

115TH CONGRESS
2D SESSION

H. R. 5967

To establish a single export promotion agency in the executive branch, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2018

Ms. KUSTER of New Hampshire (for herself and Mrs. BUSTOS) introduced the
following bill; which was referred to the Committee on Foreign Affairs

A BILL

To establish a single export promotion agency in the
executive branch, and for other purposes.

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 “Export Promotion
5 Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Exporting goods and services is a critical
9 part of the United States economy. A recent study
10 by the International Trade Administration recently

1 found that 11.6 million jobs across the country are
2 directly supported by exports.

3 (2) Though United States exports have in-
4 creased by one-third since 2010 and contributed to
5 roughly one-third of all domestic economic growth,
6 increases in exports have failed to meet lofty goals
7 established by the Administration.

8 (3) An important part of helping small- and
9 mid-size businesses begin to export or to access new
10 markets is export assistance provided by the Federal
11 Government.

12 (4) Numerous resources for companies exist at
13 Federal agencies, including in the Department of
14 Commerce, the Department of Agriculture, the
15 Small Business Administration, the Department of
16 State, the Export-Import Bank of the United States,
17 the Overseas Private Investment Corporation, and
18 others.

19 (5) These Federal agencies offer programs to
20 provide technical and cultural assistance, low-cost fi-
21 nancing, and the development of future export mar-
22 kets overseas.

23 (6) While these Federal agencies and the pro-
24 grams they operate provide important assistance to
25 United States companies, there is significant overlap

1 among agencies that fails to maximize Federal re-
2 sources and creates confusion for businesses seeking
3 to navigate the bureaucracy.

4 (7) This confusion leads to less effective export
5 promotion, wasted government resources, and an in-
6 ability to track the success of Federal efforts.

7 (8) Specifically, the U.S. Government Account-
8 ability Office has found that enhanced collaboration
9 among these efforts could improve Federal agency
10 efforts, reduce overlap, and ease confusion for small
11 businesses.

12 (9) Intra-agency efforts have fallen short in
13 providing greater cohesion and communication
14 among Federal export programs.

15 (10) The U.S. Government Accountability Of-
16 fice found significant shortcomings at the Trade
17 Promotion Coordination Committee, including a lack
18 of information about total export promotion re-
19 sources, ineffectiveness in tracking data and out-
20 comes, and a failure to coordinate export promotion
21 resources with governmentwide policies.

22 (11) Given the shortcoming of Federal export
23 assistance, significant change is necessary to ensure
24 the United States maintains its global economic

1 competitiveness while small businesses can grow
2 their businesses and create more jobs.

3 (12) By consolidating the functions of multiple
4 Federal agencies, including the International Trade
5 Administration, the Office of International Trade of
6 the Small Business Administration, the Trade and
7 Development Agency, the Export Credit Guarantee
8 Program and Facilities Guarantee Program of the
9 Department of Agriculture, and the Bureau of Eco-
10 nomic and Business Affairs of the Department of
11 State, into the new Export Promotion Agency in the
12 Department of Commerce, small- and mid-size busi-
13 nesses will be able to utilize a one-stop-shop for ex-
14 port assistance.

15 (13) These reforms will reduce waste and over-
16 lap to maximize Federal resources, improve busi-
17 nesses' access to information and assistance by cut-
18 ting bureaucracy, and allow the Department of Com-
19 merce to better track and report to Congress on the
20 effectiveness of its export programs.

21 (14) Additionally, including the Trade and De-
22 velopment Agency and the Bureau of Economic and
23 Business Affairs of the Department of State as part
24 of the new agency will strengthen their coordination
25 with traditional export assistance to ensure that

1 United States companies are able to take advantage
2 of new emerging markets overseas.

3 **SEC. 3. DEFINITIONS.**

4 In this Act:

5 (1) AGENCY.—The term “Agency” means the
6 Export Promotion Agency established under section
7 4(a).

8 (2) FUNCTIONS.—The term “functions” in-
9 cludes authorities, powers, rights, privileges, immu-
10 nities, programs, projects, activities, duties, and re-
11 sponsibilities.

12 (3) PERSONNEL.—The term “personnel” means
13 officers and employees.

14 (4) UNDER SECRETARY.—The term “Under
15 Secretary” means the Under Secretary of Commerce
16 for Export Promotion appointed under section 4(b).

17 **SEC. 4. ESTABLISHMENT OF EXPORT PROMOTION AGEN-**
18 **CY.**

19 (a) IN GENERAL.—There is established in the De-
20 partment of Commerce an agency to be known as the “Ex-
21 port Promotion Agency”.

22 (b) UNDER SECRETARY.—The head of the Agency
23 shall be the Under Secretary of Commerce for Export Pro-
24 motion, who shall be appointed by the President, by and
25 with the advice and consent of the Senate.

1 (c) TRANSFERS OF FUNCTIONS.—In accordance with
2 section 7 (relating to transition provisions), there are
3 transferred to the Agency the functions of each of the fol-
4 lowing:

5 (1) The International Trade Administration.

6 (2) The Office of International Trade of the
7 Small Business Administration.

8 (3) The Trade and Development Agency.

9 (4) The Export Credit Guarantee Program and
10 the Facilities Guarantee Program of the Department
11 of Agriculture.

12 (5) The Bureau of Economic and Business Af-
13 fairs of the Department of State.

14 (d) CHAIRPERSON OF TPCC.—Section 2312(d)(3) of
15 the Export Enhancement Act of 1992 (15 U.S.C.
16 4727(d)(3)) is amended by inserting “, acting through the
17 Under Secretary of Commerce for Export Promotion,”
18 after “Secretary of Commerce”.

19 (e) COMPENSATION.—Section 5314 of title 5, United
20 States Code, is amended by striking “and Under Secretary
21 of Commerce for Travel and Tourism” and inserting
22 “Under Secretary of Commerce for Travel and Tourism,
23 and Under Secretary of Commerce for Export Pro-
24 motion”.

1 **SEC. 5. ORGANIZATIONAL STRUCTURE AND PERFORMANCE**

2 **METRICS.**

3 (a) **IN GENERAL.**—The Under Secretary shall de-
4 velop the following:

5 (1) An organizational structure for the Agency
6 that consolidates programs and eliminates duplica-
7 tive programs, where appropriate.

8 (2) Metrics designed to measure performance
9 on an annual basis with respect to the following:

10 (A) The total exports from the United
11 States, including exports assisted by the Agen-
12 cy.

13 (B) The number of United States business
14 concerns, including small- and medium-sized
15 business concerns, exporting, including exports
16 assisted by the Agency.

17 (C) The number and presence of United
18 States business concerns in key foreign mar-
19 kets.

20 (b) **REPORT.**—Not later than 12 months after the
21 date on which the first Under Secretary takes office, the
22 Under Secretary shall submit to Congress a report that
23 contains matters required under subsection (a).

1 **SEC. 6. ANNUAL REPORTS TO CONGRESS.**

2 The Under Secretary shall submit to Congress an an-
3 nual report on the operations of the Agency, including the
4 following:

5 (1) The effectiveness of its organizational struc-
6 ture and any changes made to that structure devel-
7 oped under section 5(a)(1).

8 (2) The data the Agency has received from ap-
9 plying the metrics developed under section 5(a)(2).

10 **SEC. 7. TRANSITION PROVISIONS.**

11 (a) ACTING OFFICIALS.—

12 (1) IN GENERAL.—During the transition pe-
13 riod, pending the advice and consent of the Senate
14 to the appointment of an officer required by this Act
15 to be appointed by and with such advice and con-
16 sent, the President may designate any officer whose
17 appointment was required to be made by and with
18 such advice and consent and who was such an officer
19 immediately before the effective date of this Act
20 (and who continues in office) or immediately before
21 such designation, to act in such office until the same
22 is filled as provided in this Act. While so acting,
23 such officers shall receive compensation at the high-
24 er of—

25 (A) the rates provided by this Act for the
26 respective offices in which they act; or

1 (B) the rates provided for the offices held
2 at the time of designation.

3 (2) RULE OF CONSTRUCTION.—Nothing in this
4 Act shall be understood to require the advice and
5 consent of the Senate to the appointment by the
6 President to a position in the Agency of any officer
7 whose entity or program the functions of which are
8 transferred to the Agency under section 4(c) and
9 whose duties following such transfer are germane to
10 those performed before such transfer.

11 (b) TRANSFER OF PERSONNEL, ASSETS, OBLIGA-
12 TIONS, AND FUNCTIONS.—

13 (1) IN GENERAL.—Upon transfer of the func-
14 tions of an entity or program to the Agency under
15 section 4(c)—

16 (A) the personnel, assets, and obligations
17 held by or available in connection with such
18 functions shall be transferred to the Under Sec-
19 retary for appropriate allocation, subject to the
20 approval of the Director of the Office of Man-
21 agement and Budget and in accordance with
22 the provisions of section 1531(a)(2) of title 31,
23 United States Code; and

24 (B) the Under Secretary shall have all
25 functions relating to the entity or program that

1 any other official could by law exercise in rela-
2 tion to the entity or program immediately be-
3 fore such transfer, and shall have in addition all
4 functions vested in the Under Secretary by this
5 Act or other law.

6 (2) INCIDENTAL TRANSFERS.—

7 (A) AUTHORIZATION OF DIRECTOR OF OF-
8 FICE OF MANAGEMENT AND BUDGET; TERMI-
9 NATION OF AFFAIRS.—The Director of the Of-
10 fice of Management and Budget, at such time
11 or times as the Director shall provide, is au-
12 thorized and directed to make such determina-
13 tions as may be necessary with regard to the
14 functions, entities or programs, or portions
15 thereof transferred by this Act, and to make
16 such additional incidental dispositions of per-
17 sonnel, assets, liabilities, grants, contracts,
18 property, records, and unexpended balances of
19 appropriations, authorizations, allocations, and
20 other funds held, used, arising from, available
21 to, or to be made available in connection with
22 such functions, entities or programs, or por-
23 tions thereof, as may be necessary to carry out
24 the provisions of this Act. The Director shall
25 provide for the termination of the affairs of all

1 entities and programs terminated by this Act
2 and for such further measures and dispositions
3 as may be necessary to effectuate the purposes
4 of this Act.

5 (B) TRANSFER OF POSITIONS WITHIN SEN-
6 IOR EXECUTIVE SERVICE.—After consultation
7 with the Director of the Office of Personnel
8 Management, the Director of the Office of Man-
9 agement and Budget is authorized, at such time
10 as the Director of the Office of Management
11 and Budget provides, to make such determina-
12 tions as may be necessary with regard to the
13 transfer of positions within the Senior Execu-
14 tive Service in connection with functions and
15 entities and programs transferred by this Act.

16 (c) SAVINGS PROVISIONS.—

17 (1) COMPLETED ADMINISTRATIVE ACTIONS.—

18 (A) IN GENERAL.—Completed administra-
19 tive actions of an entity or program shall not be
20 affected by the enactment of this Act or the
21 transfer of the functions of such entity or pro-
22 gram to the Agency under section 4(c), but
23 shall continue in effect according to their terms
24 until amended, modified, superseded, termi-
25 nated, set aside, or revoked in accordance with

1 law by an officer of the United States or a
2 court of competent jurisdiction, or by operation
3 of law.

4 (B) DEFINITION.—For purposes of sub-
5 paragraph (A), the term “completed adminis-
6 trative action” includes orders, determinations,
7 rules, regulations, personnel actions, permits,
8 agreements, grants, contracts, certificates, li-
9 censes, registrations, and privileges.

10 (2) PENDING CIVIL ACTIONS.—Subject to the
11 authority of the Under Secretary under this Act,
12 pending civil actions shall continue notwithstanding
13 the enactment of this Act or the transfer of the
14 functions of an entity or program to the Agency
15 under section 4(c), and in such civil actions, pro-
16 ceedings shall be had, appeals taken, and judgments
17 rendered and enforced in the same manner and with
18 the same effect as if such enactment or transfer had
19 not occurred.

20 (3) PROCEEDING NOT AFFECTED.—

21 (A) IN GENERAL.—The provisions of this
22 Act shall not affect any proceedings, including
23 notices of proposed rulemaking, or any applica-
24 tion for any license, permit, certificate, or fi-
25 nancial assistance pending on the effective date

1 of this Act before any entity or program with
2 respect to functions transferred by this Act, but
3 such proceedings or applications, to the extent
4 that they relate to functions transferred, shall
5 be continued. Orders shall be issued in such
6 proceedings, appeals shall be taken therefrom,
7 and payments shall be made under such orders,
8 as if this Act had not been enacted, and orders
9 issued in any such proceedings shall continue in
10 effect until modified, terminated, superseded, or
11 revoked by the head of the Federal agency to
12 which such functions are transferred by this
13 Act, by a court of competent jurisdiction, or by
14 operation of law. Nothing in this subparagraph
15 prohibits the discontinuance or modification of
16 any such proceeding under the same terms and
17 conditions and to the same extent that such
18 proceeding could have been discontinued or
19 modified if this Act had not been enacted.

20 (B) REGULATIONS.—The Under Secretary
21 is authorized to issue regulations providing for
22 the orderly transfer of proceedings continued
23 under subparagraph (A).

1 (d) TERMINATION OF ENTITIES AND PROGRAMS.—

2 On the effective date of this Act, the following entities and
3 programs shall terminate:

4 (1) The International Trade Administration.

5 (2) The Office of International Trade of the
6 Small Business Administration.

7 (3) The Trade Development Agency.

8 (4) The Export Credit Guarantee Program and
9 the Facilities Guarantee Program of the Department
10 of Agriculture.

11 (5) The Bureau of Economic and Business Af-
12 fairs of the Department of State.

13 **SEC. 8. REFERENCES.**

14 With respect to any function of an entity or program
15 transferred to the Agency under section 4(c) to, and exer-
16 cised on or after the effective date specified in section 9
17 by, the Under Secretary, any reference in any other Fed-
18 eral law, Executive order, rule, regulation, or delegation
19 of authority, or any document of or pertaining to an entity
20 or program of government from which such function is
21 transferred—

22 (1) to the head of such entity or program is
23 deemed to refer to the Under Secretary of Com-
24 merce for Export Promotion; or

1 (2) to such entity or program is deemed to refer
2 to the Export Promotion Agency.

3 **SEC. 9. EFFECTIVE DATE.**

4 This Act takes effect on the date that is 1 year after
5 the date of the enactment of this Act.

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