

Amendment 918 – Sunsets the bill after four years

The America COMPETES Act authorizes as much as \$60 billion in new federal spending over the next four fiscal years. This amendment would “sunset” the bill at the end of fiscal year 2011.

S. 761 Authorizes Tens of Billion of New Spending Without a Single Hearing of Mark-up

While this bill should have been examined by the Energy, Commerce and Health, Education, Labor and Pensions Committees, the Senate has decided to bypass the regular process for the consideration of legislation and has brought this bill straight to the floor without a single committee mark-up of this bill.

There is no Congressional Budget Office (CBO) score for this bill. The Office of Management and Budget (OMB) estimates that the bill would cost over **\$61 billion** over the next four years and would create 20 programs. A staff analysis finds \$40.3 billion in new spending authorized plus additional authorizations of “such sums as may be necessary.”

Authorization Funding Levels in S. 761, Fiscal Years 2008- 2011

Year	Amount
2008	\$8,499,611,000.00*
2009	\$8,787,972,000.00*
2010	\$10,003,469,000.00*
2011	\$13,043,006,000.00*
Total, 2008- 2011	\$40,334,058,000.00*

*Not including numerous “such sums as necessary”

It is alarming that a bill that authorizes tens of billions of dollars in new spending should receive so little examination.

It is this type of “drive thru” legislating that has contributed to America’s nearly insurmountable \$8.5 billion national debt. Congress

is expected to think first, *and then* act. Senators owe it to taxpayers to ensure that every dollar authorized will be spent wisely.

Because the Leadership of Congress is so quick to pass this bill without taking the time to examine its impact on the national debt or the agencies it impacts, it is imperative that a sunset date be included so Congress has an opportunity to examine the impact of the bill. For years and \$60 billion is more than sufficient time and money for such a review to occur. At that time, Congress may choose to renew the program or revise provisions based on the program's performance and outcomes.

More Than \$160 Billion in Unauthorized Spending Appropriated Annually

As drafted, the bill is authorized for four years, but the reality is Congress continues to fund programs after the programs' authorization has expired and sometimes without any prior authorization.

According to the Congressional Budget Office (CBO), "In recent years the total amount of unauthorized appropriations reported by CBO has ranged between about \$160 billion and \$170 billion."¹

This amendment would ensure that billions of dollars in unauthorized spending more are not spent without a thoughtful review by Congress after four years by explicitly terming the authorizations contained within the bill.

"Sunsetting" Programs Shifts the Burden from Taxpayers to Bureaucracies and Bureaucrats

America has always been a nation of that has thrived in hard work and industry, but America can't compete if our nation is drowning in debt.

¹ "UNAUTHORIZED APPROPRIATIONS AND EXPIRING AUTHORIZATIONS," Congressional Budget Office, January 12, 2007, Page 3; http://www.cbo.gov/ftpdocs/77xx/doc7724/01-12-UAEA_Senate.pdf

Our national debt now exceeds \$8.5 trillion, that amounts to more than \$29,000 per man, woman and child in America.

New authorizations, nearly always result in new programs, that lead to increased federal spending, and create new constituencies for government funding that often outlive their need.

In 1964, Ronald Reagan observed that “Government programs, once launched, never disappear. Actually, a government bureau is the nearest thing to eternal life we'll ever see on this Earth.” More than four decades later, his observation remains true.

A “sunset” provision would shift the burden from taxpayers to government bureaucracies and bureaucrats. Government programs would first be required to demonstrate their effectiveness and usefulness before taxpayers would be expected to fund their continuation.

Because this bill creates at least 20 new programs at a staggering cost of more than \$61 million over four years, it is therefore especially important that these initiatives be reviewed before they are renewed.

Needs and Challenges Change and So Should Government Policies

A majority of the Senate apparently believes that expanding the size and cost of the federal government increases global the competitiveness of the United States.

Congress needs to realize that the nation’s needs and priorities four years from now may be dramatically different than the needs of today.

In fact, this bill may not adequately address *today’s* needs. There has been very little public discussion of this bill – no mark up, little oversight or public dialogue, and no Congressional Budget Office score of the bill’s likely cost– to ensure that the so-called solutions in this bill appropriately address the issues facing the nation *today*.

Without a sunset that forces reauthorization, Congress will not be required to revisit the mandates established in this bill – allowing funding to continue to be allocated and directed to the same priorities and programs without adapting to the ever changing world economy.

“Sunsetting” Is Not The Same As Repealing A Program

Unfortunately, many senators think of sunsets as a way to kill a bill – rather than as a routine “good house-keeping” practice. A “sunset” is NOT the same thing as repeal – and, in fact, a sunset is far more likely to lead to reauthorization and reform than repeal. **This sunset amendment is simple – good government at work – it forces Congress to do its job of oversight and review.**

A sunset forces Congress to conduct oversight and review and develop a consensus about the future of a program before it is renewed.

Repealing ends the life of a program permanently.

Amendment Language Is Similar to the Patriot Act’s Sunset Provision

This amendment uses language similar to the Patriot Act sunset section.²

² USA PATRIOT Act sunset provision: Sec. 224 of Public Law 107-56, the Uniting and Strengthening America by Providing Appropriate Tools, Required to Intercept and Obstruct Terrorism Act of 2001, passed in the 107th Congress.

REASONS TO SUPPORT THIS AMENDMENT

Reason #1: Sunsets are common sense policy – they provide a method of reviewing and strengthening legislation.

This sunset provision would cause Congress to review the need for the programs and spending authorized by this bill, and would cause the Senate to make more thoughtful decisions based on fact and hard data.

Example: It's a common health practice to encourage patients to come in for routine checkups – a sunset provision that requires a “check up” five years down the road on legislation of this magnitude just makes sense.

The only reasons to oppose a sunset provision are:

- **Laziness** in working to do oversight and build a consensus to update and reauthorize a program;
- **Arrogance** in thinking that Congress is wise enough today to know which measures will be needed four years from now to serve America's competitive interests, or;
- **Political expediency** in not wanting to tell special interest groups and campaign donors lobbying for this bill that it might be best for the country at large that the funding in this bill should be reviewed and revised in four years to assure it is operating effectively and efficiently.

Reason # 2: Sunset provisions are not as “revolutionary” as some senators would like to portray them as. In fact, they are rather common. Here are some examples.

Broad sunset measures have been introduced every Congress from the 96th through the 109th, according to the Congressional Research Service (CRS).

CRS points out that, historically, interest in sunset provisions has declined when there is a tight budget and the focus switches to emphasize the appropriations process. This is an unhealthy approach and takes away the critical role of authorizers as overseers and protectors of the taxes paid by the American people.

If Congress makes it a common practice to conduct oversight and to set priorities, Congress will be able to better assure that tax dollars are being spent wisely and that government programs will become more effective and efficient.

Some examples:

Tax bills:

As a result of the Byrd budget rule and other budget rules, Federal tax provisions routinely contain sunsets due to reconciliation instructions via the budget resolution on tax measures that go outside the 10-year budget window. Any tax change enacted in the Senate via reconciliation is **required** to be sunset. One example could be the Jobs and Growth Tax Relief Reconciliation Act of 2003, which passed Congress in the 108th Congress, and which contains two sunset sections (this bill became Public Law No: 108-27).

Another example that most Senators will remember would be the **Economic Growth and Tax Relief Reconciliation Act of 2001** which passed Congress in the 107th Congress (this package of tax cuts became Public Law No: 107-16). The Economic Growth and Tax Relief Reconciliation Act, included major provisions such as the Economic Growth and Tax Relief Act; the Marriage Penalty and Family Tax Relief Act; the Death Tax Elimination Act; the Comprehensive Retirement Security and Pension Reform Act, the Adoption Tax Credits bill.

Veterans bills:

There are some programs that sunset in the mandatory accounts generally due to the fact that out-year budgeting in PAYGO spending do not allow for permanency and because the Veterans Committee requires offsets for new mandatory spending.

Health care:

Congress sunset the **Ryan White CARE Act Reauthorization bill** (section 703 of public law 109-415).

Both the House and Senate agreed to a sunset in the **National Breast and Cervical Cancer Early Detection Program Reauthorization Act of 2007** that was introduced in the 110th Congress (became Public Law No: 110-18).

Defense bills:

More recently, sunset provisions have been finding their way into the most important national security measures, such as the **Intelligence Reform and Terrorism Prevention Act of 2004**, and the PATRIOT Act of 2001 – in the Senate, the vote on the legislation that became the **USA PATRIOT Act** and contained a sunset provision was the final vote sending the bill to the President, Oct. 25, 2001 – that passed 98-1. This makes sense as these types of provisions *should* go through extensive review and legislative oversight given how critical they are to America's security.

Foreign relations:

Bills such as the **Iran and Libya Sanctions Act of 1996** contain sunsets; in fact, the House and Senate voted to renew the sunset on this bill as recently as the 109th Congress when we passed the **Iran Freedom Support Act** (Public Law No: 109-293).

All bills that authorize billions of dollars in new spending should contain a sunset so that Congress will get in the habit of actually

doing job of oversight and review – not just creating new spending that isn't even funded.

Congress needs more sunsets. The lack of sunsets has led to the inexcusable situation seen today, with much of the government operating on expired authority – that is – effectively illegal programs, on auto-pilot, without any oversight or reform from the Congress.

There are 383 laws expiring in 2007 that are operating under expired authorizations receiving billions of dollars that CBO did not calculate this year due to the fact that only two of the annual appropriations bills (for the Department of Defense and Homeland Security) were enacted for 2007 before the report³ was released.

In recent years the total amount of unauthorized appropriations reported by CBO has ranged between about **\$160 billion and \$170 billion**, and the authorizations contained in laws under the jurisdiction of House and Senate authorizing committees that will expire by the end of this fiscal year total about **\$548 billion**.

Reason #3: Sunsets make *fiscal* sense.

Today our country continues to face a tremendous financial burden in fighting the war on terror and in protecting our homeland. The war on terror and our nation's homeland security are two areas that we cannot simply ignore. Congress cannot continue its "borrow and spend" habits of the past forty years and expect to have the resources necessary to protect our nation and control the debt that undermines U.S. competitiveness, important government retirement programs and the economic future of our children and grandchildren. It is irresponsible to simply borrow and spend more money to address every problem that arises without actually taking time to conduct oversight, set priorities, and streamline or actually eliminate outdated and inefficient programs.

There is no Congressional Budget Office (CBO) score for S. 761. The Office of Management and Budget (OMB) estimates that the bill

³ http://www.cbo.gov/ftpdocs/77xx/doc7724/01-12-UAEA_Senate.pdf

would cost over **\$61 billion** over the next four years and would create 20 programs. A staff analysis finds \$40.3 billion in new spending authorized plus additional authorizations of “such sums as may be necessary.”

While the Senate is set to authorize tens of billions of dollars in new spending in this bill, Congress has been unable to provide emergency funding for the wars in Iraq and Afghanistan to the President’s desk. Likewise, the Congress recently passed a homeland security bill that has stalled and members of both chambers are seeking billions of dollars in emergency farm assistance.

Our country is facing a national crisis with domestic spending. The Congressional Budget Office (CBO) on January 24, 2007 released its most recent baseline budget estimates for fiscal years 2008-2017. Including money taken from the Social Security trust fund, CBO estimates a Fiscal Year 2007 deficit of \$357 billion.

Congress continually “authorizes” new spending but rarely directs cuts and eliminations in existing programs. In fact, Congress continues to fund programs even **after** the programs’ authorization has expired.

This is a total failure on the part of Congress to set spending priorities.

It is this mindset that “authorizations do not represent real spending” and are instead akin to play dollars used in a board game that has contributed to the nearly insurmountable \$8.5 trillion debt that threatens the economic future of our nation.

Before Congress authorizes spending on any new program, it should make it a practice to **first** cut other less important programs or spending.

Reason # 4: Congress has gone through tough sunset debates before with the PATRIOT Act.

One of the more contentious “sunset” debates that took place in Congress was the debate over the Patriot Act, which initially passed

Congress with overwhelming support following the terrorist attacks of 9/11.

In 2005, (now) Senate Majority Leader, Senator Harry Reid, made the following comments about the sunset provision contained within the Patriot Act:

“We are currently considering renewal of those provisions that were considered so expansive and so vulnerable to abuse that Congress wisely decided to subject them to four-year sunsets. **The authors of the Act wanted Congress to reassess these authorities in a more deliberative manner with the benefit of experience. Now, more than four years later, we are presented with an opportunity to get it right.**”

--December 16, 2005 - STATEMENT OF SENATOR HARRY REID ON REAUTHORIZATION OF THE USA-PATRIOT ACT

The same principles that applied to the Patriot Act apply to this bill and every major spending vehicle that passes through Congress

As it was good policy to consider sunseting the Patriot Act, it is good policy to consider sunseting every other law Congress passes that creates new government mandates or programs, or considerably expands government-funded grant subsidies, so that Congress has a reason to review a program after a set time period rather than simply continuing to fund it without thoughtful consideration.

This amendment uses language similar to the Patriot Act sunset.

ARGUMENTS AGAINST SUNSETTING S. 761/REBUTTALS

Argument: This amendment sunsets the entire bill, and every title in the bill, and doing so will be devastating to America's competitiveness.

Rebuttal: As drafted, the bill's authorization period ends in four years. Yet, as has become standard practice, Congress routinely funds programs even after their authorization has expired.

This amendment would simply require Congress to reauthorize the programs established by this bill for funding to continue.

Argument: This amendment will effectively repeal the "America COMPETES Act."

Rebuttal: A "sunset" is NOT the same thing as repeal.

A sunset forces Congress to conduct oversight and review and develop a consensus about the future of a program before it is renewed.

Repealing ends the life of a program permanently.

The sunset amendment is about accountability, oversight, setting priorities and fiscal responsibility.