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To establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 1, 1998

Mr. D'AMATO (for himself, Ms. MOSELEY-BRAUN, Mr. SHELBY, Mr. FAIRCLOTH, Mr. BENNETT, Mr. HAGEL, Mr. SARBANES, Mr. DODD, Mr. KERRY, Mr. BRYAN, Mrs. BOXER, Mr. REED, and Mr. DEWINE) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To establish a commission to examine issues pertaining to the disposition of Holocaust-era assets in the United States before, during, and after World War II, and to make recommendations to the President on further action, 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 “U.S. Holocaust Assets
5 Commission Act of 1998”.

1 **SEC. 2. ESTABLISHMENT OF COMMISSION.**

2 (a) ESTABLISHMENT.—There is established a Presi-
3 dential Commission, to be known as the “Presidential Ad-
4 visory Commission on Holocaust Assets in the United
5 States” (hereafter in this Act referred to as the “Commis-
6 sion”).

7 (b) MEMBERSHIP.—

8 (1) NUMBER.—The Commission shall be com-
9 posed of 23 members, appointed in accordance with
10 paragraph (2).

11 (2) APPOINTMENTS.—Of the 23 members of
12 the Commission—

13 (A) 11 shall be private citizens, appointed
14 by the President;

15 (B) 3 shall be representatives of the De-
16 partment of State, the Department of Justice,
17 and the Department of the Treasury (1 rep-
18 resentative of each such Department), ap-
19 pointed by the President;

20 (C) 2 shall be Members of the House of
21 Representatives, appointed by the Speaker of
22 the House of Representatives;

23 (D) 2 shall be Members of the House of
24 Representatives, appointed by the Minority
25 Leader of the House of Representatives;

1 (E) 2 shall be Members of the Senate, ap-
2 pointed by the Majority Leader of the Senate;

3 (F) 2 shall be Members of the Senate, ap-
4 pointed by the Minority Leader of the Senate;
5 and

6 (G) 1 shall be the Chairperson of the
7 United States Holocaust Memorial Council.

8 (3) CRITERIA FOR MEMBERSHIP.—Each private
9 citizen appointed to the Commission shall be an indi-
10 vidual who has a record of demonstrated leadership
11 on issues relating to the Holocaust or in the fields
12 of commerce, culture, or education that would assist
13 the Commission in analyzing the disposition of the
14 assets of Holocaust victims.

15 (4) ADVISORY PANELS.—The Chairperson of
16 the Commission may, in the discretion of the Chair-
17 person, establish advisory panels to the Commission,
18 including State or local officials, representatives of
19 organizations having an interest in the work of the
20 Commission, or others having expertise that is rel-
21 evant to the purposes of the Commission.

22 (5) DATE.—The appointments of the members
23 of the Commission shall be made not later than 90
24 days after the date of enactment of this Act.

1 (c) CHAIRPERSON.—The Chairperson of the Commis-
 2 sion shall be selected by the President from among the
 3 members of the Commission appointed under subpara-
 4 graph (A) or (B) of subsection (b)(2).

5 (d) PERIOD OF APPOINTMENT.—Members of the
 6 Commission shall be appointed for the life of the Commis-
 7 sion.

8 (e) VACANCIES.—Any vacancy in the membership of
 9 the Commission shall not affect its powers, but shall be
 10 filled in the same manner as the original appointment.

11 (f) MEETINGS.—The Commission shall meet at the
 12 call of the Chairperson at any time after the date of ap-
 13 pointment of the Chairperson.

14 (g) QUORUM.—Thirteen of the members of the Com-
 15 mission shall constitute a quorum, but a lesser number
 16 of members may hold meetings.

17 **SEC. 3. DUTIES OF THE COMMISSION.**

18 (a) ORIGINAL RESEARCH.—

19 (1) IN GENERAL.—Except as otherwise pro-
 20 vided in paragraph (3), the Commission shall con-
 21 duct a thorough study and develop an historical
 22 record of the collection and disposition of the assets
 23 described in paragraph (2), if such assets came into
 24 the possession or control of the Federal Government
 25 at any time after January 30, 1933, either—

1 (A) after having been obtained from vic-
2 tims of the Holocaust by, on behalf of, or under
3 authority of a government referred to in sub-
4 section (e); or

5 (B) because such assets were left un-
6 claimed as the result of actions taken by, on be-
7 half of, or under authority of a government re-
8 ferred to in subsection (e).

9 (2) TYPES OF ASSETS.—Assets described in
10 this paragraph include—

11 (A) gold;

12 (B) gems, jewelry, and non-gold precious
13 metals;

14 (C) accounts in banks in the United
15 States;

16 (D) domestic financial instruments pur-
17 chased before May 8, 1945 by individual victims
18 of the Holocaust, whether recorded in the name
19 of the victim or in the name of a nominee, and
20 whether or not held in a brokerage account;

21 (E) insurance policies and proceeds there-
22 of;

23 (F) real estate situated in the United
24 States;

25 (G) works of art; and

1 (H) books, manuscripts, and religious ob-
2 jects.

3 (3) COORDINATION OF ACTIVITIES.—In carry-
4 ing out its duties under paragraph (1), the Commis-
5 sion shall, to the maximum extent practicable, co-
6 ordinate its activities with, and not duplicate similar
7 activities already or being undertaken by, private in-
8 dividuals, private entities, or government entities,
9 whether domestic or foreign.

10 (b) COMPREHENSIVE REVIEW OF OTHER RE-
11 SEARCH.—Upon request by the Commission and permis-
12 sion by the relevant individuals or entities, the Commis-
13 sion shall review comprehensively research by private indi-
14 viduals, private entities, and non-Federal government enti-
15 ties, whether domestic or foreign, into the collection and
16 disposition of the assets described in subsection (a)(2), to
17 the extent that such research focuses on assets that came
18 into the possession or control of private individuals, pri-
19 vate entities, or non-Federal government entities within
20 the United States at any time after January 30, 1933,
21 either—

22 (1) after having been obtained from victims of
23 the Holocaust by, on behalf of, or under authority
24 of a government referred to in subsection (c); or

1 (2) because such assets were left unclaimed as
2 the result of actions taken by, on behalf of, or under
3 authority of a government referred to in subsection
4 (c).

5 (c) GOVERNMENTS INCLUDED.—A government re-
6 ferred to in this subsection includes, as in existence during
7 the period beginning on March 23, 1933, and ending on
8 May 8, 1945—

9 (1) the Nazi government of Germany;

10 (2) any government in any area occupied by the
11 military forces of the Nazi government of Germany;

12 (3) any government established with the assist-
13 ance or cooperation of the Nazi government of Ger-
14 many; and

15 (4) any government which was an ally of the
16 Nazi government of Germany.

17 (d) REPORTS.—

18 (1) SUBMISSION TO THE PRESIDENT.—Not
19 later than December 31, 1999, the Commission shall
20 submit a final report to the President that shall con-
21 tain any recommendations for such legislative, ad-
22 ministrative, or other action as it deems necessary or
23 appropriate. The Commission may submit interim
24 reports to the President as it deems appropriate.

1 (2) SUBMISSION TO THE CONGRESS.—After re-
2 ceipt of the final report under paragraph (1), the
3 President shall submit to the Congress any rec-
4 ommendations for legislative, administrative, or
5 other action that the President considers necessary
6 or appropriate.

7 **SEC. 4. POWERS OF THE COMMISSION.**

8 (a) HEARINGS.—The Commission may hold such
9 hearings, sit and act at such times and places, take such
10 testimony, and receive such evidence as the Commission
11 considers advisable to carry out this Act.

12 (b) INFORMATION FROM FEDERAL AGENCIES.—The
13 Commission may secure directly from any Federal depart-
14 ment or agency such information as the Commission con-
15 siders necessary to carry out this Act. Upon request of
16 the Chairperson of the Commission, the head of any such
17 department or agency shall furnish such information to
18 the Commission as expeditiously as possible.

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

23 (d) GIFTS.—The Commission may accept, use, and
24 dispose of gifts or donations of services or property.

1 **SEC. 5. COMMISSION PERSONNEL MATTERS.**

2 (a) COMPENSATION.—No member of the Commission
3 who is a private citizen shall be compensated for service
4 on the Commission. All members of the Commission who
5 are officers or employees of the United States shall serve
6 without compensation in addition to that received for their
7 services as officers or employees of the United States.

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

15 (c) EXECUTIVE DIRECTOR, DEPUTY EXECUTIVE DI-
16 RECTOR, GENERAL COUNSEL, AND OTHER STAFF.—

17 (1) IN GENERAL.—Not later than 90 days after
18 the selection of the Chairperson of the Commission
19 under section 2, the Chairperson shall, without re-
20 gard to the civil service laws and regulations, ap-
21 point an executive director, a deputy executive direc-
22 tor, and a general counsel of the Commission, and
23 such other additional personnel as may be necessary
24 to enable the Commission to perform its duties
25 under this Act.

1 (2) QUALIFICATIONS.—The executive director,
2 deputy executive director, and general counsel of the
3 Commission shall be appointed without regard to po-
4 litical affiliation, and shall possess all necessary se-
5 curity clearances for such positions.

6 (3) DUTIES OF EXECUTIVE DIRECTOR.—The
7 executive director of the Commission shall—

8 (A) serve as principal liaison between the
9 Commission and other Government entities;

10 (B) be responsible for the administration
11 and coordination of the review of records by the
12 Commission; and

13 (C) be responsible for coordinating all offi-
14 cial activities of the Commission.

15 (4) COMPENSATION.—The Chairperson of the
16 Commission may fix the compensation of the execu-
17 tive director, deputy executive director, general coun-
18 sel, and other personnel employed by the Commis-
19 sion, without regard to the provisions of chapter 51
20 and subchapter III of chapter 53 of title 5, United
21 States Code, relating to classification of positions
22 and General Schedule pay rates, except that—

23 (A) the rate of pay for the executive direc-
24 tor of the Commission may not exceed the rate
25 payable for level III of the Executive Schedule

1 under section 5314 of title 5, United States
2 Code; and

3 (B) the rate of pay for the deputy execu-
4 tive director, the general counsel of the Com-
5 mission, and other Commission personnel may
6 not exceed the rate payable for level IV of the
7 Executive Schedule under section 5315 of title
8 5, United States Code.

9 (5) EMPLOYEE BENEFITS.—

10 (A) IN GENERAL.—An employee of the
11 Commission shall be an employee for purposes
12 of chapters 84, 85, 87, and 89 of title 5, United
13 States Code, and service as an employee of the
14 Commission shall be service for purposes of
15 such chapters.

16 (B) NONAPPLICATION TO MEMBERS.—This
17 paragraph shall not apply to a member of the
18 Commission.

19 (6) OFFICE OF PERSONNEL MANAGEMENT.—

20 The Office of Personnel Management—

21 (A) may promulgate regulations to apply
22 the provisions referred to under subsection (a)
23 to employees of the Commission; and

24 (B) shall provide support services relating
25 to—

1 (i) the initial employment of employ-
2 ees of the Commission; and

3 (ii) other personnel needs of the Com-
4 mission.

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

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

17 (f) STAFF QUALIFICATIONS.—Any person appointed
18 to the staff of or employed by the Commission shall be
19 an individual of integrity and impartiality.

20 (g) CONDITIONAL EMPLOYMENT.—

21 (1) IN GENERAL.—The Commission may offer
22 employment on a conditional basis to a prospective
23 employee pending the completion of any necessary
24 security clearance background investigation. During
25 the pendency of any such investigation, the Commis-

1 sion shall ensure that such conditional employee is
2 not given and does not have access to or responsibil-
3 ity involving classified or otherwise restricted mate-
4 rial.

5 (2) **TERMINATION.**—If a person hired on a con-
6 ditional basis as described in paragraph (1) is denied
7 or otherwise does not qualify for all security clear-
8 ances necessary for the fulfillment of the responsibil-
9 ities of that person as an employee of the Commis-
10 sion, the Commission shall immediately terminate
11 the employment of that person with the Commission.

12 (h) **EXPEDITED SECURITY CLEARANCE PROCES-**
13 **DURES.**—A candidate for executive director or deputy ex-
14 ecutive director of the Commission and any potential em-
15 ployee of the Commission shall, to the maximum extent
16 possible, be investigated or otherwise evaluated for and
17 granted, if applicable, any necessary security clearances
18 on an expedited basis.

19 **SEC. 6. SUPPORT SERVICES.**

20 During the 180-day period following the date of en-
21 actment of this Act, the General Services Administration
22 shall provide administrative support services (including of-
23 fices and equipment) for the Commission.

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

2 The Commission shall terminate 90 days after the
3 date on which the Commission submits its final report
4 under section 3.

5 **SEC. 8. MISCELLANEOUS PROVISIONS.**

6 (a) **INAPPLICABILITY OF FACA.**—The Federal Advi-
7 sory Committee Act (5 U.S.C. App.) does not apply to the
8 Commission.

9 (b) **PUBLIC ATTENDANCE.**—To the maximum extent
10 practicable, each meeting of the Commission shall be open
11 to members of the public.

12 **SEC. 9. FUNDING OF COMMISSION.**

13 Notwithstanding section 1346 of title 31, United
14 States Code, or section 611 of the Treasury and General
15 Government Appropriations Act, 1998, of funds made
16 available for fiscal years 1998 and 1999 to the Depart-
17 ments of Justice, State, and any other appropriate agency
18 that are otherwise unobligated, not more than \$3,500,000
19 shall be available for the interagency funding of activities
20 of the Commission under this Act. Funds made available
21 to the Commission pursuant to this section shall remain
22 available for obligation until December 31, 1999.

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