

109TH CONGRESS
1ST SESSION

H. R. 974

To establish the Corporate Subsidy Reform Commission to review 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

FEBRUARY 17, 2005

Mr. SMITH of Washington (for himself, Mr. SHAYS, Mr. SHERMAN, Mr. ENGLISH of Pennsylvania, Mr. KIND, Mr. WOLF, Mr. EMANUEL, Mr. HEFLEY, and Mr. DAVIS of Florida) introduced the following bill; which was referred to the Committee on 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 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 that is exempt from
19 taxation under section 501(a) of the Inter-
20 nal Revenue Code of 1986; or

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

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

25 (2) does not include a payment, benefit, service,
26 or tax advantage that is awarded for the purposes

1 of research and development in the broad public in-
2 terest on the basis of a peer reviewed or other open,
3 competitive, merit-based procedure.

4 **SEC. 5. THE COMMISSION.**

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

9 (b) DUTIES.—The Commission shall—

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

13 (2) review inequitable Federal subsidies; and

14 (3) submit the report required under section
15 6(c) to the Congress, making recommendations re-
16 garding the termination, modification, or retention
17 of inequitable Federal subsidies.

18 (c) LIMITATIONS.—

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

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

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

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

6 (B) shall not recommend the termination
7 of any Federal agency or department.

8 (d) APPOINTMENT.—

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

11 (A) 2 shall be appointed by the Speaker of
12 the House of Representatives;

13 (B) 2 shall be appointed by the minority
14 leader of the House of Representatives;

15 (C) 2 shall be appointed by the majority
16 leader of the Senate, one of whom shall be des-
17 ignated by the majority leader to serve as a co-
18 chair; and

19 (D) 2 shall be appointed by the minority
20 leader of the Senate, one of whom shall be des-
21 ignated by the minority leader to serve as a co-
22 chair.

23 (2) CONSULTATION REQUIRED.—The Speaker
24 of the House of Representatives, the minority leader
25 of the House of Representatives, the majority leader

1 of the Senate, and the minority leader of the Senate
2 shall consult with one another before making any
3 appointments under this subsection in order to
4 achieve, to the maximum extent possible, fair and
5 equitable representation of various points of view
6 with respect to the matters to be studied by the
7 Commission under subsection (b).

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

12 (4) LIMITATION ON FEDERAL OFFICER.—No
13 officer or employee of a Federal agency may serve
14 as a member of the Commission.

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

17 (e) MEETINGS.—

18 (1) INITIAL MEETING.—No later than April 1,
19 2006, the Commission shall conduct its first meet-
20 ing.

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

1 mation, and deliberations of the Commission shall be
2 available, upon request, to the Chairman and rank-
3 ing minority member of the relevant Committee of
4 the Congress having jurisdiction to report legislation
5 regarding the subject matter thereof.

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

8 (g) PAY AND TRAVEL EXPENSES.—

9 (1) PAY.—Each member of the Commission,
10 other than the co-chairs, shall be paid at a rate
11 equal to the daily equivalent of the rate of basic pay
12 for level IV of the Executive Schedule under section
13 5315 of title 5, United States Code, for each day
14 (including travel time) during which the member is
15 engaged in the actual performance of duties vested
16 in the Commission.

17 (2) CO-CHAIRS.—The co-chairs shall be paid for
18 each day referred to in paragraph (1) at a rate equal
19 to the daily equivalent of the rate of basic pay for
20 level III of the Executive Schedule under section
21 5314 of title 5, United States Code.

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

1 (h) DIRECTOR OF STAFF.—

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

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

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

19 (i) STAFF.—

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

24 (2) APPOINTMENTS.—The Director may make
25 such appointments without regard to the provisions

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

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

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

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

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

1 (B) ANALYSTS.—No more than one-fifth of
2 the professional analysts of the Commission
3 may be persons detailed from a Federal agency
4 that deals directly or indirectly with the pro-
5 grams or laws the Commission intends to re-
6 view.

7 (C) LEAD ANALYST.—No person detailed
8 from a Federal agency to the Commission may
9 be assigned as the lead professional analyst
10 with respect to an entity or industry that is or
11 might be affected by the programs or laws the
12 Commission intends to review if the person has
13 been involved in regulatory or policy-making de-
14 cisions affecting any such entity or industry in
15 the 12 months preceding such assignment.

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

23 (E) FEDERAL OFFICER OR EMPLOYEE.—
24 No officer or employee of a Federal agency
25 may—

1 (i) prepare any report concerning the
2 effectiveness, fitness, or efficiency of the
3 performance on the staff of the Commis-
4 sion of any person detailed from a Federal
5 agency to that staff;

6 (ii) review the preparation of such re-
7 port; or

8 (iii) approve or disapprove such a re-
9 port.

10 (F) LIMITATION ON STAFF SIZE.—(i) Sub-
11 ject to clause (ii), there may not be more than
12 25 persons (including any detailees) on the
13 staff at any time.

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

21 (G) PROHIBITION OF COMPENSATION.—
22 Members of the staff of the Commission who
23 are full-time officers or employees of the United
24 States may not receive additional pay, allow-

1 ances, or benefits by reason of their service for
2 the Commission.

3 (6) ASSISTANCE.—

4 (A) IN GENERAL.—The Comptroller Gen-
5 eral of the United States may provide assist-
6 ance, including the detailing of employees, to
7 the Commission in accordance with an agree-
8 ment entered into with the Commission.

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

17 (j) OTHER AUTHORITY.—

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

22 (2) LEASING.—The Commission may lease
23 space and acquire personal property.

24 (3) LIMITATION ON CONTRACT AUTHORITY.—
25 The authority to enter into contracts under this sub-

1 section shall be available only to the extent or in the
2 amounts provided in advance in appropriation Acts.

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

6 (l) TERMINATION.—The Commission shall terminate
7 on January 1, 2008.

8 **SEC. 6. PROCEDURE FOR MAKING RECOMMENDATIONS TO**
9 **TERMINATE CORPORATE SUBSIDIES.**

10 (a) AGENCY PLAN.—

11 (1) IN GENERAL.—The head of each Federal
12 department or agency shall include in the documents
13 submitted in support of the budget of the agency for
14 fiscal year 2007 a list identifying all programs and
15 laws administered by that department or agency
16 that the head of the department or agency deter-
17 mines provide inequitable Federal subsidies.

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

19 (A) a detailed description of each program
20 or law in question;

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

1 (C) a statement summarizing the legisla-
2 tive history and purpose of such payment, ben-
3 efit, service, or tax advantage, and the laws or
4 policies directly or indirectly giving rise to the
5 need for such programs or law; and

6 (D) a recommendation to the Commission
7 regarding the termination, modification, or re-
8 tention of each inequitable Federal subsidy
9 identified in the list.

10 (b) REVIEW BY THE COMMISSION.—

11 (1) IN GENERAL.—At any time after the sub-
12 mission of the budget documents to the Congress,
13 the Commission shall conduct public hearings on the
14 termination, modification, or retention of inequitable
15 Federal subsidies, including the recommendations in-
16 cluded in the lists required under subsection (a).

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

20 (c) REPORT AND RECOMMENDATIONS OF COMMIS-
21 SION.—

22 (1) REPORT TO CONGRESS.—

23 (A) REQUIREMENT.—No later than March
24 31, 2007, the Commission shall submit a report
25 to the Congress containing the Commission's

1 findings and recommendations for termination,
2 modification, or retention of each of the inequi-
3 table Federal subsidies reviewed by the Com-
4 mission.

5 (B) CONTENTS.—Such findings and rec-
6 ommendations shall specify—

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

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

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

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

23 (A) the reasons and justifications for the
24 recommendations of the Commission;

1 (B) to the maximum extent practicable,
2 the estimated fiscal, economic, and budgetary
3 impact of accepting its recommendations;

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

6 (D) all actions, circumstances, and consid-
7 erations relating to or bearing upon the rec-
8 ommendations and to the maximum extent
9 practicable, the estimated effect of the rec-
10 ommendations upon the policies, laws and pro-
11 grams directly or indirectly affected by the rec-
12 ommendations; and

13 (E) the specific changes in Federal stat-
14 utes necessary to implement the recommenda-
15 tions, including citation of the relevant provi-
16 sions of existing law.

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

24 (4) FEDERAL REGISTER.—The report sub-
25 mitted under this subsection shall be published in

1 the first issue of the Federal Register after such
2 submission.

3 (5) CHANGES IN AGENCY OR DEPARTMENT
4 RECOMMENDATIONS.—

5 (A) IN GENERAL.—Subject to the deadline
6 in paragraph (1) and to subparagraphs (B) and
7 (C) of this paragraph, in making its rec-
8 ommendations, the Commission may make
9 changes in any of the recommendations made
10 by a department or agency if the Commission
11 determines that such department or agency, in
12 treating any matter as an inequitable Federal
13 subsidy, deviated substantially from the provi-
14 sions of section 4.

15 (B) LIMITATION.—The Commission may
16 make a change in the recommendations made
17 by a department or agency, only if the Commis-
18 sion—

19 (i) makes the determination required
20 under subparagraph (A); and

21 (ii) conducts a public hearing on the
22 Commission's proposed changes.

23 (C) APPLICATION OF LIMITATION.—Sub-
24 paragraph (B) shall apply only to a change by

1 the Commission in a department or agency rec-
2 ommendation that would—

3 (i) add or delete a payment, benefit,
4 service, or tax advantage to or from, re-
5 spectively, the list recommended for termi-
6 nation;

7 (ii) add or delete a payment, benefit,
8 service, or tax advantage to or from, re-
9 spectively, the list recommended for modi-
10 fication; or

11 (iii) increase or decrease the extent of
12 a recommendation to modify a payment,
13 benefit, service, or tax advantage included
14 in a department's or agency's rec-
15 ommendation.

16 (D) JUSTIFICATION.—The Commission
17 shall explain and justify in the report submitted
18 to the Congress under this subsection any rec-
19 ommendation made by the Commission that is
20 different from a recommendation made by an
21 agency under subsection (a).

22 (6) PROVISION OF INFORMATION TO MEMBERS
23 OF CONGRESS.—After March 31, 2007, the Commis-
24 sion shall, upon request, promptly provide to any

1 Member of Congress the information used by the
2 Commission in making its recommendations.

3 (7) COMPTROLLER GENERAL.—The Comp-
4 troller General shall—

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

10 (B) no later than 60 days after April 1,
11 2006, or 60 days after the public release of the
12 President’s budget documents for fiscal year
13 2007, whichever is earlier, submit to the Con-
14 gress and to the Commission a report con-
15 taining a detailed analysis of the list, state-
16 ments, and recommendations of each depart-
17 ment or agency.

18 **SEC. 7. CONGRESSIONAL ACTION ON COMMISSION REC-**
19 **COMMENDATIONS.**

20 It is the sense of the Congress that, following submis-
21 sion of the report of the Corporate Subsidy Reform Com-
22 mission under section 6, the House of Representatives and
23 the Senate should promptly consider legislation that would

- 1 enact changes in Federal statutes necessary to implement
- 2 the recommendations of the Commission.

