

109TH CONGRESS
1ST SESSION

H. R. 3277

To provide for the establishment of the Sunset Commission to review and maximize the performance of all Federal agencies and programs.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2005

Mr. BRADY of Texas (for himself, Mr. TOM DAVIS of Virginia, and Mr. PORTER) introduced the following bill; which was referred to the Committee on Government Reform, and in addition to the Committee on Rules, 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 provide for the establishment of the Sunset Commission to review and maximize the performance of all Federal agencies and programs.

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 “Federal Agency Per-
5 formance Review and Sunset Act”.

1 **SEC. 2. SUNSET COMMISSION TO REVIEW AND MAXIMIZE**
2 **THE PERFORMANCE OF ALL FEDERAL AGEN-**
3 **CIES AND PROGRAMS.**

4 (a) SCHEDULE FOR REVIEW OF AGENCIES AND PRO-
5 GRAMS.—The President may submit to Congress a sched-
6 ule for reviewing the performance of, and need for, execu-
7 tive branch agencies and programs at least once every 10
8 years. In considering the schedule, Congress shall follow
9 the expedited review procedures set forth in section 3.

10 (b) SUNSET OF EXECUTIVE BRANCH AGENCIES AND
11 PROGRAMS.—Each executive branch agency and program
12 shall—

13 (1) be reviewed by the Sunset Commission ac-
14 cording to the schedule enacted in a joint resolution
15 described in section 3(a); and

16 (2) except as provided in subsection (h), be
17 abolished two years after the date that the President
18 submits to Congress the report required pursuant to
19 subsection (i) covering the agency or program, un-
20 less the agency or program is reauthorized by law
21 after such submission or the two-year period is ex-
22 tended for an additional two years by law.

23 (c) ESTABLISHMENT OF COMMISSION.—There is
24 hereby established a commission to be known as the “Sun-
25 set Commission”.

1 (d) MEMBERSHIP, POWERS, AND OTHER MAT-
2 TERS.—

3 (1) MEMBERSHIP.—

4 (A) IN GENERAL.—The Sunset Commis-
5 sion shall be comprised of seven members, who
6 shall be appointed within 180 days after the
7 date of enactment of this Act.

8 (B) APPOINTMENTS.—The President shall
9 appoint the seven members of the Sunset Com-
10 mission, as follows:

11 (i) One in consultation with the ma-
12 jority leader of the Senate.

13 (ii) One in consultation with the mi-
14 nority leader of the Senate.

15 (ii) One in consultation with the
16 Speaker of the House of Representatives.

17 (iv) One in consultation with the mi-
18 nority leader of the House of Representa-
19 tives.

20 (v) Three other members.

21 (C) CHAIR AND VICE CHAIR.—The Presi-
22 dent shall designate one member of the Sunset
23 Commission to serve as Chair and one member
24 as Vice Chair.

1 (D) LENGTH OF SERVICE.—The members
2 of the Sunset Commission shall serve at the
3 pleasure of the President. Each member shall
4 serve for a term not to exceed three years, un-
5 less reappointed by the President.

6 (E) VACANCIES.—Any vacancy on the
7 Commission shall be filled in the manner in
8 which the original appointment was made.

9 (2) POWERS RELATING TO OBTAINING INFOR-
10 MATION FROM FEDERAL AGENCIES.—

11 (A) IN GENERAL.—The Sunset Commis-
12 sion is authorized to secure directly from any
13 executive department, bureau, agency, board,
14 commission, office, independent establishment,
15 or instrumentality of the United States Govern-
16 ment, information, suggestions, estimates, and
17 statistics for purposes of carrying out its duties.
18 Each department, bureau, agency, board, com-
19 mission, office, independent establishment, or
20 instrumentality shall, to the extent authorized
21 by law, furnish such information, suggestions,
22 estimates, and statistics directly to the Commis-
23 sion, upon request made by the chair or any
24 other member designated by a majority of the
25 Commission.

1 (B) RECEIPT, HANDLING, STORAGE, AND
2 DISSEMINATION.—Information shall be received,
3 handled, stored, and disseminated only by mem-
4 bers of the Commission and its staff consistent
5 with all applicable statutes, regulations, and
6 Executive orders.

7 (3) PUBLIC HEARINGS AND MEETINGS.—

8 (A) PUBLIC HEARINGS.—The Sunset Com-
9 mission shall hold public hearings and meetings
10 to the extent appropriate. Any such public ses-
11 sions shall be conducted in a manner consistent
12 with the protection of information provided to
13 or developed for or by the Commission as re-
14 quired by any applicable statute, regulation, or
15 Executive Order.

16 (B) NONAPPLICABILITY OF FEDERAL AD-
17 VISORY COMMITTEE ACT.—The Federal Advi-
18 sory Committee Act (5 U.S.C. App.) shall not
19 apply to the Sunset Commission.

20 (4) INTERNAL PROCEDURES.—

21 (A) MEETINGS.—The Sunset Commission
22 shall meet periodically at the call of the Chair.
23 Such meetings may include public sessions as
24 described in paragraph (3)(A).

1 (B) QUORUM.—Four members of the Sun-
2 set Commission shall constitute a quorum but a
3 lesser number may hold hearings.

4 (5) PERSONNEL MATTERS.—

5 (A) TRAVEL EXPENSES.—The members of
6 the Commission shall be allowed travel ex-
7 penses, including per diem in lieu of subsist-
8 ence, at rates authorized for employees of agen-
9 cies under subchapter I of chapter 57 of title 5,
10 United States Code, while away from their
11 homes or regular places of business in the per-
12 formance of services for the Commission.

13 (B) DIRECTOR.—The Chair of the Com-
14 mission may, without regard to the civil service
15 laws and regulations, appoint and terminate a
16 Director for the Commission. The Director shall
17 be paid at a rate not to exceed the Level II of
18 the Executive Schedule.

19 (C) STAFF.—The Director may appoint
20 and fix the compensation of additional per-
21 sonnel without regard to chapter 51 and sub-
22 chapter III of chapter 53 of title 5, United
23 States Code, relating to classification of posi-
24 tions and General Schedule pay rates, except
25 that the rate of pay for the Director and other

1 personnel may not exceed Level II of the Exec-
2 utive Schedule.

3 (D) APPLICABILITY OF CERTAIN CIVIL
4 SERVICE LAWS.—The Director and any staff of
5 the Commission shall be employees under sec-
6 tion 2105 of title 5, United States Code, for
7 purposes of chapters 63, 81, 83, 84, 85, 87, 89,
8 and 90 of that title.

9 (E) DETAIL OF GOVERNMENT EMPLOY-
10 EES.—Any Federal Government employee may
11 be detailed to the Commission without reim-
12 bursement, and such detail shall be without
13 interruption or loss of civil service status or
14 privilege.

15 (F) PROCUREMENT OF TEMPORARY AND
16 INTERMITTENT SERVICES.—The chair of the
17 Commission may procure temporary and inter-
18 mittent services under section 3109(b) of title
19 5, United States Code, at rates for individuals
20 which do not exceed the daily equivalent of the
21 annual rate of basic pay prescribed for Level II
22 of the Executive Schedule under section 5316
23 of such title.

24 (6) OTHER ADMINISTRATIVE MATTERS.—

1 (A) POSTAL AND PRINTING SERVICES.—

2 The Sunset Commission may use the United
3 States mails and obtain printing and binding
4 services in the same manner and under the
5 same conditions as other departments and
6 agencies of the United States.

7 (B) ADMINISTRATIVE SUPPORT SERV-
8 ICES.—Upon the request of the Sunset Com-
9 mission, the Administrator of General Services
10 shall provide to the Sunset Commission, on a
11 reimbursable basis, the administrative support
12 services necessary for the Sunset Commission to
13 carry out its duties.

14 (C) AUTHORIZATION OF APPROPRIA-
15 TIONS.—Such sums as may be necessary are
16 authorized to be appropriated for the purposes
17 of carrying out the duties the Commission.
18 Such funds shall remain available until ex-
19 pended.

20 (7) SUNSET OF COMMISSION.—The Sunset
21 Commission shall terminate on December 31, 2026,
22 unless reauthorized by law.

23 (e) REVIEW OF EFFICIENCY AND NEED FOR EXECU-
24 TIVE BRANCH AGENCIES AND PROGRAMS.—

1 (1) IN GENERAL.—The Sunset Commission
2 shall review agencies and programs in accordance
3 with the criteria described in subsection (f). The
4 Sunset Commission shall consider recommendations
5 made by the President to the Commission for im-
6 proving the performance of the agencies or programs
7 being considered.

8 (2) USE OF EVALUATIONS AND ASSESS-
9 MENTS.—In its deliberations, the Sunset Commis-
10 sion may consider any publicly available agency or
11 program evaluations and assessments, including
12 those that the Office of Management and Budget
13 has undertaken in consultation with the affected
14 agencies of the Federal Government. Such Office of
15 Management and Budget assessments shall evaluate
16 the purpose, design, strategic plan, management,
17 and results of the program, and such other matters
18 as the Director of the Office of Management and
19 Budget considers appropriate, as well as make rec-
20 ommendations to improve the efficiency and effec-
21 tiveness of the assessed programs.

22 (3) REPORT TO THE PRESIDENT.—The Sunset
23 Commission shall submit to the President not later
24 than August 1 of each year a report containing

1 (A) its assessment of each agency and pro-
2 gram reviewed during the preceding 12 months
3 pursuant to the schedule for review (if any) ap-
4 proved by a joint resolution described in section
5 3(a); and

6 (B) its recommendations on how to im-
7 prove the results that each agency and program
8 achieves and whether to abolish any agency or
9 program.

10 (4) LEGISLATION.—The Sunset Commission
11 shall submit to the President with its report any leg-
12 islation needed to carry out its recommendations.

13 (5) PROPOSALS TO ABOLISH AGENCIES OR PRO-
14 GRAMS.—Prior to recommending the abolition of any
15 agency or program, the Sunset Commission should,
16 as it considers appropriate:

17 (A) conduct public hearings on the merits
18 of retaining the agency or program;

19 (B) provide an opportunity for public com-
20 ment on the option of abolishing the agency or
21 program;

22 (C) offer the affected agency an oppor-
23 tunity to comment and to provide information
24 supporting its views;

1 (D) review the assessments described in
2 paragraph (2) of this Act; and

3 (E) consult with the Government Account-
4 ability Office, the relevant Inspectors General,
5 and the relevant committees of Congress.

6 (f) CRITERIA FOR REVIEW.—The Sunset Commission
7 shall use the following criteria to evaluate each agency or
8 program:

9 (1) Whether the agency or program as carried
10 out by the agency is cost-effective and achieves its
11 stated purpose or goals.

12 (2) The extent to which any trends, develop-
13 ments, or emerging conditions affect the need to
14 change the mission of the agency or program or the
15 way that the mission is being carried out by the
16 agency.

17 (3) The extent to which the agency or program
18 duplicates or conflicts with other Federal agencies,
19 State and local government, or the private sector.

20 (4) The extent to which the agency coordinates
21 effectively with State and local governments in per-
22 forming the functions of the program.

23 (5) The extent to which changes in the author-
24 izing statutes of the agency or program would im-
25 prove the performance of the agency or program.

1 (6) The extent to which changes in the manage-
2 ment structure of the agency or program or its
3 placement in the Executive Branch are needed to
4 improve the overall efficiency, effectiveness, or ac-
5 countability of executive branch operations.

6 (g) AGENCY AND PROGRAM INVENTORY.—

7 (1) PREPARATION.—Within 6 months after the
8 date of the enactment of this Act, the Director of
9 the Congressional Research Service, with the assist-
10 ance of the Comptroller General, shall prepare an in-
11 ventory of all executive branch agencies and pro-
12 grams. Six months prior to the time that the Sunset
13 Commission is scheduled to begin its review of an
14 agency or program, the Director of the Congres-
15 sional Research Service, with the assistance of the
16 Comptroller General, shall update the section of the
17 inventory pertaining to that agency or program.

18 (2) PURPOSE.—The purpose of the agency and
19 program inventory is to advise and assist the Sunset
20 Commission, the President, and Congress in car-
21 rying out the requirements of this Act.

22 (3) INVENTORY CONTENT.—The agency and
23 program inventory shall include for each agency and
24 program a list of citations of all authorizing statutes
25 of the agency or program.

1 (h) EXEMPTION.—

2 (1) REGULATIONS.—No regulations to protect
3 the environment, health, safety, or civil rights shall
4 be abolished under this Act.

5 (2) ENFORCEMENT.—No program related to
6 enforcing regulations referred to in paragraph (1)
7 shall be abolished under this Act unless provision is
8 made for the continued enforcement of those regula-
9 tions.

10 (i) SUBMISSION OF COMMISSION REPORT TO CON-
11 GRESS BY PRESIDENT.—Not later than September 1 of
12 each year, the President shall submit to Congress the re-
13 port submitted to the President by the Commission pursu-
14 ant to subsection (e)(3) and any legislation needed to ac-
15 complish the recommendations of the Sunset Commission.

16 **SEC. 3. EXPEDITED CONGRESSIONAL REVIEW PROCE-**
17 **DURES.**

18 (a) DEFINITIONS.—

19 (1) RESOLUTION OF APPROVAL.—For the pur-
20 poses of this section, the term “resolution” means
21 only a joint resolution—

22 (A) which does not have a preamble;

23 (B) the title of which is as follows: “Joint
24 resolution approving the schedule for reviewing
25 the performance of, and need for, executive

1 branch agencies and programs under the Fed-
2 eral Agency Performance Review and Sunset
3 Act”;

4 (C) the matter after the resolving clause of
5 which is as follows: “That Congress approves
6 the schedule for reviewing the performance of,
7 and need for, executive branch agencies and
8 programs on _____ under the Federal
9 Agency Performance Review and Sunset Act.”,
10 the blank space being filled in with the appro-
11 priate date; and

12 (D) the remaining text of which consists of
13 the complete schedule for the reviews submitted
14 under section 2(a).

15 (2) LEGISLATIVE DAY.—For the purposes of
16 this section, the term “legislative day” refers to any
17 day on which either House of Congress is in session.

18 (b) INTRODUCTION AND REFERENCE OF RESOLU-
19 TION.—

20 (1) Not later than the first day of session fol-
21 lowing the day on which a resolution is submitted to
22 Congress under section (2)(a)(1), the resolution
23 shall be introduced (by request)—

24 (A) in the House of Representatives by the
25 chairman of the Committee on Government Re-

1 form, or by a member or members of the House
2 designated by such chairman; and

3 (B) in the Senate by the chairman of the
4 Committee on Homeland Security and Govern-
5 mental Affairs, or by a member of members of
6 the Senate designated by such chairman.

7 (2) The resolution shall be referred to the Com-
8 mittee on Government Reform of the House of Rep-
9 resentatives and the Committee on on Homeland Se-
10 curity and Governmental Affairs of the Senate (and
11 all resolutions with respect to the same schedule for
12 reviews shall be referred to the same committee) by
13 the Speaker of the House or the President of the
14 Senate, as the case may be. The committee shall
15 makes its recommendations to the House of Rep-
16 resentatives or the Senate, respectively, within 75
17 calendar days of continuous session of Congress fol-
18 lowing the date of such resolutions's introduction.

19 (c) EXPEDITED PROCEDURES RELATING TO DIS-
20 CHARGE OF COMMITTEE CONSIDERING RESOLUTION,
21 PROCEDURE AFTER REPORT OR DISCHARGE OF COM-
22 MITTEE, DEBATE, AND VOTE ON FINAL PASSAGE.—Sec-
23 tions 911 and 912 of title 5, United States Code, shall
24 apply to a resolution introduced pursuant to subsection
25 (b)(1). In applying such sections—

1 (1) the term “resolution” means a resolution as
2 defined in subsection (a)(1) of this section; and

3 (2) the term “reorganization plan” means a leg-
4 islative proposal containing a schedule for review
5 submitted under section 2(a).

6 (d) EFFECTIVE DATE, PUBLICATION, EFFECT ON
7 OTHER LAWS, PENDING LEGAL PROCEEDINGS, AND UN-
8 EXPENDED APPROPRIATIONS.—Sections 906 and 907 of
9 title 5, United States Code, shall apply to a resolution in-
10 troduced pursuant to subsection (b)(1). In applying such
11 sections—

12 (1) the term “resolution” means a resolution as
13 defined in subsection (a)(1) of this section; and

14 (2) the term “reorganization plan” means a leg-
15 islative proposal containing a schedule for review
16 submitted under section 2(a).

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