

106TH CONGRESS
1ST SESSION

S. 1901

To establish the Privacy Protection Study Commission to evaluate the efficacy of the Freedom of Information Act and the Electronic Freedom of Information Act Amendments of 1996, to determine whether new laws are necessary, and to provide advice and recommendations.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 10, 1999

Mr. KOHL (for himself and Mr. TORRICELLI) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To establish the Privacy Protection Study Commission to evaluate the efficacy of the Freedom of Information Act and the Electronic Freedom of Information Act Amendments of 1996, to determine whether new laws are necessary, and to provide advice and recommendations.

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 “Privacy Protection
5 Study Commission Act of 1999”.

1 **SEC. 2. REFERENCES.**

2 (a) E-FOIA.—Any reference in this Act to E-FOIA
3 shall be a reference to the Electronic Freedom of Informa-
4 tion Act Amendments of 1996 (5 U.S.C. 552 note).

5 (b) FOIA.—Any reference in this Act to FOIA shall
6 be a reference to section 552 of title 5, United States
7 Code.

8 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

9 (a) ESTABLISHMENT.—There is established a com-
10 mission to be known as the Privacy Protection Study Com-
11 mission (hereafter in this Act referred to as the “Commis-
12 sion”).

13 (b) MEMBERSHIP.—

14 (1) COMPOSITION.—The Commission shall be
15 composed of 9 members of whom—

16 (A) 3 shall be appointed by the President
17 of the United States;

18 (B) 2 shall be appointed by the Majority
19 Leader of the Senate and 1 shall be appointed
20 by the Minority Leader of the Senate; and

21 (C) 2 shall be appointed by the Speaker of
22 the House of Representatives and 1 shall be ap-
23 pointed by the Minority Leader of the House of
24 Representatives.

25 (2) QUALIFICATIONS.—Members of the Com-
26 mission shall be chosen based on their knowledge

1 and expertise in law, civil rights and liberties, pri-
2 vacy matters, government, business, telecommuni-
3 cations, media, or information technology.

4 (3) CHAIRMAN AND VICE CHAIRMAN.—The
5 Commission shall elect a Chairman and Vice Chair-
6 man from among its members. The Chairman, or a
7 member appointed by the Chairman, shall be the of-
8 ficial spokesperson of the Commission in its relations
9 with Congress, Government agencies, other persons,
10 and the public.

11 (4) TERM OF APPOINTMENT; VACANCIES.—

12 (A) APPOINTMENT.—

13 (i) IN GENERAL.—Members shall ini-
14 tially be appointed not later than 90 days
15 after the date of enactment of this Act.

16 (ii) TERM.—Members shall be ap-
17 pointed for the life of the Commission.

18 (B) VACANCY.—Any vacancy in the Com-
19 mission shall not affect its powers and shall be
20 filled in the same manner as the original ap-
21 pointment.

22 (5) VOTING.—Each member of the Commission
23 shall have equal responsibility and authority in all
24 decisions and actions of the Commission, and shall

1 have 1 vote. Action of the Commission shall be de-
 2 termined by a majority vote of the members present.

3 (6) QUORUM.—Five members of the Commis-
 4 sion shall constitute a quorum, however a lesser
 5 number of members may hold hearings.

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

7 (a) INVESTIGATION.—The Commission is authorized
 8 to conduct a thorough investigation of all matters relating
 9 to FOIA and the implementation of the 1996 E-FOIA
 10 Act.

11 (b) REPORTS; RECOMMENDATIONS.—

12 (1) PROGRESS REPORTS.—The Commission
 13 may provide periodic written reports to the Presi-
 14 dent and the Judiciary Committees of the Senate
 15 and the House of Representatives on the Commis-
 16 sion's activities and findings.

17 (2) FINAL REPORT.—

18 (A) IN GENERAL.—Not later than 12
 19 months after the date on which the first meet-
 20 ing of the Commission occurs, the Commission
 21 shall submit a written final report to the Presi-
 22 dent and Congress on the Commission's find-
 23 ings.

24 (B) CONTENTS.—The report shall contain
 25 a detailed statement of the Commission's find-

1 ings and conclusions, together with any rec-
 2 ommendations for such legislation and adminis-
 3 trative actions as the Commission considers ap-
 4 propriate.

5 **SEC. 5. POWERS OF THE COMMISSION.**

6 (a) HEARINGS.—The Commission may hold such
 7 hearings and sit and act at such times and places, admin-
 8 ister oaths, and require by subpoena or otherwise, the at-
 9 tendance and testimony of witnesses and the production
 10 of books, records, correspondence, memorandums, papers,
 11 and documents as the Commission considers necessary.

12 (b) SUBPOENA POWERS.—

13 (1) IN GENERAL.—Subpoenas issued under sub-
 14 section (a)—

15 (A) may only be issued pursuant to a ma-
 16 jority vote of all the members of the Commis-
 17 sion, including affirmative votes by the Chair-
 18 man and the Vice-Chairman of the Commission;

19 (B) shall bear the signature of the Chair-
 20 man of the Commission or any designated
 21 member; and

22 (C) may be served by any person or class
 23 of persons designated by the Chairman for that
 24 purpose.

25 (2) ENFORCEMENT.—

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

9 (B) PUNISHMENT.—Any failure to obey
10 the order of the court may be punished by the
11 court.

12 (3) WITNESS ALLOWANCE AND FEES.—The
13 provisions of section 1821 of title 28, United States
14 Code, shall apply to witnesses requested or subpoe-
15 naed to appear at any hearing of the Commission.
16 The per diem and mileage allowances for witnesses
17 shall be paid from funds available to pay the ex-
18 penses of the Commission.

19 (c) INFORMATION FROM FEDERAL AGENCIES.—The
20 Commission may secure directly from any executive de-
21 partment, bureau, agency, board, commission, office, inde-
22 pendent establishment, or instrumentality any informa-
23 tion, suggestions, estimates, and statistics for the purpose
24 of carrying out this Act. Any entity from which such infor-
25 mation is requested is authorized and directed, to the ex-

1 tent authorized by law, to furnish the requested informa-
2 tion to the Commission, upon request made jointly by the
3 Chairman and Vice Chairman.

4 (d) CONFIDENTIALITY.—

5 (1) IN GENERAL.—The Commission may accept
6 from any Federal agency or other person, any identi-
7 fiable personal data if such data is necessary to
8 carry out its powers and functions.

9 (2) SAFEGUARDS.—In any case in which the
10 Commission accepts such information, it shall pro-
11 vide all appropriate safeguards to ensure that the
12 confidentiality of the information is maintained and
13 that upon completion of the specific purpose for
14 which such information is required, the information
15 is destroyed or returned to the agency or person
16 from which it was obtained.

17 **SEC. 6. COMMISSION PERSONNEL MATTERS.**

18 (a) COMPENSATION OF COMMISSION MEMBERS.—

19 (1) IN GENERAL.—Except as provided in para-
20 graph (2), each member of the Commission shall be
21 compensated at a rate equal to the daily equivalent
22 of the annual rate of basic pay prescribed for level
23 IV of the Executive Schedule under section 5315 of
24 title 5, United States Code, for each day during

1 which such member is engaged in the actual per-
2 formance of the duties of the Commission.

3 (2) GOVERNMENT PERSONNEL.—Members of
4 the Commission who are full-time officers or employ-
5 ees of the United States or Members of Congress
6 shall receive no additional pay on account of their
7 service on the Commission.

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

15 (c) STAFF.—

16 (1) IN GENERAL.—The Chairman of the Com-
17 mission may, without regard to the civil service laws
18 and regulations, appoint and terminate an executive
19 director and such other personnel as may be nec-
20 essary to enable the Commission to perform its du-
21 ties.

22 (2) COMPENSATION.—The Chairman of the
23 Commission may fix the compensation of the execu-
24 tive director and other personnel without regard to
25 the provisions of chapter 51 and subchapter III of

1 chapter 53 of title 5, United States Code, relating
 2 to classification of positions and General Schedule
 3 pay rates, except that the rate of pay for the execu-
 4 tive director and other personnel may not exceed the
 5 rate payable for level V of the Executive Schedule
 6 under section 5326 of such title.

7 (3) SPECIAL EXPERTS AND CONSULTANTS.—
 8 The Chairman of the Commission is authorized to
 9 procure the services of experts and consultants in
 10 accordance with section 3109 of title 5, United
 11 States Code, at rates for individuals not to exceed
 12 the daily equivalent of the annual rate of basic pay
 13 prescribed for level V of the Executive Schedule
 14 under section 5316 of such title.

15 **SEC. 7. TERMINATION OF THE COMMISSION.**

16 The Commission shall terminate 30 days after the
 17 date on which its final report is submitted to the President
 18 and Congress.

19 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

20 (a) IN GENERAL.—There are authorized to be appro-
 21 priated \$4,000,000 to carry out the provisions of this Act.

22 (b) AVAILABILITY.—Any sums appropriated in this
 23 section shall remain available, without fiscal year limita-
 24 tion, until expended.

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