

RESTORE THE PARTNERSHIP ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2967

TO ESTABLISH THE COMMISSION ON INTERGOVERNMENTAL
RELATIONS OF THE UNITED STATES TO FACILITATE THE
FULLEST COOPERATION, COORDINATION, AND MUTUAL
ACCOUNTABILITY AMONG ALL LEVELS OF GOVERNMENT, AND
FOR OTHER PURPOSES



DECEMBER 14, 2020.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

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116TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 116-314

RESTORE THE PARTNERSHIP ACT

DECEMBER 14, 2020.—Ordered to be printed

Mr. JOHNSON, from the Committee on Homeland Security and Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 2967]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 2967), to establish the Commission on Intergovernmental Relations of the United States to facilitate the fullest cooperation, coordination, and mutual accountability among all levels of government, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

The purpose of S. 2967, the Restore the Partnership Act, is to establish a bipartisan, intergovernmental commission with representatives from the Federal, State, Tribal, and local governments. The purpose of the commission is to facilitate coordination among the different levels of government and have them collectively address issues that affect the government at a Federal, state, tribal, and local level.

II. BACKGROUND AND THE NEED FOR LEGISLATION

From September 1959 to September 1996, the U.S. Advisory Commission on Intergovernmental Relations served as a forum for dialogue on intergovernmental relations.¹ It published reports and guidance that created partnerships across the different levels of government.² The commission's work is widely credited with the development of the Unfunded Mandates Reform Act, which was signed into law by President Clinton in 1995.³ The push to cut federal spending led to the dissolution of the commission in 1996.⁴

In May 2017, House Speaker Paul D. Ryan and Minority Leader Nancy Pelosi announced the creation of the Task Force on Intergovernmental Relations, which held public hearings akin to committee hearings.⁵ The task force held a hearing on an earlier version of the Restoring the Partnership Act, and examined the issue of reestablishing a commission on intergovernmental affairs, in order to restore this valuable tool for state and local governments to partner with the Federal Government and share information.⁶

S. 2967, the Restore the Partnership Act, would establish a new commission on intergovernmental affairs to promote dialogue and partnerships between all levels of government. Specifically, the legislation establishes a 31-member commission, made up of appointees by the president and Congress, with various requirements that the appointees be drawn from the Federal Government, Congress, and state and local governments. The commission is required to hold hearings and issue reports and recommendations on matters related to intergovernmental affairs. The authorities of the commission expire after eight years.

III. LEGISLATIVE HISTORY

S. 2967, the Restore the Partnership Act, was introduced on December 3, 2019, by Senators Lamar Alexander (R-TN), and Kyrsten Sinema (D-AZ). The bill was referred to the Committee on Homeland Security and Governmental Affairs. The Committee considered S. 2967 at a business meeting on July 22, 2020.

During the business meeting, Senator Sinema offered a substitute amendment that made small technical edits. Senator Rand Paul (R-KY) and Senator Rick Scott (R-FL) offered amendments, as modified, which added reporting requirements, created a sunset of the commission, and eliminated the authorized appropriations. The amendments were adopted by voice vote *en bloc* with Senators Johnson, Portman, Paul, Lankford, Romney, Scott, Enzi, Hawley, Peters, Carper, Hassan, Harris, and Rosen present.

The legislation, as amended, passed by voice vote *en bloc* with Senators Johnson, Portman, Paul, Lankford, Romney, Scott, Enzi, Hawley, Peters, Carper, Hassan, Harris, and Rosen present. Senator Paul was recorded "No".

¹Speaker's Task Force on Intergovernmental Relations, *The Restoring the Partnership Act* (May 17, 2018), available at <https://speakers-task-force-intergovernmental-affairs-robbishop.house.gov/media-center/hearings/restoring-the-partnership>.

²*Id.* at 4.

³*Id.*

⁴*Id.* at 16.

⁵Speaker's Task Force on Intergovernmental Relations, *About*, available at <https://speakers-task-force-intergovernmental-affairs-robbishop.house.gov/about>.

⁶Speaker's Task Force on Intergovernmental Relations, *supra* note 1.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title

This section establishes the short title of the bill as the “Restore the Partnership Act.”

Section 2. Establishment

This section creates a bipartisan commission in the Executive Branch called the “Commission on Intergovernmental Relations of the United States” referred to as the “Commission.”

Section 3. Declaration of purpose

This subsection established the duties and responsibilities of the Commission.

Subsection (a) provides a mission statement for the Commission, stating that the purpose of the Commission is to facilitate cooperation, and coordination among all levels of government to ensure better service to its citizens in an increasingly complex society.

Subsection (b) outlines the actions the Commission is to perform. The Commission is to assemble Federal, state, tribal, and local governments to consider and discuss common problems. In these meetings the Commission is to provide a forum for how Federal aid, and other programs may benefit state, tribal, and local governments. The Commission is to encourage discussion on the flexibility and discretion of Federal policies and programs, while highlighting internal controls, and oversight tools. The Commission is also to advise the Federal Government on ways to improve intergovernmental operations of the administration and their interactions with state, tribal, and local governments. The Commission is to also identify and coordinate the impacts the Supreme Court’s rulings have on Federal, state, tribal, and local governments.

Section 4. Membership

Subsection (a) states the Commission is to be made up of 31 members, 3 appointed by the president that are officers in the Executive Branch, and 3 that are private citizens that have experience or familiarity with intergovernmental relations. Six are to be appointed by Congress, three by the Majority Leader, and three by the Speaker of the House, from their respective legislative bodies. Four are to be appointed by the president from a panel of governors, provided by the National Governors Association. Four members are to be presidentially-appointed from a panel of state legislative bodies, submitted by the National Conference of State Legislatures. Another four members are to be presidentially-appointed from a panel of mayors, provided by the National League of Cities and the United States Conference of Mayors. One member is to be appointed by the president from a township elected governing board, submitted by the National Association of Towns and Townships. The final two members are to be presidentially-appointed from a panel of tribal officials submitted by the National Congress of American Indians.

Subsection (b) provides the geographical and political requirements of the Commissioners when they are being selected.

Subsection (c) requires the initial appointments to be made no later than 60 days after the enactment of this Act.

Subsection (d) limits Commissioners to two-year terms and details the requirements for how they may be reappointed.

Section 5. Organization of Commission

This section describes how the meetings are to take place. The first meeting is to be within 90 days of enactment of the bill, with a presidentially-designated Chair and Vice Chair kicking off the meeting. Seventeen members of the Commission shall constitute a true quorum, while two or more members present from different appointment areas is a quorum to conduct a hearing.

Section 6. Duties of Commission

Subsection (a) details the specific responsibilities of the Commission. The Commission is to engage in studies, hearings, and investigations that promote its initiative of better intergovernmental relations. It is to also provide technical assistance to executive and legislative branches of the Federal Government to review proposed legislation to weigh in on the effects of the legislation at all levels of government.

Subsection (b) requires the Commission to submit an annual report to the president and Congress. The report is to include trends in federalism that need attention, summarize any actions taken by the Commission since the last report, and provide all recommendations the Commission made to government entities. It also requires the Commission to submit an annual report providing information on programs that are carried out at the state, tribal, and local level that are funded by the Federal government 50 percent or more. Once the Commission reports to Congress, Congress must hold a hearing on the Commission's report within 90 days.

Section 7. Powers and administrative provisions

This section details the power the Commission has and the responsibilities of the Commissioners.

Subsection (a) establishes that any member of the Commission may hold a hearing, if authorized by the Commission, and administer oaths to witnesses that appear before the Commission.

Subsection (b) requires Executive agencies to comply with requests from the Commission, and when the Commission submits recommendations to an agency, it is required to provide a written response within 90 days.

Subsection (c) creates the Executive Director within the Commission who is to be the most fit to perform the duties of the position without regard to political affiliation. The Executive Director is to be in charge of the Commission's staff that work for the Commissioners.

Subsection (d), (e), and (f) provide details on staff and staffing. Subsection (d) states the Executive Director has the power of appointing, compensating, and removing staff. Subsection (e) clarifies that Commission staff are to be considered Federal employees, and (f) establishes that staff may not be paid greater than the highest rate of basic pay on the G.S. scale.

Section 8. Termination

This section establishes that the Commission is to dissolve eight years after the date of enactment of this Act.

Section 9. Reimbursement

This section explains that Commissioners are entitled to reimbursement for travel, or other necessary expenses that may be incurred in carrying out their duties.

Section 10. Receipt of other funds

This section authorizes the Commission to receive funds through grants, contributions, etc. from nonprofits, foundations, and agencies.

Section 11. Repeal of Advisory Commission on Intergovernmental Relations

This section repeals the “Act to establish an Advisory Commission on Intergovernmental Relations,” (Public Law 86–380; 42 U.S.C. 4271 et seq.).

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATES

CBO failed to provide the Committee with a cost estimate in time for the final reporting deadline of the 116th Congress.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

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TITLE 42—THE PUBLIC HEALTH AND WELFARE

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[CHAPTER 53—ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS]

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