

115TH CONGRESS
1ST SESSION

H. R. 1803

To establish the Constitutional Government Review Commission, and for
other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 2017

Mr. DUNN introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish the Constitutional Government Review
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 “10th Amendment Res-
5 toration Act of 2017”.

6 **SEC. 2. ESTABLISHMENT.**

7 There is established a commission, to be known as
8 the “Constitutional Government Review Commission”,
9 that shall review each agency in accordance with specified

1 criteria to determine if such agency should be repealed to
2 eliminate Federal powers not definitively delegated by the
3 Constitution.

4 **SEC. 3. MEMBERSHIP.**

5 (a) NUMBER AND APPOINTMENT.—The Commission
6 shall be composed of 9 members who shall be appointed
7 by the President, not later than 180 days after the date
8 of the enactment of this Act, by and with the advise and
9 consent of the Senate.

10 (b) TERM.—The term of each member shall com-
11 mence upon the member's confirmation by the Senate and
12 shall extend to the date that is 5 years and 180 days after
13 the date of enactment of this Act or that is 5 years after
14 the date by which all members have been confirmed by
15 the Senate, whichever is later.

16 (c) APPOINTMENT.—The members of the Commis-
17 sion shall be appointed as follows:

18 (1) CHAIR.—The President shall appoint as the
19 Chair of the Commission an individual with expertise
20 and experience in the Constitution and the funda-
21 mental principles by which the Federal Government
22 exercises its authority.

23 (2) CANDIDATE LIST OF MEMBERS.—The
24 Speaker of the House of Representatives, the minor-
25 ity leader of the House of Representatives, the ma-

1 jority leader of the Senate, and the minority leader
2 of the Senate shall each present to the President a
3 list of candidates to be members of the Commission.
4 Such candidates shall be individuals learned in the
5 original meaning of the Constitution. The President
6 shall appoint 2 members of the Commission from
7 each list provided under this paragraph, subject to
8 the provisions of paragraph (3).

9 (3) RESUBMISSION OF CANDIDATE.—The Presi-
10 dent may request from the presenter of the list
11 under paragraph (2) a new list of one or more can-
12 didates if the President—

13 (A) determines that any candidate on the
14 list presented pursuant to paragraph (2) does
15 not meet the qualifications specified in such
16 paragraph to be a member of the Commission;
17 and

18 (B) certifies that determination to the con-
19 gressional officials specified in paragraph (2).

20 (d) PAY AND TRAVEL EXPENSES.—

21 (1) PAY.—

22 (A) MEMBERS.—Each member, other than
23 the Chair of the Commission, shall be paid at
24 a rate equal to the daily equivalent of the min-
25 imum annual rate of basic pay payable for level

1 IV of the Executive Schedule under section
2 5315 of title 5, United States Code, for each
3 day (including travel time) during which the
4 member is engaged in the actual performance of
5 duties vested in the Commission.

6 (B) CHAIR.—The Chair shall be paid for
7 each day referred to in subparagraph (A) at a
8 rate equal to the daily equivalent of the min-
9 imum annual rate of basic pay payable for level
10 III of the Executive Schedule under section
11 5314 of title 5, United States Code.

12 (2) TRAVEL EXPENSES.—Members shall receive
13 travel expenses, including per diem in lieu of subsist-
14 ence, in accordance with sections 5702 and 5703 of
15 title 5, United States Code.

16 (e) MEETINGS.—The Commission may meet when,
17 where, and as often as the Commission determines appro-
18 priate, except that the Commission shall hold public meet-
19 ings not less than twice each year. All meetings of the
20 Commission shall be open to the public.

21 **SEC. 4. DUTIES OF THE COMMISSION.**

22 (a) IN GENERAL.—The Commission shall conduct a
23 review of the authorizing statute of each agency and the
24 statutory authority implemented by each such agency to
25 determine if any are not definitively delegated to the Fed-

1 eral Government by the Constitution. In any review con-
2 ducted by the Commission, the Commission shall have as
3 a goal of the Commission to ensure that powers not dele-
4 gated to the United States by the Constitution, nor pro-
5 hibited it to the States, are reserved to the States respec-
6 tively, or to the people.

7 (b) METHODOLOGY FOR REVIEW.—The Commission
8 shall establish a methodology for conducting the review
9 and publish the terms of the methodology in the Federal
10 Register and on the website of the Commission. The Com-
11 mission may propose and seek public comment on the
12 methodology before the methodology is established.

13 (c) REPEAL RECOMMENDATION.—

14 (1) IN GENERAL.—After completion of any re-
15 view under subsection (a), the Commission shall rec-
16 ommend whether immediate action is appropriate to
17 repeal authorizing statute of an agency and statu-
18 tory authority implemented by such agency.

19 (2) DECISIONS BY MAJORITY.—Each decision
20 by the Commission to issue a repeal recommendation
21 under this subsection shall be made by a simple ma-
22 jority vote of the Commission. No such vote shall
23 take place until after all members of the Commission
24 have been confirmed by the Senate.

1 (d) RECOMMENDATIONS FOR DISTRIBUTION OF SAV-
2 INGS AMONG THE STATES.—

3 (1) IN GENERAL.—The Commission shall pre-
4 pare in consultation with the Comptroller General of
5 the United States an estimate of Federal spending
6 or revenue changes resulting from adoption of a re-
7 peal recommendation under subsection (c).

8 (2) DISTRIBUTION RECOMMENDATIONS.—After
9 completion of the estimate under paragraph (1), the
10 Commission shall prepare a recommendation for dis-
11 tributing any Federal budget savings in lump sums
12 among the States for administration of powers re-
13 turned to the States as a result of adoption of a re-
14 peal recommendation under subsection (c).

15 (e) INITIATION OF REVIEW BY OTHER PERSONS.—

16 (1) IN GENERAL.—The Commission may also
17 conduct a review under subsection (a), and issue a
18 recommendation under subsection (c), of an author-
19 izing statute of an agency and statutory authority
20 implemented by such agency which are submitted for
21 review to the Commission by—

22 (A) the President;

23 (B) a Member of Congress;

1 (C) any officer or employee of a Federal,
2 State, local, or Tribal government, or regional
3 governmental body; or

4 (D) any member of the public.

5 (2) FORM OF SUBMISSION.—A submission to
6 the Commission under this subsection shall—

7 (A) identify the specific agency for review;

8 (B) provide a statement of evidence to
9 demonstrate that the agency qualifies to be
10 identified for review under the criteria listed in
11 subsection (a); and

12 (C) such other information as the sub-
13 mitter believes may be helpful to the Commis-
14 sion's review.

15 (3) PUBLIC AVAILABILITY.—The Commission
16 shall make each submission received under this sub-
17 section available on the website of the Commission
18 as soon as possible, but not later than 1 week after
19 the date on which the submission was received.

20 (f) NOTICES AND REPORTS OF THE COMMISSION.—

21 (1) NOTICES OF AND REPORTS ON ACTIVI-
22 TIES.—The Commission shall publish, in the Federal
23 Register and on the website of the Commission—

24 (A) notices in advance of all public meet-
25 ings, hearings, and recommendations informing

1 the public of the basis, purpose, and procedures
2 for the meeting, hearing, or classification; and

3 (B) reports after the conclusion of any
4 public meeting, hearing, or recommendation
5 summarizing in detail the basis, purpose, and
6 substance of the meeting, hearing, or rec-
7 ommendation.

8 (2) ANNUAL REPORTS TO CONGRESS.—Each
9 year, beginning on the date that is 1 year after the
10 date on which all Commission members have been
11 confirmed by the Senate, the Commission shall sub-
12 mit a report simultaneously to each House of Con-
13 gress detailing the activities of the Commission for
14 the previous year, and all recommendations of the
15 Commission for repeal and distribution of savings
16 among the States under this section, including (at
17 the option of the Commission) a proposed bill con-
18 sisting of legislative text to carry out the rec-
19 ommendations.

20 (3) FINAL REPORT.—Not later than the date
21 on which the Commission members' appointments
22 expire, the Commission shall submit a final report
23 simultaneously to each House of Congress summa-
24 rizing all activities and recommendations of the
25 Commission, including a list of each statute for im-

mediate action to repeal and recommendations for distribution of savings among the States and (at the option of the Commission) a proposed bill consisting of legislative text to carry out the recommendations. This report may be included in the final annual report of the Commission under paragraph (2) and may include the Commission's recommendation whether the Commission should be reauthorized by Congress.

(g) WEBSITE.—

(1) IN GENERAL.—The Commission shall establish a public website that—

(A) uses current information technology to make records available on the website;

(B) provides information in a standard data format; and

(C) receives and publishes public comments.

(2) PUBLISHING OF INFORMATION.—Any information required to be made available on the website established pursuant to this Act shall be published in a timely manner and shall be accessible by the public on the website at no cost.

(3) RECORD OF PUBLIC MEETINGS AND HEARINGS.—All records of public meetings and hearings

1 shall be published on the website as soon as possible,
2 but not later than 1 week after the date on which
3 such public meeting or hearing occurred.

4 (4) PUBLIC COMMENTS.—The Commission shall
5 publish on the website all public comments and sub-
6 missions.

7 (5) NOTICES.—The Commission shall publish
8 on the website notices of all public meetings and
9 hearings at least 1 week before the date on which
10 such public meeting or hearing occurs.

11 **SEC. 5. EXPEDITED PROCEDURES FOR CONSIDERATION OF**
12 **COMMISSION RECOMMENDATIONS.**

13 (a) DESCRIPTION OF COMMISSION BILL.—In this
14 section, the “Commission bill” is a bill—

15 (1) which consists of the legislative text in-
16 cluded in an annual report submitted by the Com-
17 mission under paragraph (2) of section 4(f) and
18 which is introduced not later than 5 legislative days
19 after the date on which the Commission submits
20 such annual report by the majority leader of the
21 Senate or by a Member of the Senate designated by
22 the majority leader of the Senate (in the case of the
23 Senate) or by the Speaker of the House of Rep-
24 resentatives or by a Member of the House of Rep-

1 representatives designated by the Speaker (in the case
2 of the House); and

3 (2) which consists of the legislative text in-
4 cluded in the final report submitted by the Commis-
5 sion under paragraph (3) of section 4(f) and which
6 is introduced not later than 5 legislative days after
7 the date on which the Commission submits such
8 final report by the majority leader of the Senate or
9 by a Member of the Senate designated by the major-
10 ity leader of the Senate (in the case of the Senate)
11 or by the Speaker of the House of Representatives
12 or by a Member of the House of Representatives
13 designated by the Speaker (in the case of the
14 House).

15 (b) EXPEDITED CONSIDERATION IN HOUSE OF REP-
16 REPRESENTATIVES.—

17 (1) PLACEMENT ON CALENDAR.—Upon intro-
18 duction in the House of Representatives, the Com-
19 mission bill shall be placed immediately on the ap-
20 propriate calendar.

21 (2) PROCEEDING TO CONSIDERATION.—

22 (A) IN GENERAL.—It shall be in order, not
23 later than 30 legislative days after the date the
24 Commission bill is introduced in the House of
25 Representatives, to move to proceed to consider

1 the Commission bill in the House of Represent-
2 atives.

3 (B) PROCEDURE.—For a motion to pro-
4 ceed to consider the Commission bill—

5 (i) all points of order against the mo-
6 tion are waived;

7 (ii) such a motion shall not be in
8 order after the House of Representatives
9 has disposed of a motion to proceed on the
10 Commission bill;

11 (iii) the previous question shall be
12 considered as ordered on the motion to its
13 adoption without intervening motion;

14 (iv) the motion shall not be debatable;
15 and

16 (v) a motion to reconsider the vote by
17 which the motion is disposed of shall not
18 be in order.

19 (3) CONSIDERATION.—When the House of Rep-
20 resentatives proceeds to consideration of the Com-
21 mission bill—

22 (A) the Commission bill shall be considered
23 as read;

1 (B) all points of order against the Com-
2 mission bill and against its consideration are
3 waived;

4 (C) the previous question shall be consid-
5 ered as ordered on the Commission bill to its
6 passage without intervening motion except 10
7 hours of debate equally divided and controlled
8 by the proponent and an opponent;

9 (D) an amendment to the Commission bill
10 shall not be in order; and

11 (E) a motion to reconsider the vote on pas-
12 sage of the Commission bill shall not be in
13 order.

14 (4) VOTE ON PASSAGE.—In the House of Rep-
15 resentatives, the Commission bill shall be agreed to
16 upon a vote of a majority of the Members present
17 and voting, a quorum being present.

18 (c) EXPEDITED CONSIDERATION IN SENATE.—

19 (1) PLACEMENT ON CALENDAR.—Upon intro-
20 duction in the Senate, the Commission bill shall be
21 placed immediately on the calendar.

22 (2) PROCEEDING TO CONSIDERATION.—

23 (A) IN GENERAL.—Notwithstanding rule
24 XXII of the Standing Rules of the Senate, it is
25 in order, not later than 30 legislative days after

1 the date the Commission bill is introduced in
2 the Senate (even though a previous motion to
3 the same effect has been disagreed to) to move
4 to proceed to the consideration of the Commis-
5 sion bill.

6 (B) PROCEDURE.—For a motion to pro-
7 ceed to the consideration of the Commission
8 bill—

9 (i) all points of order against the mo-
10 tion are waived;

11 (ii) the motion is not debatable;

12 (iii) the motion is not subject to a mo-
13 tion to postpone;

14 (iv) a motion to reconsider the vote by
15 which the motion is agreed to or disagreed
16 to shall not be in order; and

17 (v) if the motion is agreed to, the
18 Commission bill shall remain the unfin-
19 ished business until disposed of.

20 (3) FLOOR CONSIDERATION.—

21 (A) IN GENERAL.—If the Senate proceeds
22 to consideration of the Commission bill—

23 (i) all points of order against the
24 Commission bill (and against consideration
25 of the Commission bill) are waived;

1 (ii) consideration of the Commission
2 bill, and all debatable motions and appeals
3 in connection therewith, shall be limited to
4 not more than 30 hours, which shall be di-
5 vided equally between the majority and mi-
6 nority leaders or their designees;

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

9 (iv) an amendment to, a motion to
10 postpone, or a motion to commit the Com-
11 mission bill is not in order; and

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

14 (B) VOTE ON PASSAGE.—In the Senate—

15 (i) the vote on passage shall occur im-
16 mediately following the conclusion of the
17 consideration of the Commission bill, and a
18 single quorum call at the conclusion of the
19 debate if requested in accordance with the
20 rules of the Senate; and

21 (ii) the Commission bill shall be
22 agreed to upon a vote of a majority of the
23 Members present and voting, a quorum
24 being present.

1 (C) RULINGS OF THE CHAIR ON PROCE-
 2 DURE.—Appeals from the decisions of the Chair
 3 relating to the application of this subsection or
 4 the rules of the Senate, as the case may be, to
 5 the procedure relating to the Commission bill
 6 shall be decided without debate.

7 (d) RULES RELATING TO SENATE AND HOUSE OF
 8 REPRESENTATIVES.—

9 (1) COORDINATION WITH ACTION BY OTHER
 10 HOUSE.—If, before the passage by one House of the
 11 Commission bill of that House, that House receives
 12 from the other House the Commission bill—

13 (A) the Commission bill of the other House
 14 shall not be referred to a committee; and

15 (B) with respect to the Commission bill of
 16 the House receiving the resolution—

17 (i) the procedure in that House shall
 18 be the same as if no Commission bill had
 19 been received from the other House; and

20 (ii) the vote on passage shall be on
 21 the Commission bill of the other House.

22 (2) TREATMENT OF COMMISSION BILL OF
 23 OTHER HOUSE.—If one House fails to introduce or
 24 consider the Commission bill under this section, the

1 Commission bill of the other House shall be entitled
2 to expedited floor procedures under this section.

3 (3) TREATMENT OF COMPANION MEASURES.—

4 If, following passage of the Commission bill in the
5 Senate, the Senate receives the companion measure
6 from the House of Representatives, the companion
7 measure shall not be debatable.

8 (4) VETOES.—If the President vetoes the Com-
9 mission bill, consideration of a veto message in the
10 Senate under this section shall be not more than 10
11 hours equally divided between the majority and mi-
12 nority leaders or their designees.

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

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

23 (2) with full recognition of the constitutional
24 right of either House to change the rules (so far as
25 relating to the procedure of that House) at any time,

1 in the same manner, and to the same extent as in
2 the case of any other rule of that House.

3 **SEC. 6. DIRECTOR AND STAFF OF COMMISSION; EXPERTS**
4 **AND CONSULTANTS.**

5 (a) DIRECTOR OF STAFF.—

6 (1) IN GENERAL.—The Commission shall ap-
7 point a Director.

8 (2) PAY.—The Director shall be paid at the
9 rate of basic pay payable for level V of the Executive
10 Schedule under section 5316 of title 5, United
11 States Code.

12 (b) STAFF.—

13 (1) IN GENERAL.—Subject to paragraph (2),
14 the Director, with the approval of the Commission,
15 may appoint, fix the pay of, and terminate addi-
16 tional personnel.

17 (2) LIMITATIONS ON APPOINTMENT.—The Di-
18 rector may make such appointments without regard
19 to the provisions of title 5, United States Code, gov-
20 erning appointments in the competitive service, and
21 any personnel so appointed may be paid without re-
22 gard to the provisions of chapter 51 and subchapter
23 III of chapter 53 of that title relating to classifica-
24 tion and General Schedule pay rates, except that an
25 individual so appointed may not receive pay in ex-

1 cess of the annual rate of basic pay payable for GS–
2 15 of the General Schedule.

3 (3) AGENCY ASSISTANCE.—Following consulta-
4 tion with and upon request of the Chair of the Com-
5 mission, the head of an agency may detail any of the
6 personnel of that agency to the Commission to assist
7 the Commission in carrying out the duties of the
8 Commission under this Act.

9 (4) GAO.—The Comptroller General of the
10 United States shall provide assistance, including the
11 detailing of employees, to the Commission in accord-
12 ance with an agreement entered into with the Com-
13 mission.

14 (5) ASSISTANCE FROM OTHER PARTIES.—Con-
15 gress, the States, and federally recognized Indian
16 Tribes may provide assistance, including the detail-
17 ing of employees, to the Commission in accordance
18 with an agreement entered into with the Commis-
19 sion.

20 (c) EXPERTS AND CONSULTANTS.—The Commission
21 may procure by contract, to the extent funds are available,
22 the temporary or intermittent services of experts or con-
23 sultants pursuant to section 3109 of title 5, United States
24 Code.

1 **SEC. 7. POWERS AND AUTHORITIES OF THE COMMISSION.**

2 (a) **HEARINGS.**—The Commission may, for the pur-
3 pose of carrying out this Act, hold hearings to consider
4 issues of fact or law relevant to the Commission’s work.
5 Any hearing held by the Commission shall be open to the
6 public.

7 (b) **ACCESS TO INFORMATION.**—The Commission
8 may secure directly from any agency information and doc-
9 uments necessary to enable the Commission to carry out
10 this Act. Upon request of the Chair of the Commission,
11 the head of that agency shall furnish the information or
12 document to the Commission as soon as possible, but not
13 later than two weeks after the date on which the request
14 was made.

15 (c) **SUBPOENAS POWER.**—

16 (1) **IN GENERAL.**—The Commission may issue
17 subpoenas requiring the attendance and testimony of
18 witnesses and the production of any evidence relat-
19 ing to the duties of the Commission. The attendance
20 of witnesses and the production of evidence may be
21 required from any place within the United States at
22 any designated place of hearing within the United
23 States.

24 (2) **FAILURE TO OBEY A SUBPOENA.**—If a per-
25 son refuses to obey a subpoena issued under para-
26 graph (1), the Commission may apply to a United

1 States district court for an order requiring that per-
2 son to appear before the Commission to give testi-
3 mony, produce evidence, or both, relating to the
4 matter under investigation. The application may be
5 made within the judicial district where the hearing
6 is conducted or where that person is found, resides,
7 or transacts business. Any failure to obey the order
8 of the court may be punished by the court as civil
9 contempt.

10 (3) SERVICE OF SUBPOENAS.—The subpoenas
11 of the Commission shall be served in the manner
12 provided for subpoenas issued by a United States
13 district court under the Federal Rules of Civil Pro-
14 cedure for the United States district courts.

15 (4) SERVICE OF PROCESS.—All process of any
16 court to which application is made under paragraph
17 (2) may be served in the judicial district in which
18 the person required to be served resides or may be
19 found.

20 (d) PROPERTY.—The Commission may lease space
21 and acquire personal property to the extent funds are
22 available.

1 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—There are authorized to be appro-
3 priated such sums as may be necessary to the Commission
4 to carry out this Act, not to exceed \$30,000,000.

5 (b) AVAILABILITY.—Any sums appropriated under
6 the authorization contained in this section shall remain
7 available, without fiscal year limitation, until the earlier
8 of the date that such sums are expended or the date of
9 the termination of the Commission.

10 (c) APPLICABILITY OF THE FEDERAL ADVISORY
11 COMMITTEE ACT.—

12 (1) IN GENERAL.—Except as otherwise pro-
13 vided in this Act, the Commission shall be subject to
14 the provisions of the Federal Advisory Committee
15 Act (5 U.S.C. App.).

16 (2) ADVISORY COMMITTEE MANAGEMENT OFFI-
17 CER.—The Commission shall not be subject to the
18 control of any Advisory Committee Management Of-
19 ficer designated under section 8(b)(1) of the Federal
20 Advisory Committee Act (5 U.S.C. App.).

21 (3) SUBCOMMITTEE.—Any subcommittee of the
22 Commission shall be treated as the Commission for
23 purposes of the Federal Advisory Committee Act (5
24 U.S.C. App.).

25 (4) CHARTER.—The enactment of this Act shall
26 be considered to meet the requirements of the Com-

1 mission under section 9(c) of the Federal Advisory
2 Committee Act (5 U.S.C. App.).

3 **SEC. 9. TERMINATION.**

4 The Commission shall terminate on the date that is
5 5 years and 180 days after the date of enactment of this
6 Act or 5 years after the date by which all Commission
7 members' terms have commenced, whichever is later.

8 **SEC. 10. DEFINITIONS.**

9 In this Act:

10 (1) AGENCY.—The term “agency” has the
11 meaning given such term in section 551 of title 5,
12 United States Code.

13 (2) UNFUNDED MANDATE.—The term “un-
14 funded mandate” has the meaning given the term
15 “Federal mandate” in section 421(6) of the Con-
16 gressional Budget Act of 1974 (2 U.S.C. 658(6)).

○