

116TH CONGRESS
2D SESSION

S. 3708

To establish a Federal Agency Sunset Commission, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 13, 2020

Mr. SCOTT of Florida (for himself, Mr. BRAUN, Mr. CRAPO, and Mr. TILLIS)
introduced the following bill; which was read twice and referred to the
Committee on Homeland Security and Governmental Affairs

A BILL

To establish a Federal Agency Sunset Commission, 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 “Agency Accountability
5 Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **ADVISORY COMMITTEE.**—The term “advi-
9 sory committee” has the meaning given the term in

1 section 3(2) of the Federal Advisory Committee Act
2 (5 U.S.C. App.).

3 (2) AGENCY.—The term “agency” has the
4 meaning given the term in section 551 of title 5,
5 United States Code.

6 (3) COMMISSION.—The term “Commission”
7 means the Federal Agency Sunset Commission es-
8 tablished under section 3.

9 (4) JOINT RESOLUTION.—The term “joint reso-
10 lution” means a joint resolution consisting of the
11 proposed legislative language submitted by the Com-
12 mission under section 4(a)(3) and introduced or re-
13 introduced under section 7(a).

14 **SEC. 3. ESTABLISHMENT OF FEDERAL AGENCY SUNSET**
15 **COMMISSION.**

16 (a) ESTABLISHMENT.—There is established the Fed-
17 eral Agency Sunset Commission.

18 (b) MEMBERSHIP.—

19 (1) COMPOSITION.—The Commission shall be
20 composed of 13 members of whom—

21 (A) 1 shall be appointed by the President;

22 (B) 3 shall be appointed by the majority
23 leader of the Senate, of whom—

24 (i) 2 shall be from among the mem-
25 bers of the Senate; and

1 (ii) 1 shall not be a member of Con-
2 gress and shall have expertise in the oper-
3 ation and administration of Federal Gov-
4 ernment programs;

5 (C) 3 shall be appointed by the minority
6 leader of the Senate, of whom—

7 (i) 2 shall be from among the mem-
8 bers of the Senate; and

9 (ii) 1 shall not be a member of Con-
10 gress and shall have expertise in the oper-
11 ation and administration of Federal Gov-
12 ernment programs;

13 (D) 3 shall be appointed by the Speaker of
14 the House of Representatives, of whom—

15 (i) 2 shall be from among the mem-
16 bers of the House of Representatives; and

17 (ii) 1 shall not be a member of Con-
18 gress and shall have expertise in the oper-
19 ation and administration of Federal Gov-
20 ernment programs; and

21 (E) 3 shall be appointed by the minority
22 leader of the House of Representatives, of
23 whom—

24 (i) 2 shall be from among the mem-
25 bers of the House of Representatives; and

1 (ii) 1 shall not be a member of Con-
2 gress and shall have expertise in the oper-
3 ation and administration of Federal Gov-
4 ernment programs.

5 (2) DATE.—The appointments of the members
6 of the Commission shall be made not later than 180
7 days after the date of enactment of this Act.

8 (c) PERIOD OF APPOINTMENT; VACANCIES.—

9 (1) IN GENERAL.—A member of the Commis-
10 sion shall be appointed for the life of the Commis-
11 sion.

12 (2) VACANCIES.—A vacancy in the Commis-
13 sion—

14 (A) shall not affect the powers of the Com-
15 mission; and

16 (B) shall be filled in the same manner as
17 the original appointment not later than 30 days
18 after the date on which the vacancy occurs.

19 (d) MEETINGS.—

20 (1) INITIAL MEETING.—Not later than 45 days
21 after the date on which all members of the Commis-
22 sion have been appointed, the Commission shall hold
23 the first meeting of the Commission.

1 (2) FREQUENCY.—The Commission shall meet
2 at the call of the Chairperson and not less than 2
3 times per year.

4 (3) QUORUM.—A majority of the members of
5 the Commission shall constitute a quorum, but a
6 lesser number of members may hold hearings.

7 (e) CHAIRPERSON AND VICE CHAIRPERSON.—The
8 Commission shall select a Chairperson and Vice Chair-
9 person from among the members of the Commission.

10 (f) VOTING.—A majority of the members of the Com-
11 mission is required to make a recommendation under sec-
12 tion 4.

13 **SEC. 4. DUTIES OF COMMISSION.**

14 (a) IN GENERAL.—The Commission shall—

15 (1) review and evaluate the efficiency and pub-
16 lic need for each agency or advisory commission not
17 less frequently than once every 6 years using criteria
18 established by the Commission;

19 (2) recommend whether each agency or advisory
20 commission should be continued, abolished, or reor-
21 ganized;

22 (3) based on the recommendations of the Com-
23 mission, submit to Congress proposed legislative lan-
24 guage for abolishing, or reorganizing an agency or
25 advisory commission; and

1 (4) if the Commission recommends to continue
2 an agency or advisory commission without any
3 change, submit to Congress a report that includes
4 the reasons for the recommendation.

5 (b) AGENCY SUBMISSIONS.—When the Commission
6 is considering whether to recommend continuing, abol-
7 ishing, or reorganizing an agency or advisory commission,
8 the agency or advisory commission, as applicable, shall
9 submit timely responses to a questionnaire provided by the
10 Commission, which shall include—

11 (1) an explanation of why the functions of the
12 agency or advisory committee continue to be nec-
13 essary;

14 (2) what efficiencies taxpayers realize by the
15 continued operation of the agency or advisory com-
16 mittee; and

17 (3) why the responsibilities of the agency or ad-
18 visory committee cannot be better performed by the
19 private sector or another agency or advisory com-
20 mittee.

21 (c) RESEARCH SERVICES.—The Government Ac-
22 countability Office and the Congressional Budget Office,
23 in coordination with the Congressional Research Service,
24 shall provide primary research services to the Commission

1 to assist the Commission in carrying out the duties under
2 this Act.

3 **SEC. 5. POWERS OF COMMISSION.**

4 (a) HEARINGS.—The Commission may hold such
5 hearings, sit and act at such times and places, take such
6 testimony, and receive such evidence as the Commission
7 considers advisable to carry out this Act.

8 (b) INFORMATION FROM AGENCIES AND ADVISORY
9 COMMITTEES.—

10 (1) IN GENERAL.—The Commission may secure
11 directly from an agency or advisory committee such
12 information as the Commission considers necessary
13 to carry out this Act.

14 (2) FURNISHING INFORMATION.—On request of
15 the Chairperson of the Commission, the head of the
16 agency, or the Chair of the advisory committee shall
17 furnish the information to the Commission.

18 (c) POSTAL SERVICES.—The Commission may use
19 the United States mails in the same manner and under
20 the same conditions as other departments and agencies of
21 the Federal Government.

22 (d) GIFTS.—The Commission may accept, use, and
23 dispose of gifts or donations of services or property.

1 **SEC. 6. COMMISSION PERSONNEL MATTERS.**

2 (a) COMPENSATION OF MEMBERS.—A member of the
3 Commission who is not an officer or employee of the Fed-
4 eral Government shall be compensated at a rate equal to
5 the daily equivalent of the annual rate of basic pay pre-
6 scribed for level IV of the Executive Schedule under sec-
7 tion 5315 of title 5, United States Code, for each day (in-
8 cluding travel time) during which the member is engaged
9 in the performance of the duties of the Commission.

10 (b) TRAVEL EXPENSES.—A member of the Commis-
11 sion shall be allowed travel expenses, including per diem
12 in lieu of subsistence, at rates authorized for employees
13 of agencies under subchapter I of chapter 57 of title 5,
14 United States Code, while away from their homes or reg-
15 ular places of business in the performance of services for
16 the Commission.

17 (c) STAFF.—

18 (1) IN GENERAL.—The Chairperson of the
19 Commission may, without regard to the civil service
20 laws (including regulations), appoint and terminate
21 an executive director and such other additional per-
22 sonnel as may be necessary to enable the Commis-
23 sion to perform its duties, except that the employ-
24 ment of an executive director shall be subject to con-
25 firmation by the Commission.

1 (2) COMPENSATION.—The Chairperson of the
2 Commission may fix the compensation of the execu-
3 tive director and other personnel without regard to
4 chapter 51 and subchapter III of chapter 53 of title
5 5, United States Code, relating to classification of
6 positions and General Schedule pay rates, except
7 that the rate of pay for the executive director and
8 other personnel may not exceed the rate payable for
9 level V of the Executive Schedule under section 5316
10 of that title.

11 (d) DETAIL OF GOVERNMENT EMPLOYEES.—A Fed-
12 eral Government employee may be detailed to the Commis-
13 sion without reimbursement, and such detail shall be with-
14 out interruption or loss of civil service status or privilege.

15 (e) PROCUREMENT OF TEMPORARY AND INTERMIT-
16 TENT SERVICES.—The Chairperson of the Commission
17 may procure temporary and intermittent services under
18 section 3109(b) of title 5, United States Code, at rates
19 for individuals that do not exceed the daily equivalent of
20 the annual rate of basic pay prescribed for level V of the
21 Executive Schedule under section 5316 of that title.

22 **SEC. 7. EXPEDITED PROCEDURES FOR CONSIDERATION OF**
23 **JOINT RESOLUTIONS.**

24 (a) INTRODUCTION OF PROPOSED LEGISLATIVE
25 LANGUAGE.—

1 (1) IN GENERAL.—The proposed legislative lan-
2 guage submitted by the Commission under section
3 4(a)(3)—

4 (A) shall be introduced in the Senate (by
5 request) by the majority leader or minority
6 leader of the Senate or by a Member of the
7 Senate designated by the majority leader or mi-
8 nority leader of the Senate not later than 60
9 days after the date on which the proposed legis-
10 lation is submitted to Congress; and

11 (B) shall be introduced in the House of
12 Representatives (by request) by the Speaker of
13 the House of Representatives or the minority
14 leader of the House of Representatives or by a
15 Member of the House of Representatives des-
16 ignated by the Speaker of the House of Rep-
17 resentatives or the minority leader of the House
18 of Representatives not later than 60 days after
19 the date on which the proposed legislation is
20 submitted to Congress.

21 (2) REINTRODUCTION.—The proposed legisla-
22 tive language submitted by the Commission under
23 section 4(a)(3) shall be reintroduced as described in
24 paragraph (1) not later than 60 days after the first
25 day of a Congress if—

1 (A) the proposed legislative language was
2 introduced during the previous Congress after
3 the date that was 210 days before the date of
4 the sine die adjournment of such previous Con-
5 gress; and

6 (B) there was not a vote in either House
7 of Congress on passage of the joint resolution
8 introduced under subparagraph (A) during the
9 previous Congress by which the joint resolution
10 was not agreed to.

11 (b) EXPEDITED CONSIDERATION IN HOUSE OF REP-
12 RESENTATIVES.—

13 (1) REPORTING AND DISCHARGE.—Any com-
14 mittee of the House of Representatives to which a
15 joint resolution is referred shall report it to the
16 House of Representatives not later than 90 days
17 after the date on which the joint resolution is intro-
18 duced or reintroduced in the House of Representa-
19 tives under subsection (a). If a committee fails to re-
20 port the joint resolution within that period, the com-
21 mittee shall be discharged from further consider-
22 ation of the joint resolution and the joint resolution
23 shall be referred to the appropriate calendar.

24 (2) PROCEEDING TO CONSIDERATION.—

1 (A) IN GENERAL.—After each committee
2 authorized to consider a joint resolution reports
3 it to the House of Representatives or has been
4 discharged from its consideration, it shall be in
5 order, not later than 120 days after the date on
6 which the joint resolution is introduced or re-
7 introduced in the House of Representatives
8 under subsection (a), to move to proceed to con-
9 sider the joint resolution in the House of Rep-
10 resentatives.

11 (B) PROCEDURE.—For a motion to pro-
12 ceed to consideration of a joint resolution—

13 (i) all points of order against the mo-
14 tion are waived;

15 (ii) such a motion shall not be in
16 order after the House of Representatives
17 has disposed of a motion to proceed on the
18 joint resolution;

19 (iii) the previous question shall be
20 considered as ordered on the motion to its
21 adoption without intervening motion;

22 (iv) the motion shall not be debatable;
23 and

1 (v) a motion to reconsider the vote by
2 which the motion is disposed of shall not
3 be in order.

4 (3) CONSIDERATION.—If the House of Rep-
5 resentatives proceeds to consideration of a joint res-
6 olution—

7 (A) the joint resolution shall be considered
8 as read;

9 (B) all points of order against the joint
10 resolution and against its consideration are
11 waived;

12 (C) the previous question shall be consid-
13 ered as ordered on the joint resolution to its
14 passage without intervening motion except 10
15 hours of debate equally divided and controlled
16 by the proponent and an opponent;

17 (D) an amendment to the joint resolution
18 shall not be in order; and

19 (E) a motion to reconsider the vote on pas-
20 sage of the joint resolution shall not be in
21 order.

22 (c) EXPEDITED CONSIDERATION IN SENATE.—

23 (1) PLACEMENT ON CALENDAR.—Upon intro-
24 duction in the Senate, the joint resolution shall be
25 placed immediately on the calendar.

1 (2) PROCEEDING TO CONSIDERATION.—

2 (A) IN GENERAL.—Notwithstanding rule
3 XXII of the Standing Rules of the Senate, it is
4 in order, not later than 120 days after the date
5 on which the joint resolution is introduced or
6 reintroduced in the Senate under subsection (a)
7 (even though a previous motion to the same ef-
8 fect has been disagreed to) to move to proceed
9 to the consideration of a joint resolution.

10 (B) PROCEDURE.—For a motion to pro-
11 ceed to the consideration of a joint resolution—

12 (i) all points of order against the mo-
13 tion are waived;

14 (ii) the motion is not debatable;

15 (iii) the motion is not subject to a mo-
16 tion to postpone;

17 (iv) a motion to reconsider the vote by
18 which the motion is agreed to or disagreed
19 to shall not be in order; and

20 (v) if the motion is agreed to, the
21 joint resolution shall remain the unfinished
22 business until disposed of.

23 (3) FLOOR CONSIDERATION.—

24 (A) IN GENERAL.—If the Senate proceeds
25 to consideration of a joint resolution—

1 (i) all points of order against the joint
2 resolution (and against consideration of
3 the joint resolution) are waived;

4 (ii) consideration of the joint resolu-
5 tion, and all debatable motions and appeals
6 in connection therewith, shall be limited to
7 not more than 10 hours, which shall be di-
8 vided equally between the majority and mi-
9 nority leaders or their designees;

10 (iii) a motion further to limit debate
11 is in order and not debatable;

12 (iv) an amendment to, a motion to
13 postpone, or a motion to commit the joint
14 resolution is not in order; and

15 (v) a motion to proceed to the consid-
16 eration of other business is not in order.

17 (B) VOTE ON PASSAGE.—The vote on pas-
18 sage shall occur immediately following the con-
19 clusion of the consideration of a joint resolu-
20 tion, and a single quorum call at the conclusion
21 of the debate if requested in accordance with
22 the rules of the Senate.

23 (C) RULINGS OF THE CHAIR ON PROCE-
24 DURE.—Appeals from the decisions of the Chair
25 relating to the application of this paragraph or

1 the rules of the Senate, as the case may be, to
2 the procedure relating to a joint resolution shall
3 be decided without debate.

4 (d) RULES RELATING TO SENATE AND HOUSE OF
5 REPRESENTATIVES.—

6 (1) COORDINATION WITH ACTION BY OTHER
7 HOUSE.—If, before the passage by one House of a
8 joint resolution of that House, that House receives
9 from the other House a joint resolution—

10 (A) the joint resolution of the other House
11 shall not be referred to a committee; and

12 (B) with respect to a joint resolution of the
13 House receiving the resolution—

14 (i) the procedure in that House shall
15 be the same as if no joint resolution had
16 been received from the other House; and

17 (ii) the vote on passage shall be on
18 the joint resolution of the other House.

19 (2) TREATMENT OF JOINT RESOLUTION OF
20 OTHER HOUSE.—If one House fails to introduce or
21 consider a joint resolution under this section, the
22 joint resolution of the other House shall be entitled
23 to expedited floor procedures under this section.

24 (3) TREATMENT OF COMPANION MEASURES.—
25 If, following passage of a joint resolution in the Sen-

1 ate, the Senate receives the companion measure
2 from the House of Representatives, the companion
3 measure shall not be debatable.

4 (4) CONSIDERATION AFTER PASSAGE.—If the
5 President vetoes the joint resolution, consideration
6 of a veto message in the Senate under this para-
7 graph shall be not more than 10 hours equally di-
8 vided between the majority and minority leaders or
9 their designees.

10 (e) RULES OF HOUSE OF REPRESENTATIVES AND
11 SENATE.—This section is enacted by Congress—

12 (1) as an exercise of the rulemaking power of
13 the Senate and House of Representatives, respec-
14 tively, and as such is deemed a part of the rules of
15 each House, respectively, but applicable only with re-
16 spect to the procedure to be followed in that House
17 in the case of a joint resolution, and to supersede
18 other rules only to the extent that it is inconsistent
19 with such rules; and

20 (2) with full recognition of the constitutional
21 right of either House to change the rules (so far as
22 relating to the procedure of that House) at any time,
23 in the same manner, and to the same extent as in
24 the case of any other rule of that House.

1 **SEC. 8. TERMINATION OF COMMISSION.**

2 The Commission shall terminate on the date that is
3 12 years after the date of enactment of this Act.

4 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) **IN GENERAL.**—There is authorized to be appro-
6 priated to the Commission to carry out this Act such sums
7 as may be necessary for fiscal years 2020 through 2029.

8 (b) **AVAILABILITY.**—Any sums appropriated under
9 the authorization contained in this section shall remain
10 available, without fiscal year limitation, until expended.

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