and make recommendations for termination, modification, or retention of such programs, 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 “Program Reform Com-  
3 mission Act of 2004”.

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. DEFINITION.**

2 For purposes of this Act, the term “program”—

3 (1) except as provided in paragraph (2), means  
4 a system of services or projects that is provided by  
5 the Federal Government; and

6 (2) does not include a service or project that ex-  
7 ists for the purposes of research and development in  
8 the broad public interest on the basis of a peer re-  
9 viewed or other open, competitive, merit-based proce-  
10 dure.

11 **SEC. 5. THE COMMISSION.**

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

16 (b) DUTIES.—The Commission shall—

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

20 (2) review unnecessary programs; and

21 (3) 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) ADVISORY COMMITTEE.—The Commission shall  
26 be considered an advisory committee within the meaning

1 of that term in the Federal Advisory Committee Act (5  
2 U.S.C. App.).

3 (d) APPOINTMENT.—

4 (1) MEMBERS.—The members of the Commis-  
5 sion—

6 (A) shall be appointed for the life of the  
7 Commission; and

8 (B) shall be composed of 8 members, of  
9 whom—

10 (i) 2 shall be appointed by the Speak-  
11 er of the House of Representatives;

12 (ii) 2 shall be appointed by the minor-  
13 ity leader of the House of Representatives;

14 (iii) 2 shall be appointed by the ma-  
15 jority leader of the Senate, one of whom  
16 shall be designated by the majority leader  
17 to serve as a co-chair; and

18 (iv) 2 shall be appointed by the minor-  
19 ity leader of the Senate, one of whom shall  
20 be designated by the minority leader to  
21 serve as a co-chair.

22 (2) CONSULTATION REQUIRED.—The Speaker  
23 of the House of Representatives, the minority leader  
24 of the House of Representatives, the majority leader  
25 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 in order to  
3 achieve, to the maximum extent possible, fair and  
4 equitable representation of various points of view  
5 with respect to the matters to be studied by the  
6 Commission under subsection (b).

7 (3) BACKGROUND.—The members shall rep-  
8 resent a broad array of expertise covering, to the ex-  
9 tent practical, all subject matter, programs, and  
10 laws the Commission is likely to review.

11 (e) MEETINGS.—

12 (1) INITIAL MEETING.—No later than April 1,  
13 2004, the Commission shall conduct its first meet-  
14 ing.

15 (2) OPEN MEETINGS.—Each meeting of the  
16 Commission shall be open to the public, except that  
17 in cases in which classified information, trade se-  
18 crets, or personnel matters are discussed, the co-  
19 chairs may close the meeting. All proceedings, infor-  
20 mation, and deliberations of the Commission shall be  
21 available, upon request, to the Chairman and rank-  
22 ing minority member of the relevant Committee of  
23 the Congress having jurisdiction to report legislation  
24 regarding the subject matter thereof.

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

3 (g) PAY AND TRAVEL EXPENSES.—

4 (1) PAY.—Notwithstanding section 7 of the  
5 Federal Advisory Committee Act (5 App. U.S.C.),  
6 each member of the Commission, other than the co-  
7 chairs, shall be paid at a rate equal to the daily  
8 equivalent of the minimum annual rate of basic pay  
9 for level IV of the Executive Schedule under section  
10 5315 of title 5, United States Code, for each day  
11 (including travel time) during which the member is  
12 engaged in the actual performance of duties vested  
13 in the Commission.

14 (2) CHAIRMEN.—Notwithstanding section 7 of  
15 the Federal Advisory Committee Act (5 App.  
16 U.S.C.), the co-chairs shall be paid for each day re-  
17 ferred to in paragraph (1) at a rate equal to the  
18 daily payment of the minimum annual rate of basic  
19 pay payable for level III of the Executive Schedule  
20 under section 5314 of title 5, United States Code.

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

25 (h) DIRECTOR OF STAFF.—

1           (1) QUALIFICATIONS.—The co-chairs shall ap-  
2           point as Director an individual who has not, during  
3           the 12 months preceding the date of such appoint-  
4           ment, served in any of the entities or industries that  
5           the Commission intends to review.

6           (2) PAY.—Notwithstanding section 7 of the  
7           Federal Advisory Committee Act (5 App. U.S.C.),  
8           the Director shall be paid at the rate of basic pay  
9           payable for level IV of the Executive Schedule under  
10          section 5315 of title 5, United States Code.

11          (3) REPORTS.—The Director shall submit peri-  
12          odic reports on administrative and personnel matters  
13          to the co-chairs of the Commission and the Chair-  
14          man and ranking minority member of the Committee  
15          on Governmental Affairs of the Senate and the Com-  
16          mittee on Government Reform of the House of the  
17          Representatives.

18          (i) STAFF.—

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

23                (2) APPOINTMENTS.—The Director may make  
24                such appointments without regard to the provisions  
25                of title 5, United States Code, governing appoint-

1       ments in the competitive service, and any personnel  
2       so appointed may be paid without regard to the pro-  
3       visions of chapter 51 and subchapter III of chapter  
4       53 of that title relating to classification and General  
5       Schedule pay rates.

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

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

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

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

24                   (B) ANALYSTS.—No more than one-fifth of  
25       the professional analysts of the Commission



1 may be persons detailed from a Federal agency  
2 that deals directly or indirectly with the Federal  
3 subsidies the Commission intends to review.

4 (C) LEAD ANALYST.—No person detailed  
5 from a Federal agency to the Commission may  
6 be assigned as the lead professional analyst  
7 with respect to an entity or industry the Com-  
8 mission intends to review if the person has been  
9 involved in regulatory or policymaking decisions  
10 affecting any such entity or industry in the 12  
11 months preceding such assignment.

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

19 (E) FEDERAL OFFICER OR EMPLOYEE.—  
20 No officer or employee of a Federal agency  
21 may—

22 (i) prepare any report concerning the  
23 effectiveness, fitness, or efficiency of the  
24 performance on the staff of the Commis-

1 sion of any person detailed from a Federal  
2 agency to that staff;

3 (ii) review the preparation of such re-  
4 port; or

5 (iii) approve or disapprove such a re-  
6 port.

7 (F) LIMITATION ON STAFF SIZE.—(i) Sub-  
8 ject to clause (ii), there may not be more than  
9 25 persons (including any detailees) on the  
10 staff at any time.

11 (ii) The Commission may increase the  
12 member of its personnel in excess of the limita-  
13 tion under clause (i), 15 days after submitting  
14 notification of such increase to the Committee  
15 on Governmental Affairs of the Senate and the  
16 Committee on Government Reform of the  
17 House of Representatives.

18 (G) LIMITATION ON FEDERAL OFFICER.—  
19 No member of a Federal agency and no em-  
20 ployee of a Federal agency may serve as a  
21 member of the Commission or as a paid mem-  
22 ber of its staff.

23 (6) ASSISTANCE.—

24 (A) IN GENERAL.—The Comptroller Gen-  
25 eral of the United States may provide assist-

1           ance, including the detailing of employees, to  
2           the Commission in accordance with an agree-  
3           ment entered into with the Commission.

4           (B) CONSULTATION.—The Commission  
5           and the Comptroller General of the United  
6           States shall consult with the Committee on  
7           Governmental Affairs of the Senate and the  
8           Committee on Government Reform of the  
9           House of Representatives on the agreement re-  
10          ferred to under subparagraph (A) before enter-  
11          ing into such agreement.

12       (j) OTHER AUTHORITY.—

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

18           (2) LEASING.—The Commission may lease  
19          space and acquire personal property to the extent  
20          that funds are available.

21       (k) FUNDING.—There are authorized to be appro-  
22          priated to the Commission \$4,000,000 to carry out its du-  
23          ties under this Act.

24       (l) TERMINATION.—The Commission shall terminate  
25          on January 1, 2006.

1 **SEC. 6. PROCEDURE FOR MAKING RECOMMENDATIONS TO**  
2 **TERMINATE PROGRAMS.**

3 (a) AGENCY PLAN.—

4 (1) IN GENERAL.—The head of each Federal  
5 department or agency shall include in the documents  
6 submitted in support of the budget of the agency for  
7 fiscal year 2005 a list identifying all programs ad-  
8 ministered by that department or agency that the  
9 head of the department or agency determines no  
10 longer are necessary.

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

12 (A) a detailed description of each program  
13 in question;

14 (B) a statement identifying and detailing  
15 the extent to which each service or project of  
16 the program meets the provisions of section 4;

17 (C) a statement summarizing the legisla-  
18 tive history and purpose of such services or  
19 projects and the laws or policies directly or indi-  
20 rectly giving rise to the need for such programs;  
21 and

22 (D) a recommendation to the Commission  
23 regarding the termination, modification, or re-  
24 tention of each program identified in the list.

25 (b) REVIEW BY THE COMMISSION.—

1           (1) IN GENERAL.—At any time after the sub-  
2           mission of the budget documents to the Congress,  
3           the Commission shall conduct public hearings on the  
4           termination, modification, or retention of programs,  
5           including the recommendations included in the lists  
6           required under subsection (a).

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

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

12               (1) REPORT TO CONGRESS.—

13                   (A) REQUIREMENT.—No later than March  
14                   31, 2005, the Commission shall submit a report  
15                   to the Congress containing the Commission's  
16                   findings and recommendations for termination,  
17                   modification, or retention of each of the pro-  
18                   grams reviewed by the Commission.

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) to the maximum extent practicable,  
15                the estimated fiscal, economic, and budgetary  
16                impact of accepting its recommendations;

17                (C) the amount of the projected savings re-  
18                sulting from each of its recommendations;

19                (D) all actions, circumstances, and consid-  
20                erations relating to or bearing upon the rec-  
21                ommendations and to the maximum extent  
22                practicable, the estimated effect of the rec-  
23                ommendations upon the policies, laws and pro-  
24                grams directly or indirectly affected by the rec-  
25                ommendations; and

1           (E) the specific changes in Federal stat-  
2           utes necessary to implement the recommenda-  
3           tions, including citation of the relevant provi-  
4           sions of existing law.

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

12          (4) FEDERAL REGISTER.—The report sub-  
13          mitted under this subsection shall be printed in the  
14          first issue of the Federal Register after such submis-  
15          sion.

16          (5) CHANGES IN AGENCY OR DEPARTMENT  
17          RECOMMENDATIONS.—

18                 (A) IN GENERAL.—Subject to the deadline  
19                 in paragraph (1) and to subparagraphs (B) and  
20                 (C) of this paragraph, in making its rec-  
21                 ommendations, the Commission may make  
22                 changes in any of the recommendations made  
23                 by a department or agency if the Commission  
24                 determines that such department or agency, in  
25                 treating any matter as an inequitable Federal

1 subsidy, deviated substantially from the provi-  
2 sions of section 4.

3 (B) LIMITATION.—The Commission may  
4 make a change in the recommendations made  
5 by a department or agency, only if the Commis-  
6 sion—

7 (i) makes the determination required  
8 under subparagraph (B); and

9 (ii) conducts a public hearing on the  
10 Commission's proposed changes.

11 (C) APPLICATION OF LIMITATION.—Sub-  
12 paragraph (B) shall apply only to a change by  
13 the Commission in a department or agency rec-  
14 ommendation that would—

15 (i) add or delete a program to or  
16 from, respectively, the list recommended  
17 for termination;

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

21 (iii) increase or decrease the extent of  
22 a recommendation to modify a program,  
23 included in a department's or agency's rec-  
24 ommendation.



1           (D) JUSTIFICATION.—The Commission  
2 shall explain and justify in the report submitted  
3 to the Congress under this subsection any rec-  
4 ommendation made by the Commission that is  
5 different from a recommendation made by an  
6 agency under subsection (a).

7           (6) PROVISION OF INFORMATION TO MEMBERS  
8 OF CONGRESS.—After March 31, 2005, the Commis-  
9 sion shall, upon request, promptly provide to any  
10 Member of Congress the information used by the  
11 Commission in making its recommendations.

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

14           (A) assist the Commission, to the extent  
15 requested, in the Commission’s review and anal-  
16 ysis of the lists, statements, and recommenda-  
17 tions made by departments and agencies under  
18 subsection (a); and

19           (B) no later than 60 days after April 1,  
20 2004, or the public release of the President’s  
21 budget documents in 2004, whichever is earlier,  
22 submit to the Congress and to the Commission  
23 a report containing a detailed analysis of the  
24 list, statements, and recommendations of each  
25 department or agency.

1 **SEC. 7. CONGRESSIONAL ACTION ON COMMISSION REC-**  
2 **COMMENDATIONS.**

3       It is the sense of the Congress that, following submis-  
4 sion of the report of the Program Reform Commission  
5 under section 6, the House of Representatives and the  
6 Senate should promptly consider legislation that would  
7 enact changes in Federal statutes necessary to implement  
8 the recommendations of the Commission.

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