

116TH CONGRESS  
1ST SESSION

# S. 607

To amend the Department of Energy Organization Act to address insufficient compensation of employees and other personnel of the Federal Energy Regulatory Commission, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2019

Mr. CASSIDY (for himself, Mr. GARDNER, and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

## A BILL

To amend the Department of Energy Organization Act to address insufficient compensation of employees and other personnel of the Federal Energy Regulatory 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 “Timely Review of In-  
5 frastructure Act”.

1 **SEC. 2. ADDRESSING INSUFFICIENT COMPENSATION OF**  
2 **EMPLOYEES AND OTHER PERSONNEL OF THE**  
3 **FEDERAL ENERGY REGULATORY COMMIS-**  
4 **SION.**

5 (a) IN GENERAL.—Section 401 of the Department of  
6 Energy Organization Act (42 U.S.C. 7171) is amended  
7 by adding at the end the following:

8 “(k) ADDRESSING INSUFFICIENT COMPENSATION OF  
9 EMPLOYEES AND OTHER PERSONNEL OF THE COMMIS-  
10 SION.—

11 “(1) IN GENERAL.—Notwithstanding any other  
12 provision of law, if the Chairman publicly certifies  
13 that compensation for a category of employees or  
14 other personnel of the Commission is insufficient to  
15 retain or attract employees and other personnel to  
16 allow the Commission to carry out the functions of  
17 the Commission in a timely, efficient, and effective  
18 manner, the Chairman may fix the compensation for  
19 the category of employees or other personnel without  
20 regard to chapter 51 and subchapter III of chapter  
21 53 of title 5, United States Code, or any other civil  
22 service law.

23 “(2) CERTIFICATION REQUIREMENTS.—A cer-  
24 tification issued under paragraph (1) shall—

25 “(A) apply with respect to a category of  
26 employees or other personnel responsible for

1 conducting work of a scientific, technological,  
2 engineering, or mathematical nature;

3 “(B) specify a maximum amount of rea-  
4 sonable compensation for the category of em-  
5 ployees or other personnel;

6 “(C) be valid for a 5-year period beginning  
7 on the date on which the certification is issued;

8 “(D) be no broader than necessary to  
9 achieve the objective of retaining or attracting  
10 employees and other personnel to allow the  
11 Commission to carry out the functions of the  
12 Commission in a timely, efficient, and effective  
13 manner; and

14 “(E) include an explanation for why the  
15 other approaches available to the Chairman for  
16 retaining and attracting employees and other  
17 personnel are inadequate.

18 “(3) RENEWAL.—

19 “(A) IN GENERAL.—Not later than 90  
20 days before the date of expiration of a certifi-  
21 cation issued under paragraph (1), the Chair-  
22 man shall determine whether the certification  
23 should be renewed for a subsequent 5-year pe-  
24 riod.

1           “(B) REQUIREMENT.—If the Chairman de-  
2           termines that a certification should be renewed  
3           under subparagraph (A), the Chairman may  
4           renew the certification, subject to the certifi-  
5           cation requirements under paragraph (2) that  
6           were applicable to the initial certification.

7           “(4) NEW HIRES.—

8           “(A) IN GENERAL.—An employee or other  
9           personnel that is a member of a category of em-  
10          ployees or other personnel that would have been  
11          covered by a certification issued under para-  
12          graph (1), but was hired during a period in  
13          which the certification has expired and has not  
14          been renewed under paragraph (3) shall not be  
15          eligible for compensation at the level that would  
16          have applied to the employee or other personnel  
17          if the certification had been in effect on the  
18          date on which the employee or other personnel  
19          was hired.

20          “(B) COMPENSATION OF NEW HIRES ON  
21          RENEWAL.—On renewal of a certification under  
22          paragraph (3), the Chairman may fix the com-  
23          pensation of the employees or other personnel  
24          described in subparagraph (A) at the level es-

1           tablished for the category of employees or other  
2           personnel in the certification.

3           “(5) RETENTION OF LEVEL OF FIXED COM-  
4           PENSATION.—A category of employees or other per-  
5           sonnel, the compensation of which was fixed by the  
6           Chairman in accordance with paragraph (1), may, at  
7           the discretion of the Chairman, have the level of  
8           fixed compensation for the category of employees or  
9           other personnel retained, regardless of whether a  
10          certification described under that paragraph is in ef-  
11          fect with respect to the compensation of the category  
12          of employees or other personnel.

13          “(6) CONSULTATION REQUIRED.—The Chair-  
14          man shall consult with the Director of the Office of  
15          Personnel Management in implementing this sub-  
16          section, including in the determination of the  
17          amount of compensation with respect to each cat-  
18          egory of employees or other personnel.

19          “(7) EXPERTS AND CONSULTANTS.—

20                  “(A) IN GENERAL.—Subject to subpara-  
21                  graph (B), the Chairman may—

22                          “(i) obtain the services of experts and  
23                          consultants in accordance with section  
24                          3109 of title 5, United States Code;

1           “(ii) compensate those experts and  
2 consultants for each day (including travel  
3 time) at rates not in excess of the rate of  
4 pay for level IV of the Executive Schedule  
5 under section 5315 of that title; and

6           “(iii) pay to the experts and consult-  
7 ants serving away from the homes or reg-  
8 ular places of business of the experts and  
9 consultants travel expenses and per diem  
10 in lieu of subsistence at rates authorized  
11 by sections 5702 and 5703 of that title for  
12 persons in Government service employed  
13 intermittently.

14           “(B) LIMITATIONS.—The Chairman  
15 shall—

16           “(i) to the maximum extent prac-  
17 ticable, limit the use of experts and con-  
18 sultants pursuant to subparagraph (A);  
19 and

20           “(ii) ensure that the employment con-  
21 tract of each expert and consultant em-  
22 ployed pursuant to subparagraph (A) is  
23 subject to renewal not less frequently than  
24 annually.”.

25           (b) REPORTS.—

1           (1) IN GENERAL.—Not later than 1 year after  
2           the date of enactment of this Act, and every 2 years  
3           thereafter for 10 years, the Chairman of the Federal  
4           Energy Regulatory Commission shall submit to the  
5           Committee on Energy and Commerce of the House  
6           of Representatives and the Committee on Energy  
7           and Natural Resources of the Senate a report on in-  
8           formation relating to hiring, vacancies, and com-  
9           pensation at the Federal Energy Regulatory Com-  
10          mission.

11          (2) INCLUSIONS.—Each report under para-  
12          graph (1) shall include—

13                 (A) an analysis of any trends with respect  
14                 to hiring, vacancies, and compensation at the  
15                 Federal Energy Regulatory Commission; and

16                 (B) a description of the efforts to retain  
17                 and attract employees or other personnel re-  
18                 sponsible for conducting work of a scientific,  
19                 technological, engineering, or mathematical na-  
20                 ture at the Federal Energy Regulatory Com-  
21                 mission.

22          (c) APPLICABILITY.—The amendment made by sub-  
23          section (a) shall apply beginning on the date that is 30  
24          days after the date of enactment of this Act.

○