

108TH CONGRESS  
1ST SESSION

# S. 132

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 9, 2003

Mr. FEINGOLD (for himself, Mr. LEVIN, Mr. CORZINE, and Mr. DURBIN) 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 2003”.

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) Congress should consider that more  
12 than ever Americans are questioning the use of  
13 the death penalty and calling for assurances  
14 that it be fairly applied.

15 (C) Documented unfairness in the Federal  
16 system requires Congress to act and suspend  
17 Federal executions. Additionally, substantial  
18 evidence of unfairness throughout death penalty  
19 States justifies further investigation by Con-  
20 gress.

21 (2) ADMINISTRATION OF THE DEATH PENALTY  
22 BY THE FEDERAL GOVERNMENT.—

23 (A) The fairness of the administration of  
24 the Federal death penalty has recently come

1 under serious scrutiny, specifically raising ques-  
2 tions of racial and geographic disparities:

3 (i) Almost 75 percent of Federal  
4 death row inmates are members of minor-  
5 ity groups.

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

16 (iii) The Department of Justice report  
17 shows that United States attorneys in only  
18 5 of 94 Federal districts—1 each in Vir-  
19 ginia, Maryland, Puerto Rico, and 2 in  
20 New York—submit 40 percent of all cases  
21 in which the death penalty is considered.

22 (iv) The Department of Justice report  
23 shows that United States attorneys who  
24 have frequently recommended seeking the  
25 death penalty are often from States with a

1 high number of executions under State  
2 law, including Texas, Virginia, and Mis-  
3 souri.

4 (v) The Department of Justice report  
5 shows that white defendants are more like-  
6 ly than black defendants to negotiate plea  
7 bargains saving them from the death pen-  
8 alty in Federal cases.

9 (vi) A study conducted by the House  
10 Judiciary Subcommittee on Civil and Con-  
11 stitutional Rights in 1994 concluded that  
12 89 percent of defendants selected for cap-  
13 ital prosecution under the Anti-Drug  
14 Abuse Act of 1988 were either African  
15 American or Hispanic American.

16 (vii) The National Institute of Justice  
17 has already set into motion a comprehen-  
18 sive study of these racial and geographic  
19 disparities.

20 (viii) Federal executions should not  
21 proceed until these disparities are fully  
22 studied, discussed, and the federal death  
23 penalty process is subjected to necessary  
24 remedial action.

1 (B) In addition to racial and geographic  
2 disparities in the administration of the federal  
3 death penalty, other serious questions exist  
4 about the fairness and reliability of federal  
5 death penalty prosecutions:

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

13 (ii) Federal prosecutors are not re-  
14 quired to provide discovery sufficiently  
15 ahead of trial to permit the defense to be  
16 prepared to use this information effectively  
17 in defending their clients.

18 (iii) The Federal Bureau of Investiga-  
19 tion (FBI), in increasing isolation from the  
20 rest of the nation's law enforcement agen-  
21 cies, refuses to make electronic recordings  
22 of interrogations that produce confessions,  
23 thus making subsequent scrutiny of the le-  
24 gality and reliability of such interrogations  
25 more difficult.

1 (iv) Federal prosecutors rely heavily  
2 on predictions of “future dangerous-  
3 ness”—predictions deemed unreliable and  
4 misleading by the American Psychiatric  
5 Association and the American Psycho-  
6 logical Association—to secure death sen-  
7 tences.

8 (3) ADMINISTRATION OF THE DEATH PENALTY  
9 BY THE STATES.—

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

19 (i) In the most comprehensive review  
20 of modern death sentencing, Professor  
21 James Liebman and researchers at Colum-  
22 bia University found that, during the pe-  
23 riod 1973 to 1995, 68 percent of all death  
24 penalty cases reviewed were overturned due  
25 to serious constitutional errors. In the

1           wake of the Liebman study, 6 States (Ari-  
2           zona, Maryland, North Carolina, Illinois,  
3           Indiana, and Nebraska) have conducted  
4           additional studies. These studies expose  
5           additional problems.

6                   (ii) Forty percent of the cases over-  
7                   turned were reversed in Federal court after  
8                   having been upheld by the States.

9                   (B) The high rate of error throughout all  
10                  death penalty jurisdictions suggests that there  
11                  is a grave risk that innocent persons may have  
12                  been, or will likely be, wrongfully executed. Al-  
13                  though the Supreme Court has never conclu-  
14                  sively addressed the issue of whether executing  
15                  an innocent person would in and of itself violate  
16                  the Constitution, in *Herrera v. Collins*, 506  
17                  U.S. 390 (1993), a majority of the court ex-  
18                  pressed the view that a persuasive demonstra-  
19                  tion of actual innocence would violate sub-  
20                  stantive due process rendering imposition of a  
21                  death sentence unconstitutional. In any event,  
22                  the wrongful conviction and sentencing of a per-  
23                  son to death is a serious concern for many  
24                  Americans. For example:

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

10 (ii) Since 1973, over 100 innocent  
11 persons sitting on death rows across the  
12 country have been exonerated, most after  
13 serving lengthy sentences.

14 (C) Wrongful convictions create a serious  
15 public safety problem because the true killer is  
16 still at large, while the innocent person lan-  
17 guishes in prison.

18 (D) There are many systemic problems  
19 that result in innocent people being convicted  
20 such as mistaken identification, reliance on jail-  
21 house informants, reliance on faulty forensic  
22 testing and no access to reliable DNA testing.  
23 For example:

24 (i) A study of cases of innocent people  
25 who were later exonerated, conducted by



1 attorneys Barry Scheck and Peter Neufeld  
2 with “The Innocence Project” at Cardozo  
3 Law School, showed that mistaken identi-  
4 fications of eyewitnesses or victims contrib-  
5 uted to 84 percent of the wrongful convic-  
6 tions.

7 (ii) Many persons on death row were  
8 convicted prior to 1994 and did not receive  
9 the benefit of modern DNA testing. At  
10 least 10 individuals sentenced to death  
11 have been exonerated through post-convic-  
12 tion DNA testing, some within days of exe-  
13 cution. Yet in spite of the current wide-  
14 spread prevalence and availability of DNA  
15 testing, many States have procedural bar-  
16 riers blocking introduction of post-convic-  
17 tion DNA testing. More than 30 States  
18 have laws that require a motion for a new  
19 trial based on newly discovered evidence to  
20 be filed within 6 months or less.

21 (iii) The widespread use of jailhouse  
22 snitches who earn reduced charges or sen-  
23 tences by fabricating “admissions” by fel-  
24 low inmates to unsolved crimes can lead to  
25 wrongful convictions.

1           (iv) The misuse of forensic evidence  
2           can lead to wrongful convictions. A report  
3           from the Texas Defender Service entitled  
4           “A State of Denial: Texas and the Death  
5           Penalty” found 160 cases of official foren-  
6           sic misconduct including 121 cases where  
7           expert psychiatrists testified “with absolute  
8           certainty that the defendant would be a  
9           danger in the future”, often without even  
10          interviewing the defendant.

11          (E) The sixth amendment to the Constitu-  
12          tion guarantees all accused persons access to  
13          competent counsel. The Supreme Court set out  
14          standards for determining competency in the  
15          case of Strickland v. Washington, 466 U.S. 668  
16          (1984). Unfortunately, there is unequal access  
17          to competent counsel throughout death penalty  
18          States. For example:

19               (i) Ninety percent of capital defend-  
20               ants cannot afford to hire their own attor-  
21               ney.

22               (ii) Fewer than one-quarter of the 38  
23               death penalty States have set any stand-  
24               ards for competency of counsel and in  
25               those few States, these standards were set

1           only recently. In most States, any person  
2           who passes a bar examination, even if that  
3           attorney has never represented a client in  
4           any type of case, may represent a client in  
5           a death penalty case.

6           (iii) Thirty-seven percent of capital  
7           cases were reversed because of ineffective  
8           assistance of counsel, according to the Co-  
9           lumbia study.

10          (iv) The Texas report noted problems  
11          with Texas defense attorneys who slept  
12          through capital trials, ignored obvious ex-  
13          culpatory evidence, suffered discipline for  
14          ethical lapses or for being under the influ-  
15          ence of drugs or alcohol while representing  
16          an indigent capital defendant at trial.

17          (v) Poor lawyering was also cited by  
18          Governor Ryan in Illinois as a basis for a  
19          moratorium. More than half of all capital  
20          defendants there were represented by law-  
21          yers who were later disciplined or dis-  
22          barred for unethical conduct.

23          (F) The Supreme Court has held that it is  
24          a violation of the eighth amendment to impose  
25          the death penalty in a manner that is arbitrary,

1 capricious, or discriminatory. *McKlesky v.*  
2 *Kemp*, 481 U.S. 279 (1987). Studies consist-  
3 ently indicate racial disparity in the application  
4 of the death penalty both for the defendants  
5 and the victims. The death penalty is dispar-  
6 ately applied in various regions throughout the  
7 country, suggesting arbitrary administration of  
8 the death penalty based on where the prosecu-  
9 tion takes place. For example:

10 (i) Since 1976, 45 percent of death  
11 row inmates were white, 43 percent were  
12 black, 9 percent were Hispanic, and 2 per-  
13 cent were of other racial groups. Of the  
14 victims in the underlying murder, 81 per-  
15 cent were white, 14 percent were black,  
16 and 4 percent were Hispanic. While over  
17 80 percent of completed capital cases in-  
18 volve white victims, nationally only 50 per-  
19 cent of murder victims are white. These  
20 figures show a continuing trend since rein-  
21 statement of the modern death penalty of  
22 a predominance of white victims' cases and  
23 implies that white victims are considered  
24 more valuable in the criminal justice sys-  
25 tem.

1           (ii) Executions are conducted pre-  
2           dominately in southern States. Ninety per-  
3           cent of all executions in 2000 were con-  
4           ducted in the south. Only 3 States outside  
5           the south, Arizona, California, and Mis-  
6           souri, conducted an execution in 2000.  
7           Texas accounted for almost as many execu-  
8           tions as all the remaining States combined.

9           (G) The Supreme Court recently reversed  
10          itself and has ruled the execution of the men-  
11          tally retarded unconstitutional and in violation  
12          of the Eighth Amendment. (*Atkins v. Virginia*,  
13          536 U.S. 304 (2002)).

14 **SEC. 102. FEDERAL AND STATE DEATH PENALTY MORATO-**  
15 **RIUM.**

16          (a) IN GENERAL.—The Federal Government shall  
17          not carry out any sentence of death imposed under Fed-  
18          eral law until the Congress considers the final findings and  
19          recommendations of the National Commission on the  
20          Death Penalty in the report submitted under section  
21          202(c)(2) and the Congress enacts legislation repealing  
22          this section and implements or rejects the guidelines and  
23          procedures recommended by the Commission.

24          (b) SENSE OF CONGRESS.—It is the sense of Con-  
25          gress that each State that authorizes the use of the death

1 penalty should enact a moratorium on executions to allow  
 2 time to review whether the administration of the death  
 3 penalty by that State is consistent with constitutional re-  
 4 quirements of fairness, justice, equality, and due process.

5 **TITLE II—NATIONAL COMMISS-**  
 6 **SION ON THE DEATH PEN-**  
 7 **ALTY**

8 **SEC. 201. ESTABLISHMENT OF COMMISSION.**

9 (a) ESTABLISHMENT.—There is established a com-  
 10 mission to be known as the National Commission on the  
 11 Death Penalty (in this title referred to as the “Commis-  
 12 sion”).

13 (b) MEMBERSHIP.—

14 (1) APPOINTMENT.—Members of the Commis-  
 15 sion shall be appointed by the President in consulta-  
 16 tion with the Attorney General and the Chairmen  
 17 and Ranking Members of the Committees on the Ju-  
 18 diciary of the House of Representatives and the Sen-  
 19 ate.

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

22 (A) 3 members shall be Federal or State  
 23 prosecutors;

24 (B) 3 members shall be attorneys experi-  
 25 enced in capital defense;

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

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

5 (E) 5 members shall be individuals from  
6 the public or private sector who have knowledge  
7 or expertise, whether by experience or training,  
8 in matters to be studied by the Commission,  
9 which may include—

10 (i) officers or employees of the Fed-  
11 eral Government or State or local govern-  
12 ments;

13 (ii) members of academia, nonprofit  
14 organizations, the religious community, or  
15 industry; and

16 (iii) other interested individuals.

17 (3) BALANCED VIEWPOINTS.—In appointing the  
18 members of the Commission, the President shall, to  
19 the maximum extent practicable, ensure that the  
20 membership of the Commission is fairly balanced  
21 with respect to the opinions of the members of the  
22 Commission regarding support for or opposition to  
23 the use of the death penalty.

24 (4) DATE.—The appointments of the initial  
25 members of the Commission shall be made not later

1 than 30 days after the date of enactment of this  
2 Act.

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

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

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

11 (f) MEETINGS.—The Commission shall meet at the  
12 call of the Chairperson.

13 (g) QUORUM.—A majority of the members of the  
14 Commission shall constitute a quorum for conducting  
15 business, but a lesser number of members may hold hear-  
16 ings.

17 (h) CHAIR.—The President shall designate 1 member  
18 appointed under subsection (a) to serve as the Chair of  
19 the Commission.

20 (i) RULES AND PROCEDURES.—The Commission  
21 shall adopt rules and procedures to govern the proceedings  
22 of the Commission.

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

24 (a) STUDY.—



1           (1) IN GENERAL.—The Commission shall con-  
2           duct a thorough study of all matters relating to the  
3           administration of the death penalty to determine  
4           whether the administration of the death penalty  
5           comports with constitutional principles and require-  
6           ments of fairness, justice, equality, and due process.

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

9                   (A) Racial disparities in capital charging,  
10                   prosecuting, and sentencing decisions.

11                   (B) Disproportionality in capital charging,  
12                   prosecuting, and sentencing decisions based on  
13                   geographic location and income status of de-  
14                   fendants or any other factor resulting in such  
15                   disproportionality.

16                   (C) Adequacy of representation of capital  
17                   defendants, including consideration of the  
18                   American Bar Association “Guidelines for the  
19                   Appointment and Performance of Counsel in  
20                   Death Penalty Cases” (adopted February 1989)  
21                   and American Bar Association policies that are  
22                   intended to encourage competency of counsel in  
23                   capital cases (adopted February 1979, Feb-  
24                   ruary 1988, February 1990, and August 1996).

1 (D) Whether innocent persons have been  
2 sentenced to death and the reasons these  
3 wrongful convictions have occurred.

4 (E) Whether the Federal Government  
5 should seek the death penalty in a State with  
6 no death penalty.

7 (F) Whether courts are adequately exer-  
8 cising independent judgment on the merits of  
9 constitutional claims in State post-conviction  
10 and Federal habeas corpus proceedings.

11 (G) Whether persons who were under the  
12 age of 18 at the time of their offenses should  
13 be sentenced to death after conviction of death-  
14 eligible offenses.

15 (H) Procedures to ensure that persons sen-  
16 tenced to death have access to forensic evidence  
17 and modern testing of forensic evidence, includ-  
18 ing DNA testing, when modern testing could  
19 result in new evidence of innocence.

20 (I) Any other law or procedure to ensure  
21 that death penalty cases are administered fairly  
22 and impartially, in accordance with the Con-  
23 stitution.

24 (b) GUIDELINES AND PROCEDURES.—

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

6           (2) INTENT OF GUIDELINES AND PROCE-  
7           DURES.—The guidelines and procedures required by  
8           this subsection shall—

9                   (A) ensure that the death penalty cases are  
10                  administered fairly and impartially, in accord-  
11                  ance with due process;

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

14                   (C) ensure that the death penalty is not  
15                  administered in a racially discriminatory man-  
16                  ner.

17           (c) REPORT.—

18                   (1) PRELIMINARY REPORT.—Not later than 1  
19                  year after the date of enactment of this Act, the  
20                  Commission shall submit to the President, the Attor-  
21                  ney General, and the Congress a preliminary report,  
22                  which shall contain a preliminary statement of find-  
23                  ings and conclusions.

24                   (2) FINAL REPORT.—Not later than 2 years  
25                  after the date of enactment of this Act, the Commis-

1 sion shall submit a report to the President, the At-  
2 torney General, and the Congress which shall con-  
3 tain a detailed statement of the findings and conclu-  
4 sions of the Commission, together with the rec-  
5 ommendations of the Commission for legislation and  
6 administrative actions that implement the guidelines  
7 and procedures that the Commission considers ap-  
8 propriate.

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

10 (a) INFORMATION FROM FEDERAL AND STATE  
11 AGENCIES.—

12 (1) IN GENERAL.—The Commission may secure  
13 directly from any Federal or State department or  
14 agency information that the Commission considers  
15 necessary to carry out the provisions of this title.

16 (2) FURNISHING OF INFORMATION.—Upon a  
17 request of the Chairperson of the Commission, the  
18 head of any Federal or State department or agency  
19 shall furnish the information requested by the Chair-  
20 person to the Commission.

21 (b) POSTAL SERVICES.—The Commission may use  
22 the United States mails in the same manner and under  
23 the same conditions as other departments and agencies of  
24 the Federal Government.

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

3 (d) HEARINGS.—The Commission or, at the direction  
4 of the Commission, any subcommittee or member of the  
5 Commission, may, for the purpose of carrying out the pro-  
6 visions of this title—

7 (1) hold hearings, sit and act at times and  
8 places, take testimony, receive evidence, and admin-  
9 ister oaths that the Commission, subcommittee, or  
10 member considers advisable; and

11 (2) require, by subpoena or otherwise, the at-  
12 tendance and testimony of witnesses and the produc-  
13 tion of books, records, correspondence, memoranda,  
14 papers, documents, tapes, and materials that the  
15 Commission, subcommittee, or member considers ad-  
16 visible.

17 (e) ISSUANCE AND ENFORCEMENT OF SUB-  
18 POENAS.—

19 (1) ISSUANCE.—Subpoenas issued pursuant to  
20 subsection (d)—

21 (A) shall bear the signature of the Chair-  
22 person of the Commission; and

23 (B) shall be served by any person or class  
24 of persons designated by the Chairperson for  
25 that purpose.

1 (2) ENFORCEMENT.—

2 (A) IN GENERAL.—In the case of contu-  
3 macy or failure to obey a subpoena issued  
4 under subsection (d), the district court of the  
5 United States for the judicial district in which  
6 the subpoenaed person resides, is served, or  
7 may be found, may issue an order requiring  
8 that person to appear at any designated place  
9 to testify or to produce documentary or other  
10 evidence.

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

14 (3) TESTIMONY OF PERSONS IN CUSTODY.—A  
15 court of the United States within the jurisdiction in  
16 which testimony of a person held in custody is  
17 sought by the Commission or within the jurisdiction  
18 of which such person is held in custody, may, upon  
19 application by the Attorney General, issue a writ of  
20 habeas corpus ad testificandum requiring the custo-  
21 dian to produce such person before the Commission,  
22 or before a member of the Commission or a member  
23 of the staff of the Commission designated by the  
24 Commission for such purpose.

25 (f) WITNESS ALLOWANCES AND FEES.—

1           (1) IN GENERAL.—The provisions of section  
2           1821 of title 28, United States Code, shall apply to  
3           witnesses requested or subpoenaed to appear at any  
4           hearing of the Commission.

5           (2) TRAVEL EXPENSES.—The per diem and  
6           mileage allowances for witnesses shall be paid from  
7           funds available to pay the expenses of the Commis-  
8           sion.

9   **SEC. 204. COMMISSION PERSONNEL MATTERS.**

10          (a) COMPENSATION OF MEMBERS.—Members of the  
11          Commission shall serve without compensation for the serv-  
12          ices of the member to the Commission.

13          (b) TRAVEL EXPENSES.—The members of the Com-  
14          mission shall be allowed travel expenses, including per  
15          diem in lieu of subsistence, at rates authorized for employ-  
16          ees of agencies under subchapter I of chapter 57 of title  
17          5, United States Code, while away from their homes or  
18          regular places of business in the performance of services  
19          for the Commission.

20          (c) STAFF.—

21                 (1) IN GENERAL.—The Chairperson of the  
22                 Commission may, without regard to the civil service  
23                 laws and regulations, appoint and terminate an execu-  
24                 tive director and such other additional personnel as

1        may be necessary to enable the Commission to per-  
2        form the duties of the Commission.

3            (2) EXECUTIVE DIRECTOR.—The employment  
4        of an executive director shall be subject to confirma-  
5        tion by the Commission.

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

16          (d) DETAIL OF GOVERNMENT EMPLOYEES.—Any  
17       Federal Government employee may be detailed to the  
18       Commission without reimbursement, and the detail shall  
19       be without interruption or loss of civil service status or  
20       privilege.

21          (e) PROCUREMENT OF TEMPORARY AND INTERMIT-  
22       TENT SERVICES.—The Chairperson of the Commission  
23       may procure temporary and intermittent services under  
24       section 3109(b) of title 5, United States Code, at rates  
25       for individuals which do not exceed the daily equivalent



1 of the annual rate of basic pay prescribed for level V of  
2 the Executive Schedule under section 5316 of title 5.

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

4 The Commission shall terminate 90 days after the  
5 date on which the Commission submits its report under  
6 section 202.

7 **SEC. 206. FUNDING.**

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

11 (b) AVAILABILITY.—Sums appropriated to the De-  
12 partment of Justice shall be made available to carry out  
13 this title.

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