

116TH CONGRESS  
1ST SESSION

# H. R. 39

To provide for the periodic review of the efficiency and public need for Federal agencies, to establish a commission for the purpose of reviewing the efficiency and public need of such agencies, and to provide for the abolishment of agencies for which a public need does not exist.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

Mr. HUDSON introduced the following bill; which was referred to the  
Committee on Oversight and Reform

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## A BILL

To provide for the periodic review of the efficiency and public need for Federal agencies, to establish a commission for the purpose of reviewing the efficiency and public need of such agencies, and to provide for the abolishment of agencies for which a public need does not exist.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Federal Sunset Act of 2019”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Review and abolishment of Federal agencies.
- Sec. 3. Establishment of Commission.
- Sec. 4. Review of efficiency and need for Federal agencies.
- Sec. 5. Criteria for review.
- Sec. 6. Commission oversight.
- Sec. 7. Rulemaking authority.
- Sec. 8. Relocation of Federal employees.
- Sec. 9. Program inventory.
- Sec. 10. Definition of agency.
- Sec. 11. Offset of amounts appropriated.

1 **SEC. 2. REVIEW AND ABOLISHMENT OF FEDERAL AGEN-**  
 2 **CIES.**

3 (a) SCHEDULE FOR REVIEW.—Not later than one  
 4 year after the date of the enactment of this Act, the Fed-  
 5 eral Agency Sunset Commission established under section  
 6 3 (in this Act referred to as the “Commission”) shall sub-  
 7 mit to Congress a schedule for review by the Commission,  
 8 at least once every 12 years (or less, if determined appro-  
 9 priate by Congress), of the abolishment or reorganization  
 10 of each agency.

11 (b) REVIEW OF AGENCIES PERFORMING RELATED  
 12 FUNCTIONS.—In determining the schedule for review of  
 13 agencies under subsection (a), the Commission shall pro-  
 14 vide that agencies that perform similar or related func-  
 15 tions be reviewed concurrently to promote efficiency and  
 16 consolidation.

17 (c) ABOLISHMENT OF AGENCIES.—

18 (1) IN GENERAL.—Each agency shall—

19 (A) be reviewed according to the schedule  
 20 created pursuant to this section; and

1 (B) be abolished not later than one year  
2 after the date that the Commission completes  
3 its review of the agency pursuant to such sched-  
4 ule, unless the agency is reauthorized by the  
5 Congress.

6 (2) EXTENSION.—The deadline for abolishing  
7 an agency may be extended for an additional two  
8 years after the date described in paragraph (1)(B)  
9 if the Congress enacts legislation extending such  
10 deadline by a vote of a super majority of the House  
11 of Representatives and the Senate.

12 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

13 (a) ESTABLISHMENT.—There is established a com-  
14 mission to be known as the “Federal Agency Sunset Com-  
15 mission”.

16 (b) COMPOSITION.—The Commission shall be com-  
17 posed of 12 members (in this Act referred to as the “mem-  
18 bers”) who shall be appointed as follows:

19 (1) Six members shall be appointed by the  
20 Speaker of the House of Representatives, one of  
21 whom may include the Speaker of the House of Rep-  
22 resentatives, with minority members appointed with  
23 the consent of the minority leader of the House of  
24 Representatives.

1           (2) Six members shall be appointed by the ma-  
2           jority leader of the Senate, one of whom may include  
3           the majority leader of the Senate, with minority  
4           members appointed with the consent of the minority  
5           leader of the Senate.

6           (c) QUALIFICATIONS OF MEMBERS.—

7           (1) IN GENERAL.—(A) Of the members ap-  
8           pointed under subsection (b)(1), four shall be mem-  
9           bers of the House of Representatives (not more than  
10          two of whom may be of the same political party),  
11          and two shall be an individual described in subpara-  
12          graph (C).

13          (B) Of the members appointed under subsection  
14          (b)(2), four shall be members of the Senate (not  
15          more than two of whom may be of the same political  
16          party) and two shall be an individual described in  
17          subparagraph (C).

18          (C) An individual under this subparagraph is  
19          an individual—

20                  (i) who is not a member of Congress; and

21                  (ii) with expertise in the operation and ad-  
22          ministration of Government programs.

23          (2) CONTINUATION OF MEMBERSHIP.—If a  
24          member was appointed to the Commission as a  
25          Member of Congress and the member ceases to be

1 a Member of Congress, that member shall cease to  
2 be a member of the Commission. The validity of any  
3 action of the Commission shall not be affected as a  
4 result of a member becoming ineligible to serve as  
5 a member for the reasons described in this para-  
6 graph.

7 (d) INITIAL APPOINTMENTS.—All initial appoint-  
8 ments to the Commission shall be made not later than 90  
9 days after the date of the enactment of this Act.

10 (e) CHAIRMAN; VICE CHAIRMAN.—

11 (1) INITIAL CHAIRMAN.—An individual shall be  
12 designated by the Speaker of the House of Rep-  
13 resentatives from among the members initially ap-  
14 pointed under subsection (b)(1) to serve as chairman  
15 of the Commission for a period of 2 years.

16 (2) INITIAL VICE-CHAIRMAN.—An individual  
17 shall be designated by the majority leader of the  
18 Senate from among the individuals initially ap-  
19 pointed under subsection (b)(2) to serve as vice-  
20 chairman of the Commission for a period of two  
21 years.

22 (3) ALTERNATE APPOINTMENTS OF CHAIRMEN  
23 AND VICE-CHAIRMEN.—Following the termination of  
24 the two-year period described in paragraphs (1) and  
25 (2), the Speaker and the majority leader shall alter-

1 nate every two years in appointing the chairman and  
2 vice-chairman of the Commission.

3 (f) TERMS OF MEMBERS.—

4 (1) MEMBERS OF CONGRESS.—Each member  
5 appointed to the Commission who is a member of  
6 Congress shall serve for a term of six years, except  
7 that, of the members first appointed under para-  
8 graphs (1) and (2) of subsection (b), 2 members  
9 shall be appointed to serve a term of three years  
10 under each such paragraph.

11 (2) OTHER MEMBERS.—Each member of the  
12 Commission who is not a member of Congress shall  
13 serve for a term of three years.

14 (3) TERM LIMIT.—(A) A member of the Com-  
15 mission who is a member of Congress and who  
16 serves more than three years of a term may not be  
17 appointed to another term as a member.

18 (B) A member of the Commission who is not a  
19 member of Congress and who serves as a member of  
20 the Commission for more than 56 months may not  
21 be appointed to another term as a member.

22 (g) POWERS OF COMMISSION.—

23 (1) HEARINGS AND SESSIONS.—The Commis-  
24 sion may, for the purpose of carrying out this Act,  
25 hold such hearings, sit and act at such times and

1 places, take such testimony, and receive such evi-  
2 dence as the Commission considers appropriate. The  
3 Commission may administer oaths to witnesses ap-  
4 pearing before it.

5 (2) OBTAINING INFORMATION.—The Commis-  
6 sion may secure directly from any department or  
7 agency of the United States information necessary  
8 to enable it to carry out its duties under this Act.  
9 Upon request of the Chairman, the head of that de-  
10 partment or agency shall furnish that information to  
11 the Commission in a full and timely manner.

12 (3) SUBPOENA POWER.—(A) The Commission  
13 may issue a subpoena to require the attendance and  
14 testimony of witnesses and the production of evi-  
15 dence relating to any matter under investigation by  
16 the Commission.

17 (B) If a person refuses to obey an order or sub-  
18 poena of the Commission that is issued in connection  
19 with a Commission proceeding, the Commission may  
20 apply to the United States district court in the judi-  
21 cial district in which the proceeding is held for an  
22 order requiring the person to comply with the sub-  
23 poena or order.

24 (4) IMMUNITY.—The Commission is an agency  
25 of the United States for purposes of part V of title

1 18, United States Code (relating to immunity of wit-  
2 nesses).

3 (5) CONTRACT AUTHORITY.—The Commission  
4 may contract with and compensate government and  
5 private agencies or persons for services without re-  
6 gard to section 6101 of title 41, United States Code.

7 (h) COMMISSION PROCEDURES.—

8 (1) MEETINGS.—The Commission shall meet at  
9 the call of the Chairman.

10 (2) QUORUM.—Seven members of the Commis-  
11 sion shall constitute a quorum but a lesser number  
12 may hold hearings.

13 (i) PERSONNEL MATTERS.—

14 (1) COMPENSATION.—Members shall not be  
15 paid by reason of their service as members.

16 (2) TRAVEL EXPENSES.—Each member shall  
17 receive travel expenses, including per diem in lieu of  
18 subsistence, in accordance with sections 5702 and  
19 5703 of title 5, United States Code.

20 (3) DIRECTOR.—The Commission shall have a  
21 Director who shall be appointed by the Chairman.  
22 The Director shall be paid at a rate not to exceed  
23 the maximum rate of basic pay payable for GS–15  
24 of the General Schedule.



1           (4) STAFF.—The Director may appoint and fix  
2 the pay of additional personnel as the Director con-  
3 siders appropriate.

4           (5) APPLICABILITY OF CERTAIN CIVIL SERVICE  
5 LAWS.—The Director and staff of the Commission  
6 shall be appointed subject to the provisions of title  
7 5, United States Code, governing appointments in  
8 the competitive service, and shall be paid in accord-  
9 ance with the provisions of chapter 51 and sub-  
10 chapter III of chapter 53 of that title relating to  
11 classification and General Schedule pay rates.

12       (j) OTHER ADMINISTRATIVE MATTERS.—

13           (1) POSTAL AND PRINTING SERVICES.—The  
14 Commission may use the United States mails and  
15 obtain printing and binding services in the same  
16 manner and under the same conditions as other de-  
17 partments and agencies of the United States.

18           (2) ADMINISTRATIVE SUPPORT SERVICES.—  
19 Upon the request of the Commission, the Adminis-  
20 trator of General Services shall provide to the Com-  
21 mission, on a reimbursable basis, the administrative  
22 support services necessary for the Commission to  
23 carry out its duties under this Act.

24           (3) EXPERTS AND CONSULTANTS.—The Com-  
25 mission may procure temporary and intermittent

1 services under section 3109(b) of title 5, United  
2 States Code.

3 (k) SUNSET OF COMMISSION.—The Commission shall  
4 terminate on December 31, 2037, unless reauthorized by  
5 Congress.

6 **SEC. 4. REVIEW OF EFFICIENCY AND NEED FOR FEDERAL**  
7 **AGENCIES.**

8 (a) IN GENERAL.—The Commission shall review the  
9 efficiency and public need for each agency in accordance  
10 with the criteria described in section 5.

11 (b) RECOMMENDATIONS; REPORT TO CONGRESS.—  
12 The Commission shall submit to Congress and the Presi-  
13 dent not later than September 1 of each year a report  
14 containing—

15 (1) an analysis of the efficiency of operation  
16 and public need for each agency to be reviewed in  
17 the year in which the report is submitted pursuant  
18 to the schedule submitted to Congress under section  
19 2;

20 (2) recommendations on whether each such  
21 agency should be abolished or reorganized;

22 (3) recommendations on whether the functions  
23 of any other agencies should be consolidated, trans-  
24 ferred, or reorganized in an agency to be reviewed  
25 in the year in which the report is submitted pursu-

1 ant to the schedule submitted to Congress under  
2 section 2; and

3 (4) recommendations for administrative and  
4 legislative action with respect to each such agency,  
5 but not including recommendations for appropriation  
6 levels.

7 (c) DRAFT LEGISLATION.—The Commission shall  
8 submit to Congress and the President not later than Sep-  
9 tember 1 of each year a draft of legislation to carry out  
10 the recommendations of the Commission under subsection  
11 (b).

12 (d) INFORMATION GATHERING.—The Commission  
13 shall—

14 (1) conduct public hearings on the abolishment  
15 of each agency reviewed under subsection (b);

16 (2) provide an opportunity for public comment  
17 on the abolishment of each such agency;

18 (3) require the agency to provide information to  
19 the Commission as appropriate; and

20 (4) consult with the Government Accountability  
21 Office, the Office of Management and Budget, the  
22 Comptroller General of the United States, and the  
23 chairman and ranking minority members of the com-  
24 mittees of Congress with oversight responsibility for

1 the agency being reviewed regarding the operation of  
2 the agency.

3 (e) USE OF PROGRAM INVENTORY.—The Commis-  
4 sion shall use the program inventory prepared under sec-  
5 tion 9 in reviewing the efficiency and public need for each  
6 agency under subsection (a).

7 **SEC. 5. CRITERIA FOR REVIEW.**

8 The Commission shall evaluate the efficiency and  
9 public need for each agency pursuant to section 4 using  
10 the following criteria:

11 (1) The effectiveness, and the efficiency of the  
12 operation of, the programs carried out by each such  
13 agency.

14 (2) Whether the programs carried out by the  
15 agency are cost-effective.

16 (3) Whether the agency has acted outside the  
17 scope of its original authority, and whether the origi-  
18 nal objectives of the agency have been achieved.

19 (4) Whether less restrictive or alternative meth-  
20 ods exist to carry out the functions of the agency.

21 (5) The extent to which the jurisdiction of, and  
22 the programs administered by, the agency duplicate  
23 or conflict with the jurisdiction and programs of  
24 other agencies.

1           (6) The potential benefits of consolidating pro-  
2           grams administered by the agency with similar or  
3           duplicative programs of other agencies, and the po-  
4           tential for consolidating such programs.

5           (7) The number and types of beneficiaries or  
6           persons served by programs carried out by the agen-  
7           cy.

8           (8) The extent to which any trends, develop-  
9           ments, and emerging conditions that are likely to af-  
10          fect the future nature and extent of the problems or  
11          needs that the programs carried out by the agency  
12          are intended to address.

13          (9) The extent to which the agency has com-  
14          plied with the provisions contained in the Govern-  
15          ment Performance and Results Act of 1993 (Public  
16          Law 103–62; 107 Stat. 285).

17          (10) The promptness and effectiveness with  
18          which the agency seeks public input and input from  
19          State and local governments on the efficiency and ef-  
20          fectiveness of the performance of the functions of  
21          the agency.

22          (11) Whether the agency has worked to enact  
23          changes in the law that are intended to benefit the  
24          public as a whole rather than the specific business,  
25          institution, or individuals that the agency regulates.

1           (12) The extent to which the agency has en-  
2           couraged participation by the public as a whole in  
3           making its rules and decisions rather than encour-  
4           aging participation solely by those it regulates.

5           (13) The extent to which the public participa-  
6           tion in rulemaking and decisionmaking of the agency  
7           has resulted in rules and decisions compatible with  
8           the objectives of the agency.

9           (14) The extent to which the agency complies  
10          with section 552 of title 5, United States Code (com-  
11          monly known as the “Freedom of Information Act”).

12          (15) The extent to which the agency complies  
13          with equal employment opportunity requirements re-  
14          garding equal employment opportunity.

15          (16) The extent of the regulatory, privacy, and  
16          paperwork impacts of the programs carried out by  
17          the agency.

18          (17) The extent to which the agency has coordi-  
19          nated with State and local governments in per-  
20          forming the functions of the agency.

21          (18) The potential effects of abolishing the  
22          agency on State and local governments.

23          (19) The extent to which changes are necessary  
24          in the authorizing statutes of the agency in order

1 that the functions of the agency can be performed  
2 in the most efficient and effective manner.

3 **SEC. 6. COMMISSION OVERSIGHT.**

4 (a) MONITORING OF IMPLEMENTATION OF REC-  
5 OMMENDATIONS.—The Commission shall monitor imple-  
6 mentation of laws enacting provisions that incorporate rec-  
7 ommendations of the Commission with respect to abolish-  
8 ment or reorganization of agencies.

9 (b) MONITORING OF OTHER RELEVANT LEGISLA-  
10 TION.—

11 (1) IN GENERAL.—The Commission shall review  
12 and report to Congress on all legislation introduced  
13 in either house of Congress that would establish—

14 (A) a new agency; or

15 (B) a new program to be carried out by an  
16 existing agency.

17 (2) REPORT TO CONGRESS.—The Commission  
18 shall include in each report submitted to Congress  
19 under paragraph (1) an analysis of whether—

20 (A) the functions of the proposed agency  
21 or program could be carried out by one or more  
22 existing agencies;

23 (B) the functions of the proposed agency  
24 or program could be carried out in a less re-

1           strictive manner than the manner proposed in  
2           the legislation; and

3                   (C) the legislation provides for public input  
4           regarding the performance of functions by the  
5           proposed agency or program.

6 **SEC. 7. RULEMAKING AUTHORITY.**

7           The Commission may promulgate such rules as nec-  
8           essary to carry out this Act.

9 **SEC. 8. RELOCATION OF FEDERAL EMPLOYEES.**

10          If the position of an employee of an agency is elimi-  
11          nated as a result of the abolishment of an agency in ac-  
12          cordance with this Act, there shall be a reasonable effort  
13          to relocate such employee to a position within another  
14          agency.

15 **SEC. 9. PROGRAM INVENTORY.**

16          (a) PREPARATION.—The Comptroller General of the  
17          United States and the Director of the Congressional  
18          Budget Office, in cooperation with the Director of the  
19          Congressional Research Service, shall prepare an inven-  
20          tory of Federal programs (in this Act referred to as the  
21          “program inventory”) within each agency.

22          (b) PURPOSE.—The purpose of the program inven-  
23          tory is to advise and assist the Congress and the Commis-  
24          sion in carrying out the requirements of this Act. Such  
25          inventory shall not in any way bind the committees of the



1 Senate or the House of Representatives with respect to  
2 their responsibilities under this Act and shall not infringe  
3 on the legislative and oversight responsibilities of such  
4 committees. The Comptroller General shall compile and  
5 maintain the inventory and the Director of the Congres-  
6 sional Budget Office shall provide budgetary information  
7 for inclusion in the inventory.

8 (c) INVENTORY CONTENT.—The program inventory  
9 shall set forth for each program each of the following mat-  
10 ters:

11 (1) The specific provision or provisions of law  
12 authorizing the program.

13 (2) The committees of the Senate and the  
14 House of Representatives which have legislative or  
15 oversight jurisdiction over the program.

16 (3) A brief statement of the purpose or pur-  
17 poses to be achieved by the program.

18 (4) The committees which have jurisdiction over  
19 legislation providing new budget authority for the  
20 program, including the appropriate subcommittees of  
21 the Committees on Appropriations of the Senate and  
22 the House of Representatives.

23 (5) The agency and, if applicable, the subdivi-  
24 sion thereof responsible for administering the pro-  
25 gram.

1           (6) The grants-in-aid, if any, provided by such  
2 program to State and local governments.

3           (7) The next reauthorization date for the pro-  
4 gram.

5           (8) A unique identification number which links  
6 the program and functional category structure.

7           (9) The year in which the program was origi-  
8 nally established and, where applicable, the year in  
9 which the program expires.

10          (10) Where applicable, the year in which new  
11 budget authority for the program was last author-  
12 ized and the year in which current authorizations of  
13 new budget authority expire.

14          (d) BUDGET AUTHORITY.—The report also shall set  
15 forth for each program whether the new budget authority  
16 provided for such programs is—

17           (1) authorized for a definite period of time;

18           (2) authorized in a specific dollar amount but  
19 without limit of time;

20           (3) authorized without limit of time or dollar  
21 amounts;

22           (4) not specifically authorized; or

23           (5) permanently provided,

24 as determined by the Director of the Congressional Budg-  
25 et Office.

1 (e) CBO INFORMATION.—For each program or group  
2 of programs, the program inventory also shall include in-  
3 formation prepared by the Director of the Congressional  
4 Budget Office indicating each of the following matters:

5 (1) The amounts of new budget authority au-  
6 thorized and provided for the program for each of  
7 the preceding four fiscal years and, where applicable,  
8 the four succeeding fiscal years.

9 (2) The functional and subfunctional category  
10 in which the program is presently classified and was  
11 classified under the fiscal year 2017 budget.

12 (3) The identification code and title of the ap-  
13 propriation account in which budget authority is  
14 provided for the program.

15 (f) MUTUAL EXCHANGE OF INFORMATION.—The  
16 Government Accountability Office, the Congressional Re-  
17 search Service, and the Congressional Budget Office shall  
18 permit the mutual exchange of available information in  
19 their possession which would aid in the compilation of the  
20 program inventory.

21 (g) ASSISTANCE BY EXECUTIVE BRANCH.—The Of-  
22 fice of Management and Budget, and the Executive agen-  
23 cies and the subdivisions thereof shall, to the extent nec-  
24 essary and possible, provide the Government Account-

1 ability Office with assistance requested by the Comptroller  
2 General in the compilation of the program inventory.

3 **SEC. 10. DEFINITION OF AGENCY.**

4 As used in this Act, the term “agency” has the mean-  
5 ing given that term by section 105 of title 5, United States  
6 Code, except that such term includes an advisory com-  
7 mittee as that term is defined in section 3(2) of the Fed-  
8 eral Advisory Committee Act (5 U.S.C. App 3(2)).

9 **SEC. 11. OFFSET OF AMOUNTS APPROPRIATED.**

10 Amounts appropriated to carry out this Act shall be  
11 offset by a reduction in amounts appropriated to carry out  
12 programs of other Federal agencies.

○