

107TH CONGRESS  
1ST SESSION

# S. 233

To place a moratorium on executions by the Federal Government and urge the States to do the same, while a National Commission on the Death Penalty reviews the fairness of the imposition of the death penalty.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2001

Mr. FEINGOLD (for himself, and Mr. LEVIN, Mr. WELLSTONE, and Mr. CORZINE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To place a moratorium on executions by the Federal Government and urge the States to do the same, while a National Commission on the Death Penalty reviews the fairness of the imposition of the death penalty.

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 “National Death Pen-  
5 alty Moratorium Act of 2001”.

1 **TITLE I—MORATORIUM ON THE**  
2 **DEATH PENALTY**

3 **SEC. 101. FINDINGS.**

4 Congress makes the following findings:

5 (1) GENERAL FINDINGS.—

6 (A) The administration of the death pen-  
7 alty by the Federal government and the States  
8 should be consistent with our Nation’s funda-  
9 mental principles of fairness, justice, equality,  
10 and due process.

11 (B) At a time when Federal executions are  
12 scheduled to recommence, Congress should con-  
13 sider that more than ever Americans are ques-  
14 tioning the use of the death penalty and calling  
15 for assurances that it be fairly applied. Support  
16 for the death penalty has dropped to the lowest  
17 level in 19 years. An NBC News/Wall Street  
18 Journal Poll revealed that 63 percent of Ameri-  
19 cans support a suspension of executions until  
20 questions of fairness can be addressed.

21 (C) Documented unfairness in the Federal  
22 system requires Congress to act and suspend  
23 Federal executions. Additionally, substantial  
24 evidence of unfairness throughout death penalty

1 States justifies further investigation by Con-  
2 gress.

3 (2) ADMINISTRATION OF THE DEATH PENALTY  
4 BY THE FEDERAL GOVERNMENT.—

5 (A) The fairness of the administration of  
6 the Federal death penalty has recently come  
7 under serious scrutiny, specifically raising ques-  
8 tions of racial and geographic disparities:

9 (i) Eighty percent of Federal death  
10 row inmates are members of minority  
11 groups.

12 (ii) A report released by the Depart-  
13 ment of Justice on September 12, 2000,  
14 found that 80 percent of defendants who  
15 were charged with death-eligible offenses  
16 under Federal law and whose cases were  
17 submitted by the United States attorneys  
18 under the Department's death penalty de-  
19 cision-making procedures were African  
20 American, Hispanic American, or members  
21 of other minority groups.

22 (iii) The Department of Justice report  
23 shows that United States attorneys in only  
24 5 of 94 Federal districts—1 each in Vir-  
25 ginia, Maryland, Puerto Rico, and 2 in

1 New York—submit 40 percent of all cases  
2 in which the death penalty is considered.

3 (iv) The Department of Justice report  
4 shows that United States attorneys who  
5 have frequently recommended seeking the  
6 death penalty are often from States with a  
7 high number of executions under State  
8 law, including Texas, Virginia, and Mis-  
9 souri.

10 (v) The Department of Justice report  
11 shows that white defendants are more like-  
12 ly than black defendants to negotiate plea  
13 bargains saving them from the death pen-  
14 alty in Federal cases.

15 (vi) A study conducted by the House  
16 Judiciary Subcommittee on Civil and Con-  
17 stitutional Rights in 1994 concluded that  
18 89 percent of defendants selected for cap-  
19 ital prosecution under the Anti-Drug  
20 Abuse Act of 1988 were either African  
21 American or Hispanic American.

22 (vii) The National Institute of Justice  
23 has already set into motion a comprehen-  
24 sive study of these racial and geographic  
25 disparities.

1 (viii) Federal executions should not  
2 proceed until these disparities are fully  
3 studied, discussed, and the federal death  
4 penalty process is subjected to necessary  
5 remedial action.

6 (B) In addition to racial and geographic  
7 disparities in the administration of the federal  
8 death penalty, other serious questions exist  
9 about the fairness and reliability of federal  
10 death penalty prosecutions:

11 (i) Federal prosecutors rely heavily on  
12 bargained-for testimony from accomplices  
13 of the capital defendant, which is often ob-  
14 tained in exchange for not seeking the  
15 death penalty against the accomplices.  
16 This practice creates a serious risk of false  
17 testimony.

18 (ii) Federal prosecutors are not re-  
19 quired to provide discovery sufficiently  
20 ahead of trial to permit the defense to be  
21 prepared to use this information effectively  
22 in defending their clients.

23 (iii) The Federal Bureau of Investiga-  
24 tion (FBI), in increasing isolation from the  
25 rest of the nation's law enforcement agen-

1           cies, refuses to make electronic recordings  
 2           of interrogations that produce confessions,  
 3           thus making subsequent scrutiny of the le-  
 4           gality and reliability of such interrogations  
 5           more difficult.

6                   (iv) Federal prosecutors rely heavily  
 7           on predictions of “future dangerous-  
 8           ness”—predictions deemed unreliable and  
 9           misleading by the American Psychiatric  
 10          Association and the American Psycho-  
 11          logical Association—to secure death sen-  
 12          tences.

13                   (3) ADMINISTRATION OF THE DEATH PENALTY  
 14          BY THE STATES.—

15                   (A) The punishment of death carries an  
 16          especially heavy burden to be free from arbi-  
 17          trariness and discrimination. The Supreme  
 18          Court has held that “super due process”, a  
 19          higher standard than that applied in regular  
 20          criminal trials, is necessary to meet constitu-  
 21          tional requirements. There is significant evi-  
 22          dence that States are not providing this height-  
 23          ened level of due process. For example:

24                           (i) In the most comprehensive review  
 25          of modern death sentencing, Professor

1 James Liebman and researchers at Colum-  
2 bia University found that, during the pe-  
3 riod 1973 to 1995, 68 percent of all death  
4 penalty cases reviewed were overturned due  
5 to serious constitutional errors. In the  
6 wake of the Liebman study, 6 States (Ari-  
7 zona, Maryland, North Carolina, Illinois,  
8 Indiana, and Nebraska), as well as the  
9 Chicago Tribune and the Texas Defender  
10 Service are conducting additional studies.  
11 These studies may expose additional prob-  
12 lems. With few exceptions, the rate of  
13 error was consistent across all death pen-  
14 alty States.

15 (ii) Forty percent of the cases over-  
16 turned were reversed in Federal court after  
17 having been upheld by the States.

18 (B) The high rate of error throughout all  
19 death penalty jurisdictions suggests that there  
20 is a grave risk that innocent persons may have  
21 been, or will likely be, wrongfully executed. Al-  
22 though the Supreme Court has never conclu-  
23 sively addressed the issue of whether executing  
24 an innocent person would in and of itself violate  
25 the Constitution, in *Herrera v. Collins*, 506

1 U.S. 390 (1993), a majority of the court ex-  
2 pressed the view that a persuasive demonstra-  
3 tion of actual innocence would violate sub-  
4 stantive due process rendering imposition of a  
5 death sentence unconstitutional. In any event,  
6 the wrongful conviction and sentencing of a per-  
7 son to death is a serious concern for many  
8 Americans. For example:

9 (i) After 13 innocent people were re-  
10 leased from Illinois death row in the same  
11 period that the State had executed 12 peo-  
12 ple, on January 31, 2000, Governor  
13 George Ryan of Illinois imposed a morato-  
14 rium on executions until he could be “sure  
15 with moral certainty that no innocent man  
16 or woman is facing a lethal injection, no  
17 one will meet that fate”.

18 (ii) Since 1973, 93 persons have been  
19 freed and exonerated from death rows  
20 across the country, most after serving  
21 lengthy sentences.

22 (C) Wrongful convictions create a serious  
23 public safety problem because the true killer is  
24 still at large, while the innocent person lan-  
25 guishes in prison.

1 (D) There are many systemic problems  
2 that result in innocent people being convicted  
3 such as mistaken identification, reliance on jail-  
4 house informants, reliance on faulty forensic  
5 testing and no access to reliable DNA testing.  
6 For example:

7 (i) A study of cases of innocent people  
8 who were later exonerated, conducted by  
9 attorneys Barry Scheck and Peter Neufeld  
10 with “The Innocence Project” at Cardozo  
11 Law School, showed that mistaken identi-  
12 fications of eyewitnesses or victims contrib-  
13 uted to 84 percent of the wrongful convic-  
14 tions.

15 (ii) Many persons on death row were  
16 convicted prior to 1994 and did not receive  
17 the benefit of modern DNA testing. At  
18 least 10 individuals sentenced to death  
19 have been exonerated through post-convic-  
20 tion DNA testing, some within days of exe-  
21 cution. Yet in spite of the current wide-  
22 spread prevalence and availability of DNA  
23 testing, many States have procedural bar-  
24 riers blocking introduction of post-convic-  
25 tion DNA testing. More than 30 States

1 have laws that require a motion for a new  
2 trial based on newly discovered evidence to  
3 be filed within 6 months or less.

4 (iii) The widespread use of jailhouse  
5 snitches who earn reduced charges or sen-  
6 tences by fabricating “admissions” by fel-  
7 low inmates to unsolved crimes can lead to  
8 wrongful convictions.

9 (iv) The misuse of forensic evidence  
10 can lead to wrongful convictions. A re-  
11 cently released report from the Texas De-  
12 fender Service entitled “A State of Denial:  
13 Texas and the Death Penalty” found 160  
14 cases of official forensic misconduct includ-  
15 ing 121 cases where expert psychiatrists  
16 testified “with absolute certainty that the  
17 defendant would be a danger in the fu-  
18 ture”, often without even interviewing the  
19 defendant.

20 (E) The sixth amendment to the Constitu-  
21 tion guarantees all accused persons access to  
22 competent counsel. The Supreme Court set out  
23 standards for determining competency in the  
24 case of Strickland v. Washington, 466 U.S. 668  
25 (1984). Unfortunately, there is unequal access

1 to competent counsel throughout death penalty  
2 States. For example:

3 (i) Ninety percent of capital defend-  
4 ants cannot afford to hire their own attor-  
5 ney.

6 (ii) Fewer than one-quarter of the 38  
7 death penalty States have set any stand-  
8 ards for competency of counsel and in  
9 those few States, these standards were set  
10 only recently. In most States, any person  
11 who passes a bar examination, even if that  
12 attorney has never represented a client in  
13 any type of case, may represent a client in  
14 a death penalty case.

15 (iii) Thirty-seven percent of capital  
16 cases were reversed because of ineffective  
17 assistance of counsel, according to the Co-  
18 lumbia study.

19 (iv) The recent Texas report noted  
20 problems with Texas defense attorneys who  
21 slept through capital trials, ignored obvious  
22 exculpatory evidence, suffered discipline for  
23 ethical lapses or for being under the influ-  
24 ence of drugs or alcohol while representing  
25 an indigent capital defendant at trial.

1 (v) Poor lawyering was also cited by  
2 Governor Ryan in Illinois as a basis for a  
3 moratorium. More than half of all capital  
4 defendants there were represented by law-  
5 yers who were later disciplined or dis-  
6 barred for unethical conduct.

7 (F) The Supreme Court has held that it is  
8 a violation of the eighth amendment to impose  
9 the death penalty in a manner that is arbitrary,  
10 capricious, or discriminatory. *McKlesky v.*  
11 *Kemp*, 481 U.S. 279 (1987). Studies consist-  
12 ently indicate racial disparity in the application  
13 of the death penalty both for the defendants  
14 and the victims. The death penalty is dispar-  
15 ately applied in various regions throughout the  
16 country, suggesting arbitrary administration of  
17 the death penalty based on where the prosecu-  
18 tion takes place. For example:

19 (i) Of the 85 executions in the year  
20 2000, 51 percent of the defendants were  
21 white, 40 percent were black, 7 percent  
22 were Latino and 2 percent Native Amer-  
23 ican. Of the victims in the underlying mur-  
24 der, 76 percent were white, 18 percent  
25 were black, 2 percent were Latino, and 3

1 percent were “other”. These figures show  
2 a continuing trend since reinstatement of  
3 the modern death penalty of a predomi-  
4 nance of white victims’ cases. Despite the  
5 fact that nationally whites and blacks are  
6 victims of murder in approximately equal  
7 numbers, 83 percent of the victims in-  
8 volved in capital cases overall since rein-  
9 statement, and 76 percent of the victims in  
10 2000, have been white. Since this disparity  
11 is confirmed in studies that control for  
12 similar crimes by defendants with similar  
13 backgrounds, it implies that white victims  
14 are considered more valuable in the crimi-  
15 nal justice system.

16 (ii) Executions are conducted pre-  
17 dominately in southern States. Ninety per-  
18 cent of all executions in 2000 were con-  
19 ducted in the south. Only 3 States outside  
20 the south, Arizona, California, and Mis-  
21 souri, conducted an execution in 2000.  
22 Texas accounted for almost as many execu-  
23 tions as all the remaining States combined.

1 **SEC. 102. FEDERAL AND STATE DEATH PENALTY MORATO-**  
 2 **RIUM.**

3 (a) IN GENERAL.—The Federal Government shall  
 4 not carry out any sentence of death imposed under Fed-  
 5 eral law until the Congress considers the final findings and  
 6 recommendations of the National Commission on the  
 7 Death Penalty in the report submitted under section  
 8 202(c)(2) and the Congress enacts legislation repealing  
 9 this section and implements or rejects the guidelines and  
 10 procedures recommended by the Commission.

11 (b) SENSE OF CONGRESS.—It is the sense of Con-  
 12 gress that each State that authorizes the use of the death  
 13 penalty should enact a moratorium on executions to allow  
 14 time to review whether the administration of the death  
 15 penalty by that State is consistent with constitutional re-  
 16 quirements of fairness, justice, equality, and due process.

17 **TITLE II—NATIONAL COMMIS-**  
 18 **SION ON THE DEATH PEN-**  
 19 **ALTY**

20 **SEC. 201. ESTABLISHMENT OF COMMISSION.**

21 (a) ESTABLISHMENT.—There is established a com-  
 22 mission to be known as the National Commission on the  
 23 Death Penalty (in this title referred to as the “Commis-  
 24 sion”).

25 (b) MEMBERSHIP.—

1           (1) APPOINTMENT.—Members of the Commis-  
2           sion shall be appointed by the President in consulta-  
3           tion with the Attorney General and the Chairmen  
4           and Ranking Members of the Committees on the Ju-  
5           diciary of the House of Representatives and the Sen-  
6           ate.

7           (2) COMPOSITION.—The Commission shall be  
8           composed of 15 members, of whom—

9                   (A) 3 members shall be Federal or State  
10                  prosecutors;

11                  (B) 3 members shall be attorneys experi-  
12                  enced in capital defense;

13                  (C) 2 members shall be current or former  
14                  Federal or State judges;

15                  (D) 2 members shall be current or former  
16                  Federal or State law enforcement officials; and

17                  (E) 5 members shall be individuals from  
18                  the public or private sector who have knowledge  
19                  or expertise, whether by experience or training,  
20                  in matters to be studied by the Commission,  
21                  which may include—

22                          (i) officers or employees of the Fed-  
23                          eral Government or State or local govern-  
24                          ments;

1 (ii) members of academia, nonprofit  
2 organizations, the religious community, or  
3 industry; and

4 (iii) other interested individuals.

5 (3) BALANCED VIEWPOINTS.—In appointing the  
6 members of the Commission, the President shall, to  
7 the maximum extent practicable, ensure that the  
8 membership of the Commission is fairly balanced  
9 with respect to the opinions of the members of the  
10 Commission regarding support for or opposition to  
11 the use of the death penalty.

12 (4) DATE.—The appointments of the initial  
13 members of the Commission shall be made not later  
14 than 30 days after the date of enactment of this  
15 Act.

16 (c) PERIOD OF APPOINTMENT.—Each member shall  
17 be appointed for the life of the Commission.

18 (d) VACANCIES.—A vacancy in the Commission shall  
19 not affect the powers of the Commission, but shall be filled  
20 in the same manner as the original appointment.

21 (e) INITIAL MEETING.—Not later than 30 days after  
22 all initial members of the Commission have been ap-  
23 pointed, the Commission shall hold the first meeting.

24 (f) MEETINGS.—The Commission shall meet at the  
25 call of the Chairperson.

1 (g) QUORUM.—A majority of the members of the  
2 Commission shall constitute a quorum for conducting  
3 business, but a lesser number of members may hold hear-  
4 ings.

5 (h) CHAIR.—The President shall designate 1 member  
6 appointed under subsection (a) to serve as the Chair of  
7 the Commission.

8 (i) RULES AND PROCEDURES.—The Commission  
9 shall adopt rules and procedures to govern the proceedings  
10 of the Commission.

11 **SEC. 202. DUTIES OF THE COMMISSION.**

12 (a) STUDY.—

13 (1) IN GENERAL.—The Commission shall con-  
14 duct a thorough study of all matters relating to the  
15 administration of the death penalty to determine  
16 whether the administration of the death penalty  
17 comports with constitutional principles and require-  
18 ments of fairness, justice, equality, and due process.

19 (2) MATTERS STUDIED.—The matters studied  
20 by the Commission shall include the following:

21 (A) Racial disparities in capital charging,  
22 prosecuting, and sentencing decisions.

23 (B) Disproportionality in capital charging,  
24 prosecuting, and sentencing decisions based on  
25 geographic location and income status of de-

1 defendants or any other factor resulting in such  
2 disproportionality.

3 (C) Adequacy of representation of capital  
4 defendants, including consideration of the  
5 American Bar Association “Guidelines for the  
6 Appointment and Performance of Counsel in  
7 Death Penalty Cases” (adopted February 1989)  
8 and American Bar Association policies that are  
9 intended to encourage competency of counsel in  
10 capital cases (adopted February 1979, Feb-  
11 ruary 1988, February 1990, and August 1996).

12 (D) Whether innocent persons have been  
13 sentenced to death and the reasons these  
14 wrongful convictions have occurred.

15 (E) Whether the Federal Government  
16 should seek the death penalty in a State with  
17 no death penalty.

18 (F) Whether courts are adequately exer-  
19 cising independent judgment on the merits of  
20 constitutional claims in State post-conviction  
21 and Federal habeas corpus proceedings.

22 (G) Whether mentally retarded persons  
23 and persons who were under the age of 18 at  
24 the time of their offenses should be sentenced

1 to death after conviction of death-eligible of-  
2 fenses.

3 (H) Procedures to ensure that persons sen-  
4 tenced to death have access to forensic evidence  
5 and modern testing of forensic evidence, includ-  
6 ing DNA testing, when modern testing could  
7 result in new evidence of innocence.

8 (I) Any other law or procedure to ensure  
9 that death penalty cases are administered fairly  
10 and impartially, in accordance with the Con-  
11 stitution.

12 (b) GUIDELINES AND PROCEDURES.—

13 (1) IN GENERAL.—Based on the study con-  
14 ducted under subsection (a), the Commission shall  
15 establish guidelines and procedures for the adminis-  
16 tration of the death penalty consistent with para-  
17 graph (2).

18 (2) INTENT OF GUIDELINES AND PROCE-  
19 DURES.—The guidelines and procedures required by  
20 this subsection shall—

21 (A) ensure that the death penalty cases are  
22 administered fairly and impartially, in accord-  
23 ance with due process;

24 (B) minimize the risk that innocent per-  
25 sons may be executed; and

1 (C) ensure that the death penalty is not  
2 administered in a racially discriminatory man-  
3 ner.

4 (c) REPORT.—

5 (1) PRELIMINARY REPORT.—Not later than 1  
6 year after the date of enactment of this Act, the  
7 Commission shall submit to the President, the Attor-  
8 ney General, and the Congress a preliminary report,  
9 which shall contain a preliminary statement of find-  
10 ings and conclusions.

11 (2) FINAL REPORT.—Not later than 2 years  
12 after the date of enactment of this Act, the Commis-  
13 sion shall submit a report to the President, the At-  
14 torney General, and the Congress which shall con-  
15 tain a detailed statement of the findings and conclu-  
16 sions of the Commission, together with the rec-  
17 ommendations of the Commission for legislation and  
18 administrative actions that implement the guidelines  
19 and procedures that the Commission considers ap-  
20 propriate.

21 **SEC. 203. POWERS OF THE COMMISSION.**

22 (a) INFORMATION FROM FEDERAL AND STATE  
23 AGENCIES.—

24 (1) IN GENERAL.—The Commission may secure  
25 directly from any Federal or State department or

1 agency information that the Commission considers  
2 necessary to carry out the provisions of this title.

3 (2) FURNISHING OF INFORMATION.—Upon a  
4 request of the Chairperson of the Commission, the  
5 head of any Federal or State department or agency  
6 shall furnish the information requested by the Chair-  
7 person to the Commission.

8 (b) POSTAL SERVICES.—The Commission may use  
9 the United States mails in the same manner and under  
10 the same conditions as other departments and agencies of  
11 the Federal Government.

12 (c) GIFTS.—The Commission may accept, use, and  
13 dispose of gifts or donations of services or property.

14 (d) HEARINGS.—The Commission or, at the direction  
15 of the Commission, any subcommittee or member of the  
16 Commission, may, for the purpose of carrying out the pro-  
17 visions of this title—

18 (1) hold hearings, sit and act at times and  
19 places, take testimony, receive evidence, and admin-  
20 ister oaths that the Commission, subcommittee, or  
21 member considers advisable; and

22 (2) require, by subpoena or otherwise, the at-  
23 tendance and testimony of witnesses and the produc-  
24 tion of books, records, correspondence, memoranda,  
25 papers, documents, tapes, and materials that the

1 Commission, subcommittee, or member considers ad-  
2 visable.

3 (e) ISSUANCE AND ENFORCEMENT OF SUB-  
4 POENAS.—

5 (1) ISSUANCE.—Subpoenas issued pursuant to  
6 subsection (d)—

7 (A) shall bear the signature of the Chair-  
8 person of the Commission; and

9 (B) shall be served by any person or class  
10 of persons designated by the Chairperson for  
11 that purpose.

12 (2) ENFORCEMENT.—

13 (A) IN GENERAL.—In the case of contu-  
14 macy or failure to obey a subpoena issued  
15 under subsection (d), the district court of the  
16 United States for the judicial district in which  
17 the subpoenaed person resides, is served, or  
18 may be found, may issue an order requiring  
19 that person to appear at any designated place  
20 to testify or to produce documentary or other  
21 evidence.

22 (B) CONTEMPT.—Any failure to obey a  
23 court order issued under subparagraph (A) may  
24 be punished by the court as a contempt.

1           (3) TESTIMONY OF PERSONS IN CUSTODY.—A  
2           court of the United States within the jurisdiction in  
3           which testimony of a person held in custody is  
4           sought by the Commission or within the jurisdiction  
5           of which such person is held in custody, may, upon  
6           application by the Attorney General, issue a writ of  
7           habeas corpus ad testificandum requiring the custo-  
8           dian to produce such person before the Commission,  
9           or before a member of the Commission or a member  
10          of the staff of the Commission designated by the  
11          Commission for such purpose.

12          (f) WITNESS ALLOWANCES AND FEES.—

13           (1) IN GENERAL.—The provisions of section  
14           1821 of title 28, United States Code, shall apply to  
15           witnesses requested or subpoenaed to appear at any  
16           hearing of the Commission.

17           (2) TRAVEL EXPENSES.—The per diem and  
18           mileage allowances for witnesses shall be paid from  
19           funds available to pay the expenses of the Commis-  
20           sion.

21          **SEC. 204. COMMISSION PERSONNEL MATTERS.**

22           (a) COMPENSATION OF MEMBERS.—Members of the  
23           Commission shall serve without compensation for the serv-  
24           ices of the member to the Commission.

1           (b) TRAVEL EXPENSES.—The members of the Com-  
2 mission shall be allowed travel expenses, including per  
3 diem in lieu of subsistence, at rates authorized for employ-  
4 ees of agencies under subchapter I of chapter 57 of title  
5 5, United States Code, while away from their homes or  
6 regular places of business in the performance of services  
7 for the Commission.

8           (c) STAFF.—

9           (1) IN GENERAL.—The Chairperson of the  
10 Commission may, without regard to the civil service  
11 laws and regulations, appoint and terminate an execu-  
12 tive director and such other additional personnel as  
13 may be necessary to enable the Commission to per-  
14 form the duties of the Commission.

15           (2) EXECUTIVE DIRECTOR.—The employment  
16 of an executive director shall be subject to confirma-  
17 tion by the Commission.

18           (3) COMPENSATION.—The Chairperson of the  
19 Commission may fix the compensation of the execu-  
20 tive director and other personnel without regard to  
21 the provisions of chapter 51 and subchapter III of  
22 chapter 53 of title 5, United States Code, relating  
23 to classification of positions and General Schedule  
24 pay rates, except that the rate of pay for the execu-  
25 tive director and other personnel may not exceed the

1 rate payable for level V of the Executive Schedule  
2 under section 5316 of title 5.

3 (d) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any  
4 Federal Government employee may be detailed to the  
5 Commission without reimbursement, and the detail shall  
6 be without interruption or loss of civil service status or  
7 privilege.

8 (e) **PROCUREMENT OF TEMPORARY AND INTERMIT-**  
9 **TENT SERVICES.**—The Chairperson of the Commission  
10 may procure temporary and intermittent services under  
11 section 3109(b) of title 5, United States Code, at rates  
12 for individuals which do not exceed the daily equivalent  
13 of the annual rate of basic pay prescribed for level V of  
14 the Executive Schedule under section 5316 of title 5.

15 **SEC. 205. TERMINATION OF THE COMMISSION.**

16 The Commission shall terminate 90 days after the  
17 date on which the Commission submits its report under  
18 section 202.

19 **SEC. 206. FUNDING.**

20 (a) **IN GENERAL.**—The Commission may expend an  
21 amount not to exceed \$850,000, as provided by subsection  
22 (b), to carry out this title.

1           (b) AVAILABILITY.—Sums appropriated to the De-  
2   partment of Justice shall be made available to carry out  
3   this title.

○