

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 2142
OFFERED BY MR. SCHOCK OF ILLINOIS**

At the end of the bill, add the following new sections:

1 SEC. 9. FEDERAL PROGRAM SUNSET COMMISSION.

2 (a) REVIEW AND ABOLISHMENT OF FEDERAL PRO-
3 GRAMS.—

4 (1) SCHEDULE FOR REVIEW.—Not later than
5 one year after the date of the enactment of this Act,
6 the Federal Program Sunset Commission established
7 under subsection (b) (in this section referred to as
8 the “Commission”) shall submit to Congress a
9 schedule for review by the Commission of the abol-
10 ishment or reorganization of each Federal program.

11 (2) REVIEW OF FEDERAL PROGRAMS PER-
12 FORMING RELATED FUNCTIONS.—In determining
13 the schedule for review of Federal programs under
14 paragraph (1), the Commission shall provide that
15 Federal programs that perform similar or related
16 functions be reviewed concurrently to promote effi-
17 ciency and consolidation.

18 (3) ABOLISHMENT OF FEDERAL PROGRAMS.—

1 (A) IN GENERAL.—Each Federal program
2 shall—

3 (i) be reviewed according to the sched-
4 ule created pursuant to this subsection;
5 and

6 (ii) be abolished not later than one
7 year after the date that the Commission
8 completes its review of the Federal pro-
9 gram pursuant to such schedule, unless the
10 Federal program is reauthorized by the
11 Congress.

12 (B) EXTENSION.—The deadline for abol-
13 ishing a Federal program may be extended for
14 an additional two years after the date described
15 in subparagraph (A)(ii) if the Congress enacts
16 legislation extending such deadline by a vote of
17 a super majority of the House of Representa-
18 tives and the Senate.

19 (b) ESTABLISHMENT OF COMMISSION.—

20 (1) ESTABLISHMENT.—There is established a
21 commission to be known as the “Federal Program
22 Sunset Commission”.

23 (2) COMPOSITION.—The Commission shall be
24 composed of 12 members (in this section referred to

1 as the “members”) who shall be appointed as fol-
2 lows:

3 (A) Six members shall be appointed by the
4 Speaker of the House of Representatives, one of
5 whom may include the Speaker of the House of
6 Representatives, with minority members ap-
7 pointed with the consent of the minority leader
8 of the House of Representatives.

9 (B) Six members shall be appointed by the
10 majority leader of the Senate, one of whom may
11 include the majority leader of the Senate, with
12 minority members appointed with the consent
13 of the minority leader of the Senate.

14 (3) QUALIFICATIONS OF MEMBERS.—

15 (A) IN GENERAL.—(i) Of the members ap-
16 pointed under paragraph (2)(A), four shall be
17 members of the House of Representatives (not
18 more than two of whom may be of the same po-
19 litical party), and two shall be an individual de-
20 scribed in clause (iii).

21 (ii) Of the members appointed under para-
22 graph (2)(B), four shall be members of the
23 Senate (not more than two of whom may be of
24 the same political party) and two shall be an in-
25 dividual described in clause (iii).

1 (iii) An individual under this clause is an
2 individual—

3 (I) who is not a member of Congress;

4 and

5 (II) with expertise in the operation
6 and administration of Government pro-
7 grams.

8 (B) CONTINUATION OF MEMBERSHIP.—If
9 a member was appointed to the Commission as
10 a Member of Congress and the member ceases
11 to be a Member of Congress, that member shall
12 cease to be a member of the Commission. The
13 validity of any action of the Commission shall
14 not be affected as a result of a member becom-
15 ing ineligible to serve as a member for the rea-
16 sons described in this subparagraph.

17 (4) INITIAL APPOINTMENTS.—All initial ap-
18 pointments to the Commission shall be made not
19 later than 90 days after the date of the enactment
20 of this Act.

21 (5) CHAIRMAN; VICE CHAIRMAN.—

22 (A) INITIAL CHAIRMAN.—An individual
23 shall be designated by the Speaker of the House
24 of Representatives from among the members
25 initially appointed under paragraph (2)(A) to

1 serve as chairman of the Commission for a pe-
2 riod of 2 years.

3 (B) INITIAL VICE-CHAIRMAN.—An indi-
4 vidual shall be designated by the majority lead-
5 er of the Senate from among the individuals ini-
6 tially appointed under paragraph (2)(B) to
7 serve as vice-chairman of the Commission for a
8 period of 2 years.

9 (C) ALTERNATE APPOINTMENTS OF
10 CHAIRMEN AND VICE-CHAIRMEN.—Following
11 the termination of the 2-year period described
12 in subparagraphs (A) and (B), the Speaker and
13 the majority leader shall alternate every 2 years
14 in appointing the chairman and vice-chairman
15 of the Commission.

16 (6) TERMS OF MEMBERS.—

17 (A) MEMBERS OF CONGRESS.—Each mem-
18 ber appointed to the Commission who is a mem-
19 ber of Congress shall serve for a term of 6
20 years, except that, of the members first ap-
21 pointed under subparagraphs (A) and (B) of
22 paragraph (2), two members shall be appointed
23 to serve a term of 3 years under each such sub-
24 paragraph.

1 (B) OTHER MEMBERS.—Each member of
2 the Commission who is not a member of Con-
3 gress shall serve for a term of 3 years.

4 (C) TERM LIMIT.—(i) A member of the
5 Commission who is a member of Congress and
6 who serves more than 3 years of a term may
7 not be appointed to another term as a member.

8 (ii) A member of the Commission who is
9 not a member of Congress and who serves as a
10 member of the Commission for more than 56
11 months may not be appointed to another term
12 as a member.

13 (7) POWERS OF COMMISSION.—

14 (A) HEARINGS AND SESSIONS.—The Com-
15 mission may, for the purpose of carrying out
16 this section, hold such hearings, sit and act at
17 such times and places, take such testimony, and
18 receive such evidence as the Commission con-
19 siders appropriate. The Commission may ad-
20 minister oaths to witnesses appearing before it.

21 (B) OBTAINING INFORMATION.—The Com-
22 mission may secure directly from any depart-
23 ment or agency of the United States informa-
24 tion necessary to enable it to carry out its du-
25 ties under this section. Upon request of the

1 Chairman, the head of that department or
2 agency shall furnish that information to the
3 Commission in a full and timely manner.

4 (C) SUBPOENA POWER.—(i) The Commis-
5 sion may issue a subpoena to require the at-
6 tendance and testimony of witnesses and the
7 production of evidence relating to any matter
8 under investigation by the Commission.

9 (ii) If a person refuses to obey an order or
10 subpoena of the Commission that is issued in
11 connection with a Commission proceeding, the
12 Commission may apply to the United States
13 district court in the judicial district in which
14 the proceeding is held for an order requiring
15 the person to comply with the subpoena or
16 order.

17 (D) IMMUNITY.—The Commission is an
18 agency of the United States for purposes of
19 part V of title 18, United States Code (relating
20 to immunity of witnesses).

21 (E) CONTRACT AUTHORITY.—The Com-
22 mission may contract with and compensate gov-
23 ernment and private agencies or persons for
24 services without regard to section 3709 of the
25 Revised Statutes (41 U.S.C. 5).

1 (8) COMMISSION PROCEDURES.—

2 (A) MEETINGS.—The Commission shall
3 meet at the call of the Chairman.

4 (B) QUORUM.—Seven members of the
5 Commission shall constitute a quorum but a
6 lesser number may hold hearings.

7 (9) PERSONNEL MATTERS.—

8 (A) COMPENSATION.—Members shall not
9 be paid by reason of their service as members.

10 (B) TRAVEL EXPENSES.—Each member
11 shall receive travel expenses, including per diem
12 in lieu of subsistence, in accordance with sec-
13 tions 5702 and 5703 of title 5, United States
14 Code.

15 (C) DIRECTOR.—The Commission shall
16 have a Director who shall be appointed by the
17 Chairman. The Director shall be paid at a rate
18 not to exceed the maximum rate of basic pay
19 payable for GS-15 of the General Schedule.

20 (D) STAFF.—The Director may appoint
21 and fix the pay of additional personnel as the
22 Director considers appropriate.

23 (E) APPLICABILITY OF CERTAIN CIVIL
24 SERVICE LAWS.—The Director and staff of the
25 Commission shall be appointed subject to the

1 provisions of title 5, United States Code, gov-
2 erning appointments in the competitive service,
3 and shall be paid in accordance with the provi-
4 sions of chapter 51 and subchapter III of chap-
5 ter 53 of that title relating to classification and
6 General Schedule pay rates.

7 (10) OTHER ADMINISTRATIVE MATTERS.—

8 (A) POSTAL AND PRINTING SERVICES.—

9 The Commission may use the United States
10 mails and obtain printing and binding services
11 in the same manner and under the same condi-
12 tions as other departments and agencies of the
13 United States.

14 (B) ADMINISTRATIVE SUPPORT SERV-

15 ICES.—Upon the request of the Commission,
16 the Administrator of General Services shall pro-
17 vide to the Commission, on a reimbursable
18 basis, the administrative support services nec-
19 essary for the Commission to carry out its du-
20 ties under this section.

21 (C) EXPERTS AND CONSULTANTS.—The

22 Commission may procure temporary and inter-
23 mittent services under section 3109(b) of title
24 5, United States Code.

1 (11) SUNSET OF COMMISSION.—The Commis-
2 sion shall terminate on December 31, 2033, unless
3 reauthorized by Congress.

4 (c) REVIEW OF EFFICIENCY AND NEED FOR FED-
5 ERAL PROGRAMS.—

6 (1) IN GENERAL.—The Commission shall review
7 the efficiency and public need for each Federal pro-
8 gram in accordance with the criteria described in
9 subsection (d).

10 (2) RECOMMENDATIONS; REPORT TO CON-
11 GRESS.—The Commission shall submit to Congress
12 and the President not later than September 1 of
13 each year a report containing—

14 (A) an analysis of the efficiency of oper-
15 ation and public need for each Federal program
16 to be reviewed in the year in which the report
17 is submitted pursuant to the schedule submitted
18 to Congress under subsection (a);

19 (B) recommendations on whether each
20 such Federal program should be abolished or
21 reorganized;

22 (C) recommendations on whether the func-
23 tions of any other Federal program should be
24 consolidated, transferred, or reorganized in a
25 Federal program to be reviewed in the year in

1 which the report is submitted pursuant to the
2 schedule submitted to Congress under sub-
3 section (a); and

4 (D) recommendations for administrative
5 and legislative action with respect to each such
6 Federal program, but not including rec-
7 ommendations for appropriation levels.

8 (3) DRAFT LEGISLATION.—The Commission
9 shall submit to Congress and the President not later
10 than September 1 of each year a draft of legislation
11 to carry out the recommendations of the Commission
12 under paragraph (2).

13 (4) INFORMATION GATHERING.—The Commis-
14 sion shall—

15 (A) conduct public hearings on the abolish-
16 ment of each Federal program reviewed under
17 paragraph (2);

18 (B) provide an opportunity for public com-
19 ment on the abolishment of each such Federal
20 program;

21 (C) require the Federal program to provide
22 information to the Commission as appropriate;
23 and

24 (D) consult with the General Accounting
25 Office, the Office of Management and Budget,

1 the Comptroller General, and the chairman and
2 ranking minority members of the committees of
3 Congress with oversight responsibility for the
4 Federal program being reviewed regarding the
5 operation of the Federal program.

6 (5) USE OF PROGRAM INVENTORY.—The Com-
7 mission shall use the program inventory prepared
8 under subsection (g) in reviewing the efficiency and
9 public need for each Federal program under para-
10 graph (1).

11 (d) CRITERIA FOR REVIEW.—The Commission shall
12 evaluate the efficiency and public need for each Federal
13 program pursuant to subsection (c) using the following
14 criteria:

15 (1) The effectiveness and the efficiency of the
16 operation of the Federal program.

17 (2) Whether the Federal program is cost-effec-
18 tive.

19 (3) Whether less restrictive or alternative meth-
20 ods exist to carry out the functions of the Federal
21 program.

22 (4) The extent to which the Federal program
23 duplicates another Federal program.

24 (5) The potential benefits of consolidating the
25 Federal program with similar or duplicative pro-

1 grams of other agencies, and the potential for con-
2 solidating such programs.

3 (6) The number and types of beneficiaries or
4 persons served by the Federal program.

5 (7) The extent to which any trends, develop-
6 ments, and emerging conditions that are likely to af-
7 fect the future nature and extent of the problems or
8 needs that the Federal program is intended to ad-
9 dress.

10 (8) The extent to which the agency that admin-
11 isters the Federal program has complied with—

12 (A) sections 1115, 1116, 1117, and the
13 first section 9703 of title 31, United States
14 Codes;

15 (B) section 306 of title 5, United States
16 Code;

17 (C) section 1120 of title 31, United States
18 Code, as added by this Act; and

19 (D) section 8 of this Act.

20 (9) The promptness and effectiveness with
21 which the Federal program seeks public input and
22 input from State and local governments on the effi-
23 ciency and effectiveness of the Federal program.

1 (10) Whether the Federal program has worked
2 to enact changes in the law that are intended to ben-
3 efit the public as a whole.

4 (11) The extent to which the Federal program
5 has encouraged participation by the public as a
6 whole.

7 (12) The extent to which the Federal program
8 complies with equal employment opportunity require-
9 ments regarding equal employment opportunity.

10 (13) The extent of the regulatory, privacy, and
11 paperwork impacts of the Federal program.

12 (14) The extent to which the Federal program
13 has coordinated with State and local governments.

14 (15) The potential effects of abolishing the
15 Federal program on State and local governments.

16 (16) The extent to which changes are necessary
17 in the authorizing statutes of the Federal program
18 in order that the functions of the Federal program
19 can be performed in the most efficient and effective
20 manner.

21 (17) The extent to which an agency has dem-
22 onstrated using objective and measurable criteria
23 that the program has contributed to meeting the
24 goals identified pursuant to section 1120(a) of title

1 31, United States Code, as added by section 5 of
2 this Act.

3 (e) COMMISSION OVERSIGHT.—

4 (1) MONITORING OF IMPLEMENTATION OF REC-
5 COMMENDATIONS.—The Commission shall monitor
6 implementation of laws enacting provisions that in-
7 corporate recommendations of the Commission with
8 respect to abolishment or reorganization of Federal
9 programs.

10 (2) MONITORING OF OTHER RELEVANT LEGIS-
11 LATION.—

12 (A) IN GENERAL.—The Commission shall
13 review and report to Congress on all legislation
14 introduced in either house of Congress that
15 would establish a new Federal program.

16 (B) REPORT TO CONGRESS.—The Commis-
17 sion shall include in each report submitted to
18 Congress under subparagraph (A) an analysis
19 of whether—

20 (i) the functions of the proposed Fed-
21 eral program could be carried out by one
22 or more existing Federal programs;

23 (ii) the functions of the proposed Fed-
24 eral program could be carried out in a less

1 restrictive manner than the manner pro-
2 posed in the legislation; and

3 (iii) the legislation provides for public
4 input regarding the performance of func-
5 tions by the proposed Federal program.

6 (f) RULEMAKING AUTHORITY.—The Commission
7 may promulgate such rules as necessary to carry out this
8 section.

9 (g) PROGRAM INVENTORY.—

10 (1) PREPARATION.—The Comptroller General
11 and the Director of the Congressional Budget Office,
12 in cooperation with the Director of the Congres-
13 sional Research Service, shall prepare an inventory
14 of Federal programs (in this section referred to as
15 the “program inventory”) within each agency.

16 (2) PURPOSE.—The purpose of the program in-
17 ventory is to advise and assist the Congress and the
18 Commission in carrying out the requirements of this
19 section. Such inventory shall not in any way bind
20 the committees of the Senate or the House of Rep-
21 resentatives with respect to their responsibilities
22 under this section and shall not infringe on the legis-
23 lative and oversight responsibilities of such commit-
24 tees. The Comptroller General shall compile and
25 maintain the inventory and the Director of the Con-

1 gressional Budget Office shall provide budgetary in-
2 formation for inclusion in the inventory.

3 (3) INVENTORY CONTENT.—The program in-
4 ventory shall set forth for each program each of the
5 following matters:

6 (A) The specific provision or provisions of
7 law authorizing the program.

8 (B) The committees of the Senate and the
9 House of Representatives which have legislative
10 or oversight jurisdiction over the program.

11 (C) A brief statement of the purpose or
12 purposes to be achieved by the program.

13 (D) The committees which have jurisdic-
14 tion over legislation providing new budget au-
15 thority for the program, including the appro-
16 priate subcommittees of the Committees on Ap-
17 propriations of the Senate and the House of
18 Representatives.

19 (E) The agency and, if applicable, the sub-
20 division thereof responsible for administering
21 the program.

22 (F) The grants-in-aid, if any, provided by
23 such program to State and local governments.

24 (G) The next reauthorization date for the
25 program.

1 (H) A unique identification number which
2 links the program and functional category
3 structure.

4 (I) The year in which the program was
5 originally established and, where applicable, the
6 year in which the program expires.

7 (J) Where applicable, the year in which
8 new budget authority for the program was last
9 authorized and the year in which current au-
10 thORIZATIONS of new budget authority expire.

11 (4) BUDGET AUTHORITY.—The report also
12 shall set forth for each program whether the new
13 budget authority provided for such program is—

14 (A) authorized for a definite period of
15 time;

16 (B) authorized in a specific dollar amount
17 but without limit of time;

18 (C) authorized without limit of time or dol-
19 lar amounts;

20 (D) not specifically authorized; or

21 (E) permanently provided,

22 as determined by the Director of the Congressional
23 Budget Office.

24 (5) CBO INFORMATION.—For each program or
25 group of programs, the program inventory also shall

1 include information prepared by the Director of the
2 Congressional Budget Office indicating each of the
3 following matters:

4 (A) The amounts of new budget authority
5 authorized and provided for the program for
6 each of the preceding four fiscal years and,
7 where applicable, the four succeeding fiscal
8 years.

9 (B) The functional and subfunctional cat-
10 egory in which the program is presently classi-
11 fied and was classified under the fiscal year
12 2010 budget.

13 (C) The identification code and title of the
14 appropriation account in which budget author-
15 ity is provided for the program.

16 (6) MUTUAL EXCHANGE OF INFORMATION.—
17 The General Accounting Office, the Congressional
18 Research Service, and the Congressional Budget Of-
19 fice shall permit the mutual exchange of available in-
20 formation in their possession which would aid in the
21 compilation of the program inventory.

22 (7) ASSISTANCE BY EXECUTIVE BRANCH.—The
23 Office of Management and Budget, and the Execu-
24 tive agencies and the subdivisions thereof shall, to
25 the extent necessary and possible, provide the Gen-

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

4 (h) DEFINITION OF AGENCY.—As used in this sec-
5 tion, the term “agency” has the meaning given the term
6 “Executive agency” by section 105 of title 5, United
7 States Code, except that such term includes an advisory
8 committee as that term is defined in section 3(2) of the
9 Federal Advisory Committee Act (5 U.S.C. App.).

10 (i) OFFSET OF AMOUNTS APPROPRIATED.—Amounts
11 appropriated to carry out this section shall be offset by
12 a reduction in amounts appropriated to carry out pro-
13 grams of other Federal agencies.

14 **SEC. 10. ADDITIONS TO PERFORMANCE PLAN.**

15 Section 1115(a) of title 31, United States Code, is
16 amended—

17 (1) in paragraph (5), by striking “and”;

18 (2) in paragraph (6), by striking the period and
19 inserting “; and”; and

20 (3) by inserting after paragraph (6) the fol-
21 lowing new paragraphs:

22 “(7) describe the existence and current scope of
23 the problem that the program is intended to solve,
24 defined as an outcome that addresses the needs of
25 the American people, not an input (such as staffing

1 or resources expended) or an intermediate goal (such
2 as teachers or police hired);

3 “(8) describe the other efforts (if any) being
4 made in Federal, State or local governments or the
5 private sector to address the problem described
6 under paragraph (7) and why the proposed approach
7 of the Federal agency is expected to be more cost-
8 effective than other efforts;

9 “(9) if the program is not new, describe the
10 amount of funds expended in the previous year and
11 state the progress made in the previous year toward
12 solving the problem described under paragraph (7),
13 including evidence of whether the problem is increas-
14 ing, decreasing, or staying the same;

15 “(10) describe the specific level of improvement
16 of the problem described under paragraph (7) the
17 proposed solutions will achieve including specific
18 measures and goals, with such measures obtained
19 from the Government Accountability Office based on
20 the agency’s outcome goals; and

21 “(11) state the long-term goal for the program
22 and when that goal is expected to be achieved or the
23 problem described under paragraph (7) reduced to
24 an acceptable level.”.

In the table of contents in section (1)(b), insert after
the item relating to section 8 the following:

Sec. 9. Federal program sunset commission.

Sec. 10. Additions to performance plan

