

109TH CONGRESS  
1ST SESSION

# H. R. 946

To establish the Independent Commission on the 2004 Coup d'État in the Republic of Haiti.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 17, 2005

Ms. LEE (for herself, Mr. CONYERS, Ms. KILPATRICK of Michigan, Mrs. JONES of Ohio, Mr. OWENS, Mr. GRIJALVA, Ms. NORTON, Mr. RANGEL, Mr. TOWNS, Mr. BROWN of Ohio, and Ms. WATERS) introduced the following bill; which was referred to the Committee on International Relations

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## A BILL

To establish the Independent Commission on the 2004 Coup d'État in the Republic of Haiti.

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. ESTABLISHMENT OF COMMISSION.**

4       There is established in the legislative branch the  
5       Independent Commission on the 2004 Coup d'État in the  
6       Republic of Haiti (in this Act referred to as the “Commis-  
7       sion”).

1 **SEC. 2. DUTIES.**

2 (a) DUTIES.—The Commission shall examine and  
3 evaluate the role of the United States Government in the  
4 February 2004 coup d'état in the Republic of Haiti. In  
5 carrying out the preceding sentence, the Commission shall  
6 examine and evaluate the following:

7 (1) The extent to which the United States Gov-  
8 ernment impeded the democratic process in Haiti,  
9 including the extent to which actions and policies of  
10 the United States Government contributed to the  
11 overthrow of the democratically-elected Government  
12 of Haiti.

13 (2) The circumstances under which Haitian  
14 President Jean-Bertrand Aristide resigned his office  
15 and went into exile in the Central African Republic,  
16 including the role of the United States Government  
17 in such resignation and exile.

18 (3) In the events leading up to the coup d'état,  
19 the extent to which the United States Government  
20 fulfilled its obligations under article 17 of the Orga-  
21 nization of American States (OAS) Inter-American  
22 Democratic Charter requiring that each OAS mem-  
23 ber country come to the aid of another OAS govern-  
24 ment under attack.

25 (4) The extent to which the United States Gov-  
26 ernment impeded efforts by the international com-

1 munity, particularly efforts by Caribbean Commu-  
2 nity (CARICOM) countries, to prevent the overthrow  
3 of the democratically-elected Government of Haiti.

4 (5) The role of the United States Government  
5 in influencing decisions regarding Haiti at the  
6 United Nations Security Council and in discussions  
7 between Haiti and other countries that were willing  
8 to assist in the preservation of the democratically-  
9 elected Government of Haiti by sending security  
10 forces to Haiti.

11 (6) The extent to which United States assist-  
12 ance was provided or United States personnel were  
13 used to support, directly or indirectly, the forces op-  
14 posed to the government of President Aristide, in-  
15 cluding the extent to which United States bilateral  
16 assistance was channeled through nongovernmental  
17 organizations that were directly or indirectly associ-  
18 ated with political groups actively involved in fo-  
19 menting hostilities or violence toward the govern-  
20 ment of President Aristide.

21 (7) The involvement of the Central Intelligence  
22 Agency, directly or indirectly, in operations that con-  
23 tributed to the overthrow of the democratically-elect-  
24 ed Government of Haiti.

1           (8) The impact of the International Republican  
2       Institute, the National Democratic Institute for  
3       International Affairs, and other organizations fund-  
4       ed by the United States Agency for International  
5       Development on the political process in Haiti.

6           (9) The political and economic impact on Haiti  
7       of the decision by the United States Government to  
8       discontinue all United States bilateral assistance to  
9       Haiti and United States efforts to block loans and  
10      support for Haiti from international financial insti-  
11      tutions.

12          (10) The broader implications for Haiti and the  
13      Caribbean region of the events culminating in the  
14      coup d'état.

15      (b) SCOPE OF DUTIES.—In carrying out the duties  
16      described in subsection (a), the Commission may examine  
17      the actions and representations of the current Administra-  
18      tion as well as prior Administrations.

19      **SEC. 3. COMPOSITION OF COMMISSION.**

20      (a) MEMBERS.—The Commission shall be composed  
21      of 10 members, of whom—

22          (1) 3 members shall be appointed by the major-  
23      ity leader of the Senate;

24          (2) 2 members shall be appointed by the Speak-  
25      er of the House of Representatives;

1           (3) 2 members shall be appointed by the minor-  
2       ity leader of the Senate; and

3           (4) 3 members shall be appointed by the minor-  
4       ity leader of the House of Representatives.

5       (b) QUALIFICATION REQUIREMENT; DEADLINE FOR  
6 APPOINTMENT; MEETINGS.—

7           (1) NONGOVERNMENTAL APPOINTEES.—An in-  
8       dividual appointed to the Commission may not be an  
9       officer or employee of the Federal Government or  
10      any State or local government.

11          (2) DEADLINE FOR APPOINTMENT.—All mem-  
12      bers of the Commission shall be appointed not later  
13      than 45 days after the date of the enactment of this  
14      Act.

15          (3) MEETINGS.—The Commission shall meet at  
16      the call of the Chairperson or a majority of its mem-  
17      bers.

18       (c) CHAIRPERSON; VICE CHAIRPERSON.—The Chair-  
19      person and Vice Chairperson of the Commission shall be  
20      elected by the members of the Commission.

21       (d) QUORUM; VACANCIES.—6 members of the Com-  
22      mission shall constitute a quorum. Any vacancy in the  
23      Commission shall not affect its powers, but shall be filled  
24      in the same manner in which the original appointment was  
25      made.

1 **SEC. 4. POWERS OF COMMISSION.**

2 (a) **HEARINGS AND SESSIONS.**—

3 (1) **IN GENERAL.**—The Commission shall, for  
4 the purpose of carrying out this Act, hold public  
5 hearings and meetings to the extent appropriate, sit  
6 and act at times and places, take testimony, and re-  
7 ceive evidence as the Commission considers appro-  
8 priate.

9 (2) **ADDITIONAL REQUIREMENTS.**—

10 (A) **PUBLIC HEARINGS.**—Any public hear-  
11 ings of the Commission shall be conducted in a  
12 manner consistent with the protection of infor-  
13 mation provided to or developed for or by the  
14 Commission as required by any applicable stat-  
15 ute, regulation, or Executive order.

16 (B) **PUBLIC VERSIONS OF REPORTS.**—The  
17 Commission shall release public versions of the  
18 reports required under section 8.

19 (b) **SUBPOENA POWER.**—

20 (1) **IN GENERAL.**—The Commission may issue  
21 a subpoena to require the attendance and testimony  
22 of witnesses and the production of evidence relating  
23 to any matter under investigation by the Commis-  
24 sion.

25 (2) **FAILURE TO OBEY AN ORDER OR SUB-**  
26 **POENA.**—If a person refuses to obey a subpoena

1        issued under paragraph (1), the Commission may  
2        apply to a United States district court for an order  
3        requiring that person to appear before the Commis-  
4        sion to give testimony, produce evidence, or both, re-  
5        lating to the matter under investigation. The appli-  
6        cation may be made within the judicial district  
7        where the hearing is conducted or where that person  
8        is found, resides, or transacts business. Any failure  
9        to obey the order of the court may be punished by  
10       the court as civil contempt.

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

16       (c) CONTRACT AUTHORITY.—The Commission may,  
17       to such extent and in such amounts as are provided in  
18       appropriation Acts, enter into contracts to enable the  
19       Commission to discharge its duties of this Act.

20       (d) INFORMATION FROM FEDERAL AGENCIES.—The  
21       Commission may secure directly from any Federal depart-  
22       ment or agency information necessary to enable it to carry  
23       out this Act. Upon request of the Chairperson of the Com-  
24       mission, the head of that department or agency shall pro-  
25       vide that information to the Commission.

1 (e) ASSISTANCE FROM FEDERAL AGENCIES.—

2 (1) GENERAL SERVICES ADMINISTRATION.—

3 The Administrator of General Services shall provide  
4 to the Commission on a reimbursable basis adminis-  
5 trative support and other services for the perform-  
6 ance of the Commission's duties.

7 (2) OTHER DEPARTMENTS AND AGENCIES.—In

8 addition to the assistance described in paragraph  
9 (1), departments and agencies of the United States  
10 may provide to the Commission such services, funds,  
11 facilities, staff, and other support services as they  
12 may determine advisable and as may be authorized  
13 by law.

14 (f) GIFTS.—The Commission may accept, use, and  
15 dispose of gifts or donations of services or property.

16 (g) POSTAL SERVICES.—The Commission may use  
17 the United States mails in the same manner and under  
18 the same conditions as departments and agencies of the  
19 United States.

20 **SEC. 5. STAFF OF COMMISSION.**

21 (a) APPOINTMENT AND COMPENSATION.—The  
22 Chairperson of the Commission, in consultation with the  
23 Vice Chairperson of the Commission, in accordance with  
24 rules agreed upon by the Commission, may appoint and  
25 fix the compensation of a staff director and such other



1 personnel as may be necessary to enable the Commission  
2 to carry out its duties, without regard to the provisions  
3 of title 5, United States Code, governing appointments in  
4 the competitive service, and without regard to the provi-  
5 sions of chapter 51 and subchapter III of chapter 53 of  
6 such Act relating to classification and General Schedule  
7 pay rates, except that no rate of pay fixed under this sub-  
8 section may exceed the equivalent of that payable for a  
9 position at level V of the Executive Schedule under section  
10 5316 of title 5, United States Code.

11 (b) DETAILEES.—Any Federal Government employee  
12 may be detailed to the Commission without reimbursement  
13 from the Commission, and such detailee shall retain the  
14 rights, status, and privileges of his or her regular employ-  
15 ment without interruption.

16 (c) CONSULTANT SERVICES.—The Commission is au-  
17 thorized to procure the services of experts and consultants  
18 in accordance with section 3109 of title 5, United States  
19 Code, but at rates not to exceed the daily rate paid a per-  
20 son occupying a position at level IV of the Executive  
21 Schedule under section 5315 of title 5, United States  
22 Code.

23 **SEC. 6. COMPENSATION AND TRAVEL EXPENSES.**

24 (a) COMPENSATION.—Each member of the Commis-  
25 sion may be compensated at a rate not to exceed the daily

1 equivalent of the annual rate of basic pay in effect for  
2 a position at level IV of the Executive Schedule under sec-  
3 tion 5315 of title 5, United States Code, for each day dur-  
4 ing which that member is engaged in the actual perform-  
5 ance of the duties of the Commission.

6 (b) TRAVEL EXPENSES.—While away from their  
7 homes or regular places of business in the performance  
8 of services for the Commission, members of the Commis-  
9 sion shall be allowed travel expenses, including per diem  
10 in lieu of subsistence, in the same manner as persons em-  
11 ployed intermittently in the Government service are al-  
12 lowed expenses under section 5703(b) of title 5, United  
13 States Code.

14 **SEC. 7. SECURITY CLEARANCES FOR COMMISSION MEM-**  
15 **BERS AND STAFF.**

16 (a) IN GENERAL.—Subject to subsection (b), the ap-  
17 propriate Federal agencies or departments shall cooperate  
18 with the Commission in expeditiously providing to the  
19 Commission members and staff appropriate security clear-  
20 ances to the extent possible pursuant to existing proce-  
21 dures and requirements.

22 (b) EXCEPTION.—No person shall be provided with  
23 access to classified information under this Act without the  
24 appropriate required security clearance access.

1 **SEC. 8. REPORTS OF COMMISSION; TERMINATION.**

2 (a) INTERIM REPORTS.—The Commission may sub-  
3 mit to Congress and the President interim reports con-  
4 taining such findings, conclusions, and recommendations  
5 for corrective measures as have been agreed to by a major-  
6 ity of Commission members.

7 (b) FINAL REPORT.—Not later than 18 months after  
8 the date of the enactment of this Act, the Commission  
9 shall submit to Congress and the President a final report  
10 containing such findings, conclusions, and recommenda-  
11 tions for corrective measures as have been agreed to by  
12 a majority of Commission members.

13 (c) FORM OF REPORT.—Each report prepared under  
14 this section shall be submitted in unclassified form, but  
15 may contain a classified annex.

16 **SEC. 9. TERMINATION.**

17 (a) IN GENERAL.—The Commission, and all the au-  
18 thorities of this Act, shall terminate 60 days after the date  
19 on which the final report is submitted under section 8(b).

20 (b) ADMINISTRATIVE ACTIVITIES BEFORE TERMI-  
21 NATION.—The Commission may use the 60-day period re-  
22 ferred to in paragraph (1) for the purpose of concluding  
23 its activities, including providing testimony to committees  
24 of Congress concerning its reports and disseminating the  
25 final report.

1 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—There is authorized to be appro-  
3 priated to carry out this Act \$5,000,000 for fiscal year  
4 2006.

5 (b) AVAILABILITY.—Amounts appropriated pursuant  
6 to the authorization of appropriations under subsection (a)  
7 are authorized to remain available until the date on which  
8 the Commission terminates pursuant to section 9(a).

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