

108TH CONGRESS  
1ST SESSION

# H. R. 1365

To establish the United States Commission on an Open Society with Security.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2003

Ms. NORTON introduced the following bill; which was referred to the  
Committee on Transportation and Infrastructure

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## A BILL

To establish the United States Commission on an Open  
Society with Security.

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 “United States Commis-  
5       sion on an Open Society with Security Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds that—

8               (1) an open society which affords free access to  
9       public facilities and spaces and which protects the  
10      right to engage in open discussion is an essential

1 premise of American governmental institutions and  
2 democratic values;

3 (2) the United States is currently facing a chal-  
4 lenge to the safety and security of the public, public  
5 employees, and public facilities and spaces that is  
6 unique in the history of this Nation;

7 (3) to meet this challenge without eroding or  
8 harming any of the basic tenets of the Republic and  
9 of our democracy, this Nation needs to assemble the  
10 best thinking available; and

11 (4) a commission of experts from a broad base  
12 of disciplines and backgrounds is necessary to exam-  
13 ine all the factors that should be considered in se-  
14 curing public safety while maintaining the highest  
15 level of free and open access to the public.

16 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

17 (a) **ESTABLISHMENT.**—There is established a com-  
18 mission to be known as the “United States Commission  
19 on an Open Society with Security” (in this Act referred  
20 to as the “Commission”).

21 (b) **COMPOSITION.**—The Commission shall be com-  
22 posed of 21 members appointed by the President from  
23 among individuals representing such fields or groups as  
24 the following: architecture, technology, civil libertarians,  
25 humanists, members of the armed forces, Federal Govern-

1 ment employees, city planners, business leaders, lawyers,  
2 artists, public building security, engineers, philosophers,  
3 historians, sociologists, and psychologists. The President  
4 shall designate one of those members to be the Chair-  
5 person of the Commission.

6 (c) TERMS; QUORUM; MEETINGS; VACANCIES.—  
7 Members shall be appointed for the life of the Commission.  
8 Nine members of the Commission shall constitute a  
9 quorum, but a lesser number may hold hearings. After its  
10 initial meeting, the Commission shall meet at the call of  
11 the Chairperson of the Commission or a majority of its  
12 members. Any vacancy in the Commission shall not affect  
13 its powers, and shall be filled in the same manner as the  
14 original appointment.

15 (d) APPOINTMENTS; INITIAL MEETING.—

16 (1) APPOINTMENTS.—It is the sense of Con-  
17 gress that the members of the Commission should be  
18 appointed by not later than 90 days after the date  
19 of enactment of this Act.

20 (2) INITIAL MEETING.—If, after 90 days fol-  
21 lowing the date of enactment of this Act, 9 or more  
22 members of the Commission have been appointed,  
23 the members who have been appointed may meet,  
24 and the Chairperson shall have the authority to

1 begin the operations of the Commission, including  
2 the hiring of staff.

3 **SEC. 4. FUNCTIONS OF COMMISSION.**

4 (a) IN GENERAL.—The Commission shall study and  
5 make findings and recommendations relating to the ques-  
6 tion of how the Government of the United States may,  
7 in a balanced manner, provide for both security in and  
8 public access to Federal buildings and spaces.

9 (b) MATTERS TO BE EXAMINED.—In carrying out  
10 this Act, the Commission shall specifically examine mat-  
11 ters that relate to the security of, and open access to, pub-  
12 lic facilities and spaces, including—

13 (1) Federal, other governmental, and private se-  
14 curity practices and proposals, building design, pub-  
15 lic space management, counterterrorism needs, and  
16 refurbishment of existing Federal facilities;

17 (2) effect of access to public facilities and  
18 spaces on—

19 (A) maintenance of security and safety;

20 (B) free speech, the right to petition the  
21 Government, and other constitutional rights  
22 and civil liberties;

23 (C) economies of affected jurisdictions or  
24 parts thereof;

1 (D) physical changes and architectural aes-  
2 thetics of affected areas;

3 (E) traffic and congestion; and

4 (F) job performance of employees within  
5 the affected facilities;

6 (3) current and potential uses of technology to  
7 augment or replace traditional modes of security;

8 (4) practices of and comparisons with other en-  
9 tities and nations; and

10 (5) current and potential analytical methods of  
11 assessing the risks posed by terrorist and similar  
12 threats, balanced against the specific needs and val-  
13 ues of open access.

14 (c) COORDINATION OF ACTIVITIES.—The Commis-  
15 sion shall take appropriate measures to avoid unnecessary  
16 duplication of efforts previously or currently being under-  
17 taken by any other person or entity.

18 **SEC. 5. POWERS OF COMMISSION.**

19 (a) IN GENERAL.—The Commission or, on the au-  
20 thorization of the Commission, any member or agent of  
21 the Commission, may hold such hearings, sit and act at  
22 such times and places, take such testimony, and receive  
23 such evidence as the Commission considers appropriate to  
24 carry out this Act.

1           (b) OBTAINING OFFICIAL INFORMATION.—The Com-  
2 mission may secure directly from any department, agency,  
3 or other entity of the United States information necessary  
4 to enable it to carry out this Act. Upon request of the  
5 Chairperson of the Commission, the head of such govern-  
6 mental entity shall furnish, to the extent authorized by  
7 law, such information to the Commission.

8           (c) SECURITY.—

9           (1) SECURITY CLEARANCES.—The members  
10 and staff of the Commission shall hold, as a condi-  
11 tion of appointment to or employment with the Com-  
12 mission, hold appropriate security clearances for ac-  
13 cess to the classified briefing, records, and materials  
14 to be reviewed by the Commission or its staff and  
15 shall follow the guidance and practices on security  
16 under applicable Executive orders and agency direc-  
17 tives.

18           (2) CONDITIONS TO GRANTING ACCESS.—The  
19 head of an agency shall require, as a condition of  
20 granting access to a member of the Commission or  
21 a member of the staff of the Commission to classi-  
22 fied records or materials of the agency under this  
23 Act, require the member or the member of the staff,  
24 as the case may be, to—

1 (A) execute an agreement regarding the se-  
2 curity of such records or materials that is ap-  
3 proved by the head of the agency; and

4 (B) hold an appropriate security clearance  
5 granted or recognized under the standard pro-  
6 cedures and eligibility criteria of the agency, in-  
7 cluding any special access approval required for  
8 access to such records or materials.

9 (3) RESTRICTION ON USE.—The members of  
10 the Commission and the members of the staff of the  
11 Commission may not use any information acquired  
12 in the course of their official activities on the Com-  
13 mission for nonofficial purposes.

14 (4) NEED TO KNOW.—For purposes of any law  
15 or regulation governing access to classified informa-  
16 tion that pertains to the national security of the  
17 United States and to facilitate the advisory func-  
18 tions of the Commission under this Act, a member  
19 of the Commission or a member of the staff of the  
20 Commission seeking access to a record or material  
21 under this Act shall be deemed for purposes of this  
22 subsection to have a need to know the contents of  
23 the record or material.

24 (5) RULE OF CONSTRUCTION.—A reference in  
25 this subsection to the “staff of the Commission” in-

1 includes individuals described in sections 6(d) and  
2 6(e).

3 (d) **MAILS.**—The Commission may use the United  
4 States mails in the same manner and under the same con-  
5 ditions as other departments and agencies of the United  
6 States.

7 (e) **GIFTS.**—The Commission may accept, use, and  
8 dispose of gifts or donations of services or property.

9 (f) **ADMINISTRATIVE SUPPORT SERVICES.**—The Ad-  
10 ministrator of General Services shall provide to the Com-  
11 mission, on a reimbursable basis, such administrative sup-  
12 port services as the Commission may request.

13 **SEC. 6. PERSONNEL MATTERS.**

14 (a) **COMPENSATION OF MEMBERS.**—Members of the  
15 Commission shall not be compensated by reason of their  
16 service on the Commission.

17 (b) **TRAVEL EXPENSES.**—The members of the Com-  
18 mission shall be allowed travel expenses, including per  
19 diem in lieu of subsistence, at rates authorized for employ-  
20 ees of agencies under subchapter I of chapter 57 of title  
21 5, United States Code, while away from their homes or  
22 regular places of business in the performance of services  
23 for the Commission.

24 (c) **STAFF.**—Subject to such rules as the Commission  
25 may prescribe, the Chairperson of the Commission, with-

1 out regard to the provisions of title 5, United States Code,  
2 governing appointments in the competitive service, and  
3 without regard to the provisions of chapter 51 and sub-  
4 chapter III of chapter 53 of such title (relating to classi-  
5 fication and General Schedule pay rates), may appoint and  
6 fix the pay of a staff director and such other personnel  
7 as may be necessary to enable the Commission to carry  
8 out its functions; except that no rate of pay fixed under  
9 this subsection may exceed the maximum rate of basic pay  
10 payable for GS–15 of the General Schedule.

11 (d) STAFF OF FEDERAL AGENCIES.—Upon request  
12 of the Chairperson of the Commission, the head of any  
13 department or agency of the United States may detail, on  
14 a nonreimbursable basis, any of the personnel of that de-  
15 partment or agency to the Commission to assist it in car-  
16 rying out its functions under this Act.

17 (e) EXPERTS AND CONSULTANTS.—With the ap-  
18 proval of the Commission, the Chairperson of the Commis-  
19 sion may procure temporary and intermittent services  
20 under section 3109(b) of title 5, United States Code, at  
21 rates for individuals not to exceed the daily equivalent of  
22 the maximum rate of basic pay payable for GS–15 of the  
23 General Schedule.

1 **SEC. 7. REPORT.**

2 (a) SUBMISSION TO THE PRESIDENT.—The Commis-  
3 sion shall transmit its final report to the President not  
4 later than 2 years after the initial meeting of the Commis-  
5 sion. Such report shall contain a detailed statement of the  
6 findings and conclusions of the Commission, together with  
7 its recommendations for such legislative, administrative,  
8 or other action as the Commission considers appropriate.

9 (b) SUBMISSION TO THE CONGRESS.—Not later than  
10 6 months after receiving the final report of the Commis-  
11 sion under subsection (a), the President shall transmit  
12 such report to Congress, together with any comments or  
13 recommendations (including any proposed legislation)  
14 which the President considers appropriate.

15 **SEC. 8. TERMINATION OF COMMISSION.**

16 The Commission shall terminate on the 90th day  
17 after the date on which the Commission is required to sub-  
18 mit its final report under section 7(a).

19 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated to carry out  
21 this Act—

22 (1) \$5,000,000 for fiscal year 2004; and

23 (2) \$5,000,000 for fiscal year 2005.

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