

CRS Report for Congress

Federal Advisory Committees: A Primer

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Federal Advisory Committees: A Primer

Summary

Federal advisory committees are frequently chartered by the Chief Executive, Congress, and agency heads to render independent advice and to make recommendations. An advisory committee can be established by congressional legislation, by presidential executive order or directive, or by an agency head under general agency administrative authority. By virtue of their *ad hoc* status, advisory committees can circumvent normal bureaucratic constraints to provide diverse points of view in matters of public policy within a definite time frame. Whether designated as commissions, committees, councils, or task forces, these independent study bodies have dealt with social crises, policy issues, and technical problems of major proportions. Commissions provide a flexible option, since their composition, organization, and working arrangements may be varied through the specific mandates establishing them.

Congress formally acknowledged the merits of using advisory committees to obtain expert views drawn from business, academic, government, and other interests when it enacted the Federal Advisory Committee Act (FACA) in 1972 (5 U.S.C. Appendix — Federal Advisory Committee Act; 86 Stat. 770, as amended). The legislative history pertaining to FACA reveals that Congress had two major concerns about advisory committees before 1972. The first concern was that the public perceived many advisory committees as duplicative and inefficient, and otherwise lacking adequate controls or oversight. The second concern was the widespread belief that advisory committees did not adequately represent the public interest, and that committee meetings were too often closed to the public. Congressional enactment of FACA established the first requirements for the management and oversight of federal advisory committees to ensure impartial and relevant expertise. FACA requires that the advice provided by advisory committees be objective and accessible to the public, and that committee membership be “fairly balanced in terms of the points of view represented.” Pursuant to FACA requirements, the General Services Administration (GSA) maintains and administers management guidelines for commissions. During FY2007, GSA reported a total of 922 advisory committees, composed of 51,755 members, which provided advice and recommendations to 57 departments and agencies. The total reported cost to operate these advisory committees during FY2007 was more than \$352.6 million.

On April 3, 2008, the House introduced H.R. 5687 to amend FACA to require that advisory committee members be appointed without regard to political affiliation. The GSA Administrator would be authorized to issue regulations and guidelines to ensure that advisory committees provide impartial advice and expertise. The legislation would also require FACA provisions to be made applicable to any subcommittee or subgroup established by a federal advisory committee.

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Federal Advisory Committees: A Primer

Introduction

Although George Washington is usually credited with initiating the tradition of the President seeking outside advice when he appointed an *ad hoc* group of commissioners in 1794 to deal with the Whiskey Rebellion, it was not until the 20th century that the Chief Executive, Congress, and agency heads began to make extensive use of such panels to render independent advice and recommendations. Whether designated as commissions, committees, councils, or task forces, these independent study bodies have dealt with social crises, policy issues, and technical problems of major proportions.

Federal Advisory Committee Act

Statutory Intent. Congress formally acknowledged the merits of using advisory committees to obtain expert views drawn from business, academic, government, and other interests when it enacted the Federal Advisory Committee Act (FACA) in 1972.¹

The legislative history pertaining to FACA reveals that Congress had two major concerns about advisory committees before 1972. The first concern was that the public perceived many commissions as duplicative and inefficient, and otherwise lacking adequate controls or oversight. The second concern was the widespread belief that advisory committees did not adequately represent the public interest, and that committee meetings were too often closed to the public.

Congressional enactment of FACA established the first requirements for the management and oversight of federal commissions to ensure impartial and relevant expertise. As required by FACA, the General Services Administration (GSA) administers and provides management guidelines for commissions. GSA also submits an annual report to the President and Congress based on the information provided by the federal agencies concerning the meetings, costs, and membership of advisory committees. During FY2007, GSA reported a total of 922 advisory committees, composed of 51,755 members, which provided advice and recommendations to 57 departments and agencies. The total reported cost to operate these advisory committees during FY2007 was more than \$352.6 million.²

Major Provisions. FACA requires that the advice provided by advisory committees be objective and accessible to the public. Each federal commission meeting is presumptively open to the public, with certain specified exceptions.

¹ 5 U.S.C. Appendix — Federal Advisory Committee Act; 86 Stat. 770, as amended.

² The FACA annual reports and database can be found at [<http://fido.gov/facadatabase>].

Adequate notice of meetings must be published in advance in the *Federal Register*. Subject to the requirements of the Freedom of Information Act, all papers, records, and minutes of meetings must be made available for public inspection. FACA also contains general guidelines for membership, mandating that any legislation establishing a committee be “fairly balanced in terms of the points of view represented and the functions to be performed,” and that the commission’s recommendations not be inappropriately influenced by the appointing authority or by any special interest.

In the 35 years since FACA’s enactment in 1972, congressional oversight hearings have revealed that, while FACA’s original goals were still relevant, some of its provisions were in need of clarification. From 1983 through 1989, legislation was introduced in the Senate to strengthen FACA’s management controls, as well as to establish new ethical, financial, and conflict of interest disclosure requirements for committee members.³ In 1997, FACA was amended to provide for public observation of meetings of committees created by the National Academies of Sciences and Public Administration in support of executive branch decisionmaking processes.⁴

GSA’s Administrative Guidance. Each advisory committee must file an annual charter with GSA containing its mandate and duties, frequency of meetings, and membership. There is no provision in FACA that requires or defines by-laws for advisory committees. However, as part of its ongoing oversight function, GSA began issuing administrative and interpretive guidelines in 1983 pertaining to the implementation of FACA. These final rules provide guidance for advisory committee chairpersons, and are reprinted in GSA’s annual FACA report.

The GSA guidelines authorize the secretary of each agency to appoint a Designated Federal Officer for each commission. The GSA administrator makes the appointments for those independent presidential commissions not under agency jurisdiction. The Designated Federal Officers are responsible for implementing the procedural rules pertaining to: approving and calling advisory committee meetings; approving agendas; adjourning meetings; and chairing meetings when directed by agency heads.

Of particular importance is the guidance that GSA provides to the agency Committee Management Officers (CMOs) for the management and procedural operations of advisory committees. Their responsibilities include those delegated to the agency head, as well as keeping the necessary records pertaining to committee charters and formal submissions to GSA’s annual report.

Commission statutes can also contain procedural references pertaining to voting requirements, elections of chairpersons, membership appointments, and vacancies.

³ S. 1641 was introduced on July 19, 1983, and S. 2127 was introduced on Nov. 17, 1983; S. 2721 was introduced on Aug. 10, 1988, and S. 444 was introduced on Feb. 23, 1989.

⁴ 111 Stat. 2689.

Congressional Initiatives in the 110th Congress

On April 2, 2008, the House Committee on Oversight and Government Reform Subcommittee on Information Policy, Census, and National Archives held a hearing to address the implementation and effectiveness of FACA. Testimony was heard from government officials representing GSA, the Government Accountability Office, and the Department of Defense, and from the private sector, to discuss ways to strengthen FACA's membership requirements and applicability guidelines.⁵ The following day, the House introduced H.R. 5687 to amend FACA to require that advisory committee members be appointed without regard to political affiliation. The GSA Administrator would be authorized to issue regulations and guidelines to ensure that advisory committees provide impartial advice and expertise. The legislation would also require FACA provisions to be made applicable to any subcommittee or subgroup established by a federal advisory committee. In addition, H.R. 5687 would require each executive branch agency to publish advanced notification of advisory committee meetings on the agency's website and to provide written transcripts of all advisory committee proceedings. On April 3, 2008, H.R. 5687 was referred to the House Committee on Oversight and Government Reform.

Commission Examples

The 12 commissions created by the Omnibus Consolidated and Emergency Supplemental Appropriations Act,⁶ are used here to illustrate the various options available for creating independent study bodies. They are as follow: Commission on Online Child Protection;⁷ National Commission on Terrorism;⁸ International Financial Institution Advisory Commission;⁹ International Monetary Fund Advisory Committee;¹⁰ Land Between the Lakes Advisory Board;¹¹ Trade Deficit Review Commission;¹² Denali Commission;¹³ President's Council on Counter-Narcotics;¹⁴ Parents' Advisory Council on Youth Drug Abuse;¹⁵ Montana Fish and Wildlife Conservation Trust Citizen Advisory Board;¹⁶ Canyon Ferry-Broadwater County

⁵ Ralph Lindeman, "Rep. Clay to Introduce House Legislation to Reform Federal Advisory Committee Act," *BNA, Inc., Daily Report for Executives*, no. 64 (Apr. 3, 2008), p. A-16.

⁶ 112 Stat. 2681; P.L. 105-277; Oct. 21, 1998.

⁷ 112 Stat. 2681-728.

⁸ 112 Stat. 2681-210.

⁹ 112 Stat. 2681-220.

¹⁰ 112 Stat. 2681-228.

¹¹ 112 Stat. 2681-314.

¹² 112 Stat. 2681-547.

¹³ 112 Stat. 2681-637.

¹⁴ 112 Stat. 2681-688.

¹⁵ 112 Stat. 2681-689.

¹⁶ 112 Stat. 2681-716.

Trust Advisory Committee;¹⁷ and the Advisory Commission on Electronic Commerce.¹⁸ These major policy and technical commissions were established to provide timely policy guidance on diverse issues of importance to Congress and the public. The complete text of the statutory charters for these 12 commissions can be found at the end of this report.

Commission Establishment

A commission's establishment is generally prescribed in a brief introductory paragraph in the first section of the enacting statute. The Commission on Online Child Protection¹⁹ was established as follows:

There is hereby established a temporary Commission to be known as the Commission on Online Child Protection ... for the purpose of conducting a study under this section regarding methods to help reduce access by minors to material that is harmful to minors on the Internet.

Sometimes legislation may authorize an agency head to create an advisory panel at a later date, as illustrated by the following language: "The Secretary of the Treasury should establish an International Monetary Fund Advisory Committee."²⁰

As stated earlier, the President also has the authority to establish his own commissions by executive order. Congress can also authorize national or "presidential" study bodies by statute, as it did when it established the President's Council on Counter-Narcotics.²¹ This 18 member council, chaired by the President, is mandated to "advise and assist" the President in overseeing and coordinating national drug control strategy.

Commission Mandate

Often, one of the initial sections of a statute establishing a major advisory committee provides congressional "findings" identifying the conditions justifying the creation of a panel. For instance, the establishment authority for the Trade Deficit Review Commission²² contained six major findings pertaining to U.S. trade and account deficits that led to congressional determination of the need to authorize a commission study.

A section on "duties" and "functions" generally specifies the commission's mandate or responsibilities. The statutory charter of the National Commission on

¹⁷ 112 Stat. 2681-718.

¹⁸ 112 Stat. 2681-722.

¹⁹ 112 Stat. 2681-728.

²⁰ 112 Stat. 2681-228.

²¹ 112 Stat. 2681-688.

²² 112 Stat. 2681-547.

Terrorism²³ prescribed three specific duties for the commission: to review and assess the federal statutes and policies relating to counterterrorism; and to recommend changes in preventing and punishing international terrorism directed toward this country.

A study commission's objectives and the scope of its activities are best stated in specific terms to guide the panel's members and staff in carrying out their responsibilities. Ideally, the assigned objectives of a commission should be realistic and manageable, taking into consideration the time needed for appointment of staff, research, and approval of the commission's final report. The legislation authorizing the Trade Deficit Review Commission contained a separate "issues to be addressed" section listing eight specific areas for review as the commission undertakes its deliberations and research in preparation of the final report.

Membership Requirements

Membership requirements in FACA are broad enough to allow a great deal of discretion in determining the composition of a commission. Therefore, the membership of an advisory committee will often depend upon its functions and mandate.

The legislation mandating a commission may require that particular federal officials serve as members. The President's Council on Counter-Narcotics is composed of 18 members, including the President, Vice President, and other cabinet officers, such as the Secretaries of State, Treasury, Defense, Transportation, Health and Human Services, and Education. The Advisory Commission on Electronic Commerce²⁴ requires membership consisting of the Secretaries of Commerce and Treasury, and the United States Trade Representative. The President may also be required to make appointments to major policy commissions created by Congress; the 16-member Parents' Advisory Council on Youth Drug Abuse²⁵ specifies four presidential appointments from the private sector.

Major policy commissions often require membership appointments by congressional leaders. The statutory charter for the Trade Deficit Commission contains the following membership requirements:

The Commission shall be composed of 12 members as follows:

- (i) Three persons shall be appointed by the President *pro tempore* of the Senate upon the recommendation of the Majority Leader of the Senate, after consultation with the Chairman of the Committee on Finance;
- (ii) Three persons shall be appointed by the President *pro tempore* of the Senate upon the recommendation of the Minority Leader of the Senate, after consultation with the ranking minority members of the Committee on Finance;

²³ 112 Stat. 2681-210.

²⁴ 112 Stat. 2681-722.

²⁵ 112 Stat. 2681-689.

(iii) Three persons shall be appointed by the Speaker of the House of Representatives, after consultation with the Chairman of the Committee on Ways and Means; and

(iv) Three persons shall be appointed by the Minority Leader of the House of Representatives, after consultation with the ranking minority member of the Committee on Ways and Means.

Commission charters may also require that members be appointed from the private sector to represent particular interests. Scientific or technical advisory committees are likely to have a majority of members who have specialized backgrounds, but are still representative of different points of view or employment. Members appointed to the International Monetary Fund Advisory Committee are required to include representatives from industry, agriculture, organized labor, banking and financial services, environmental, and human rights organizations.

The selection of members representing different points of view helps to ensure that a commission's final recommendations or report does not give the appearance of being inappropriately influenced by any special interests.

FACA does not provide guidance on the number of members a commission or committee should have or their terms of appointment. The membership generally should be large enough to allow for representation of differing points of view and to facilitate a quorum for commission meetings. Advisory committees of short-term existence usually keep the same members for the committee's duration, with any vacancies filled in the same manner as the original appointments were made.

Some advisory panels may have staggered membership terms so that only one portion of the members will be new at any given time, thereby ensuring continuity in the committee's operations. The 16 members of the Parents' Advisory Council on Youth Drug Abuse are appointed to three-year terms; however, five of the initial appointments are for a one-year term, and an additional five appointments are for a term of two years to ensure staggered terms of office.

It is also possible for enabling legislation to specify how officers of an advisory panel are to be selected. The chairman of the 11-member International Financial Institution Advisory Commission,²⁶ for example, is designated by the majority leader of the Senate, after consultation with the Speaker of the House, and the minority leaders of the House and the Senate. In contrast, the chairman and the vice-chairman of the Parents' Advisory Council on Youth Drug Abuse are chosen by the commission membership. The chairman assigns committee duties relating to the council, such as authorizing the executive director to convene hearings and other administrative business.

The statutory authority of the seven-member Denali Commission²⁷ authorizes the Governor of Alaska, or an individual selected by the governor, to serve as the state co-chairperson. In addition, a federal co-chairperson is appointed by the

²⁶ 112 Stat. 2681-220.

²⁷ 112 Stat. 2681-637.

Secretary of Commerce from nominations submitted by the President *pro tempore* of the Senate and the Speaker of the House. The federal co-chairperson serves as an employee of the Department of Commerce, and may be removed by the Commerce secretary for cause. This individual is responsible for developing a research plan, and also casts the deciding vote in the event of a tie vote by the commission members.

Member Compensation and Travel Expenses

Advisory panel members who are not federal employees or officers may or may not receive compensation for their work on a commission. Members of the National Commission on Terrorism, who are not government employees, are paid at a rate:

... not to exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in performing the duties of the commission.

They may also be allowed travel expenses and *per diem*:

... at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the commission.

Commission Staffing

Pressures of time are often not compatible with an advisory committee's mandate for detailed research and investigation, and a staff must be quickly assembled. Generally speaking, the staff is composed of the executive director, staff members, and consultants. The quality of the final report can produce tension between the staff members and commission members; however, commission members make the final decisions on conflicting interpretations and recommendations.

Provisions in the legislation creating the Trade Deficit Review Commission authorize the chairman, without regard to the Title 5 requirements, to appoint and terminate an executive director, subject to confirmation by the Commission. The chairman may compensate the executive director and staff:

... without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

The Trade Deficit Commission is also authorized to obtain administrative support services from the General Services Administration, on a reimbursable basis.

Advisory panels may also use the services of outside consultants and experts as defined in 5U.S.C.3109(b). The Denali Commission contains language authorizing

the chairman to employ temporary and intermittent services at pay rates not to exceed the daily equivalent for level V of the Executive Schedule.

Federal employees may also be detailed to staff an advisory committee. The Commission on Online Child Protection, for example, is authorized to request staff and necessary resources from the Department of Commerce. Statutory language creating the National Commission on Terrorism authorizes the chairman to request the detail of any federal agency personnel, without reimbursement, to assist in carrying out its duties.

Commission Reports

A commission may be required to prepare an interim, an annual, or a final report for transmittal to the President and Congress, or other department heads. These reporting requirements usually can be found under the “duties” or “functions” sections of a panel’s statutory charter, or a special section may mandate the production of a final report. The Parents’ Advisory Council on Youth Drug Abuse is authorized to issue annual reports, in addition to any other reports or recommendations it considers appropriate, to the Director of National Drug Control Policy, and, subsequently, to Congress.

Since the recommendations contained in the final report are only advisory, no changes in public policy occur on the authority of a commission. Therefore, the implementation of such recommendations is dependent upon their expression in a statute or presidential or agency directive, as appropriate.

To ensure greater accountability for, and oversight of, a panel’s final report, specific provisions can be included in the establishment authority to require follow-up or implementation of the final recommendations. As an example, the International Financial Advisory Commission’s statutory mandate requires the President, through the Secretary of the Treasury, to report to the appropriate oversight committees within three months after receiving the commission’s final report and recommendations. In addition, the President, through the Secretary of the Treasury, must report annually on the implementation of any of the commission’s final recommendations for three years following the commission’s termination.

Another approach is to require a commission to incorporate its final recommendations into formal legislative or administrative language. The final report of the Advisory Commission on Electronic Commerce must include “such legislative recommendations as required to address the findings” of the commission’s research.

Powers of a Commission

Explicit authority is needed for accomplishing the special duties for which an advisory committee might be responsible. Vesting a commission with subpoena power, however, is done on a very selective basis, depending largely upon the investigatory mission of the panel. In another example, the Trade Deficit Review Commission is authorized to hold hearings, take testimony, receive evidence, and use the franking privilege in the same manner as other federal agencies. At the request

of the chairperson, the commission may also secure information directly from any federal agency.

By-Laws and Procedural Requirements

Specific procedural requirements can often be found in the statutory mandate that establishes an advisory panel. For example, the National Commission on Terrorism's enabling statute contains a section entitled "Administrative Matters" which sets requirements for meeting times and quorums. Commission statutes can also contain references to other procedural rules such as voting requirements, election of a chairperson, membership vacancies, and appointments.

Unless otherwise addressed in a commission's statutory mandate, GSA's Designated Federal Officers are responsible for implementing the procedural rules pertaining to approving and calling advisory committees; approving agendas; adjourning meetings; and chairing meetings when directed by agency heads.

Commission Funding

GSA reported that, in FY2007, federal departments and agencies spent a total of \$626.9 million to operate advisory panels, compensate members, and reimburse travel and *per diem* expenses. Of this total, nearly \$154.7 million was spent to reimburse federal staff support assigned by the agencies to assist and monitor their advisory committees.²⁸

Commissions may be directly funded by Congress or provided with monies indirectly through general agency appropriations, as in the case of the Commission on Online Child Protection. Congress has authorized a one-time appropriation of \$2 million for the Trade Deficit Review Commission for FY1999, while the National Commission on Terrorism is authorized \$20 million for FY1999, and such sums as may be necessary for FY2000 through FY2003.

Although it happens rarely, a federal advisory commission can also receive funds from private sources. The Advisory Commission on Electronic Commerce is authorized to

... accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

In addition to its congressional funding, the Denali Commission is also authorized to accept and dispose of gifts, donations of services or property.

When allowing the acceptance of private gifts or donations, the commission's statutory mandate might also include a reference to the accounting procedures that may be necessary to allow for public disclosure of said funds. If a commission does

²⁸ This information is available at [<http://fido.gov/facadatabase>].

not receive congressional funding or agency sponsorship, thought must be given as to how the proposed panel will go about finding suitable office space, or administrative assistance in general. Ideally, a statutory provision in the commission's mandate will provide the necessary guidance. If not, the newly formed commission will find itself at a disadvantage that could hinder and adversely affect the research and work of the group.

FACA Exemption

Congress may exempt an advisory panel from FACA requirements, as was done in the case of the Commission on Online Child Protection and the Denali Commission.

When a commission is exempted from FACA's guidelines, it also is exempted from complying with GSA's management guidelines for advisory committees. As a result, a commission would not be required to file an annual report with GSA with membership, funding, and meeting data. It would not have to publish advance notice of meetings in the *Federal Register*. However, the final recommendations of a commission can be criticized or ignored if it is perceived that its findings are made without regard to public participation and the consideration of diverse points of view.

Commission Termination

Unless statutorily mandated or otherwise extended by the President or a federal officer, an advisory committee will automatically terminate two years after its establishment. Consequently, most advisory committees must be rechartered with GSA every two years. Most statutory national study commissions are mandated so as to terminate 30 days after the submission of a final report.

**Appendix: Commissions Created by the Omnibus
Consolidated and Emergency Supplemental
Appropriations Act (112 Stat. 2681)**

**Commission on Online Child Protection
(112 Stat. 2681-728)**

SEC. 1405. STUDY BY COMMISSION ON ONLINE CHILD PROTECTION.

(a) **Establishment.** — There is hereby established a temporary Commission to be known as the Commission on Online Child Protection (in this section referred to as the “Commission”) for the purpose of conducting a study under this section regarding methods to help reduce access by minors to material that is harmful to minors on the Internet.

(b) **Membership.** — The Commission shall be composed of 19 members, as follows:

(1) **Industry members.** — The Commission shall include — (A) 2 members who are engaged in the business of providing Internet filtering or blocking services or software; (B) 2 members who are engaged in the business of providing Internet access services; (C) 2 members who are engaged in the business of providing labeling or ratings services; (D) 2 members who are engaged in the business of providing Internet portal or search services; (E) 2 members who are engaged in the business of providing domain name registration services; (F) 2 members who are academic experts in the field of technology; and (G) 4 members who are engaged in the business of making content available over the Internet.

Of the members of the Commission by reason of each subparagraph of this paragraph, an equal number shall be appointed by the Speaker of the House of Representatives and by the Majority Leader of the Senate.

(2) **Ex officio members.** — The Commission shall include the following officials:

- (A) The Assistant Secretary (or the Assistant Secretary’s designee).
- (B) The Attorney General (or the Attorney General’s designee).
- (C) The Chairman of the Federal Trade Commission (or the chairman’s designee).

(c) **Study.** —

(1) **In general.** — The Commission shall conduct a study to identify technological or other methods that — (A) will help reduce access by minors to material that is harmful to minors on the Internet; and (B) may meet the requirements for use as affirmative defenses for purposes of section 231(c) of the Communications Act of 1934 (as added by this title). Any methods so identified shall be used as the basis for making legislative recommendations to the Congress under subsection (d)(3).

(2) **Specific methods.** — In carrying out the study, the Commission shall identify and analyze various technological tools and methods for protecting

minors from material that is harmful to minors, which shall include (without limitation) —

(A) a common resource for parents to use to help protect minors (such as a “one-click-away” resource); (B) filtering or blocking software or services; (C) labeling or rating systems; (D) age verification systems; (E) the establishment of a domain name for posting of any material that is harmful to minors; and (F) any other existing or proposed technologies or methods for reducing access by minors to such material.

(3) Analysis. — In analyzing technologies and other methods identified pursuant to paragraph (2), the Commission shall examine — (A) the cost of such technologies and methods; (B) the effects of such technologies and methods on law enforcement entities; (C) the effects of such technologies and methods on privacy; (D) the extent to which material that is harmful to minors is globally distributed and the effect of such technologies and methods on such distribution; (E) the accessibility of such technologies and methods to parents; and (F) such other factors and issues as the Commission considers relevant and appropriate.

(d) **Report.** — Not later than 1 year after the enactment of this Act, the Commission shall submit a report to the Congress containing the results of the study under this section, which shall include —

(1) a description of the technologies and methods identified by the study and the results of the analysis of each such technology and method;

(2) the conclusions and recommendations of the Commission regarding each such technology or method;

(3) recommendations for legislative or administrative actions to implement the conclusions of the committee; and

(4) a description of the technologies or methods identified by the study that may meet the requirements for use as affirmative defenses for purposes of section 231(c) of the Communications Act of 1934 (as added by this title).

(e) **Staff and Resources.** — The Assistant Secretary for Communication and Information of the Department of Commerce shall provide to the Commission such staff and resources as the Assistant Secretary determines necessary for the Commission to perform its duty efficiently and in accordance with this section.

(f) **Termination.** — The Commission shall terminate 30 days after the submission of the report under subsection (d).

(g) **Inapplicability of the Federal Advisory Committee Act.** — The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

SEC. 1406. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 30 days after the date of enactment of this Act.

National Commission on Terrorism

(112 Stat. 2681-210)

SEC. 591.

(a) **Establishment of National Commission on Terrorism.** —

(1) Establishment. — There is established a national commission on terrorism to review counter-terrorism policies regarding the prevention and punishment of international acts of terrorism directed at the United States. The commission shall be known as “The National Commission on Terrorism.”

(2) Composition. — The commission shall be composed of 10 members appointed as follows:

- (A) Three members shall be appointed by the Majority Leader of the Senate.
- (B) Three members shall be appointed by the Speaker of the House of Representatives.
- (C) Two members shall be appointed by the Minority Leader of the Senate.
- (D) Two members shall be appointed by the Minority Leader of the House of Representatives.
- (E) The appointments of the members of the commission should be made no later than 3 months after the date of the enactment of this Act.

(3) Qualifications. — The members should have a knowledge and expertise in matters to be studied by the commission.

(4) Chair. — The Speaker of the House of Representatives, after consultation with the majority leader of the Senate and the minority leaders of the House of Representatives and the Senate, shall designate one of the members of the Commission to serve as chair of the Commission.

(5) Period of appointment: vacancies. — Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(6) Security clearances. — All Members of the Commission should hold appropriate security clearances.

(b) **Duties.** —

(1) In general. — The commission shall consider issues relating to international terrorism directed at the United States as follows:

- (A) Review the laws, regulations, policies, directives, and practices relating to counterterrorism in the prevention and punishment of international terrorism directed towards the United States.
- (B) Assess the extent to which laws, regulations, policies, directives, and practices relating to counterterrorism have been effective in preventing or punishing international terrorism directed towards the United States. At a minimum, the assessment should include a review of the following:
 - (i) Evidence that terrorist organizations have established an infrastructure in the western hemisphere for the support and conduct of terrorist activities.

(ii) Executive branch efforts to coordinate counterterrorism activities among Federal, State, and local agencies and with other nations to determine the effectiveness of such coordination efforts.

(iii) Executive branch efforts to prevent the use of nuclear, biological, and chemical weapons by terrorists.

(C) Recommend changes to counterterrorism policy in preventing and punishing international terrorism directed toward the United States.

(2) Report. — Not later than 6 months after the date on which the Commission first meets, the Commission shall submit to the President and the Congress a final report of the findings and conclusions of the commission, together with any recommendations.

(c) Administrative Matters. —

(1) Meetings. —

(A) The commission shall hold its first meeting on a date designated by the Speaker of the House which is not later than 30 days after the date on which all members have been appointed.

(B) After the first meeting, the commission shall meet upon the call of the chair.

(C) A majority of the members of the commission shall constitute a quorum, but a lesser number may hold meetings.

(2) Authority of individuals to act for commission. — Any member or agent of the commission may, if authorized by the commission, take any action which the commission is authorized to take under this section.

(3) Powers. —

(A) The commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the commission considers advisable to carry out its duties.

(B) The commission may secure directly from any agency of the Federal Government such information as the commission considers necessary to carry out its duties. Upon the request of the chair of the commission, the head of a department or agency shall furnish the requested information expeditiously to the commission.

(C) The commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(4) Pay and expenses of commission members. —

(A) Subject to appropriations, each member of the commission who is not an employee of the government shall be paid at a rate not to exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in performing the duties of the commission.

(B) Members and personnel for the commission may travel on aircraft, vehicles, or other conveyances of the Armed Forces of the United States when travel is necessary in the performance of

a duty of the commission except when the cost of commercial transportation is less expensive.

- (C) The members of the commission may be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the commission.
- (D) (i) A member of the commission who is an annuitant otherwise covered by section 8344 of 8468 of title 5, United States Code, by reason of membership on the commission shall not be subject to the provisions of such section with respect to membership on the commission.
 (ii) A member of the commission who is a member or former member of a uniformed service shall not be subject to the provisions of subsections (b) and (c) of section 5532 of such title with respect to membership on the commission.
- (5) Staff and administrative support. —
 - (A) The chairman of the commission may, without regard to civil service laws and regulations, appoint and terminate an executive director and up to three additional staff members as necessary to enable the commission to perform its duties. The chairman of the commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51, and subchapter III of chapter 53, of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay may not exceed the maximum rate of pay for GS-15 under the General Schedule.
 - (B) Upon the request of the chairman of the commission, the head of any department or agency of the Federal Government may detail, without reimbursement, any personnel of the department or agency to the commission to assist in carrying out its duties. The detail of an employee shall be without interruption or loss of civil service status or privilege.

(d) **Termination of commission.** — The commission shall terminate 30 days after the date on which the commission submits a final report.

(e) **Funding.** — There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

International Financial Institution Advisory Commission

(112 Stat. 2681-220)

Sec. 603. (a) **In General.** — The Secretary of the Treasury shall establish an International Financial Institution Advisory Commission (in this section referred to as the “Commission”).

(b) **Membership.** —

(1) In general. — The Commission shall be composed of 11 members, as follows:

(A) 3 members appointed by the Speaker of the House of Representatives.

(B) 3 members appointed by the Majority Leader of the Senate.

(C) 5 members appointed jointly by the Minority Leader of the House of Representatives and the Minority Leader of the Senate.

(2) Timing of appointments. — All appointments to the Commission shall be made not later than 45 days after the date of enactment of this Act.

(3) Chairman. — The Majority Leader of the Senate, after consultation with the Speaker of the House of Representatives and the Minority Leaders of the House of Representatives and the Senate, shall designate 1 of the members of the Commission to serve as Chairman of the Commission.

(c) **Qualifications.** —

(1) Expertise. — Members of the Commission shall be appointed from among those with knowledge and expertise in the workings of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act), the World Trade Organization, and the Bank for International Settlements.

(2) Former affiliation. — At least 4 members of the Commission shall be individuals who were officers or employees of the Executive Branch before January 20, 1992, and not more than half of such 4 members shall have served under Presidents from the same political party.

(d) **Period of Appointment; Vacancies.** — Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment was made.

(e) **Duties of the Commission.** — The Commission shall advise and report to the Congress on the future role and responsibilities of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act), the World Trade Organization, and the Bank for International Settlements. In carrying out such duties, the Commission shall meet with and advise the Secretary of the Treasury or the Deputy Secretary of the Treasury, and shall examine —

(1) the effect of globalization, increased trade, capital flows, and other relevant factors on such institutions; (2) the adequacy, efficacy, and desirability of current policies and programs at such institutions as well as their suitability for respective beneficiaries of such institutions; (3) cooperation or duplication

of functions and responsibilities of such institutions; and (4) other matters the Commission deems necessary to make recommendations pursuant to subsection (g).

(f) Powers and Procedures of the Commission. —

(1) Hearings. — The Commission or, at its direction, any panel or member of the Commission may, for the purpose of carrying out the provisions of this section, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(2) Information. — The Commission may secure directly information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this section.

(3) Meetings. — The Commission shall meet at the call of the Chairman.

(g) Report. — On the termination of the Commission, the Commission shall submit to the Secretary of the Treasury and the appropriate committees a report that contains recommendations regarding the following matters:

(1) Changes to policy goals set forth in the Bretton Woods Agreements Act and the International Financial Institutions Act.

(2) Changes to the charters, organizational structures, policies and programs of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act).

(3) Additional monitoring tools, global standards, or regulations for, among other things, global capital flows, bankruptcy standards, accounting standards, payment systems, and safety and soundness principles for financial institutions.

(4) Possible mergers or abolition of the international financial institutions (as defined in section 1701(c)(2) of the International Financial Institutions Act), including changes to the manner in which such institutions coordinate their policy and program implementation and their roles and responsibilities.

(5) Any additional changes necessary to stabilize currencies, promote continued trade liberalization and to avoid future financial crises.

(h) Termination. — The Commission shall terminate 6 months after the first meeting of the Commission, which shall be not later than 30 days after the appointment of all members of the Commission.

(i) Reports by the Executive Branch. —

(1) Within three months after receiving the report of the Commission under subsection (g), the President of the United States through the Secretary of the Treasury shall report to the appropriate committees on the desirability and feasibility of implementing the recommendations contained in the report.

(2) Annually, for three years after the termination of the Commission, the President of the United States through the Secretary of the Treasury shall submit to the appropriate committees a report on the steps taken, if any, through relevant international institutions and international fora to implement such recommendations as are deemed feasible and desirable under paragraph (1).

International Monetary Fund Advisory Committee
(112 Stat. 2681-228)

SEC. 1503. ADVOCACY OF POLICIES TO ENHANCE THE GENERAL EFFECTIVENESS OF THE INTERNATIONAL MONETARY FUND.

(b) **Advisory Committee on IMF Policy.** — Section 1701 of such act (22 U.S.C. 262p-5) is amended by adding at the end the following:

(e) **Advisory Committee on IMF Policy.** —

(1) **In general.** — The Secretary of the Treasury should establish an International Monetary Fund Advisory Committee (in this subsection referred to as the Advisory Committee’).

(2) **Membership.** — The Advisory Committee should consist of members appointed by the Secretary of the Treasury, after appropriate consultations with the relevant organizations. Such members should include representatives from industry, representatives from agriculture, representatives from organized labor, representatives from banking and financial services, and representatives from nongovernmental environmental and human rights organizations.’‘

Land Between the Lakes Advisory Board

(112 Stat. 2681-314)

SEC. 522. ADVISORY BOARD.

(a) **Establishment.** — Not later than 90 days after the date of transfer pursuant to section 541, the Secretary [of Agriculture] shall establish the Land Between the Lakes Advisory Board.

(b) **Membership.** — The Advisory Board shall be composed of 17 members, of whom —

- (1) 4 individuals shall be appointed by the Secretary, including —
 - (A) 2 residents of the State of Kentucky; and (B) 2 residents of the State of Tennessee;
- (2) 2 individuals shall appointed by the Kentucky Fish and Wildlife Commissioner or designee;
- (3) 1 individual shall be appointed by the Tennessee Fish and Wildlife Commission or designee;
- (4) 2 individuals shall be appointed by the Governor of the State of Tennessee;
- (5) 2 individuals shall be appointed by the Governor of the State of Kentucky; and
- (6) 2 individuals shall be appointed by appropriate officials of each of the 3 counties containing the Recreation Area.

(c) **Term.** —

- (1) In general. — The term of a member of the Advisory Board shall be 5 years.
- (2) Succession. — Members of the Advisory Board may not succeed themselves.

(d) **Chairperson.** — The Regional Forester shall serve as chairperson of the Advisory Board.

(e) **Rules of Procedure.** — The Secretary shall prescribe the rules of procedure for the Advisory Board.

(f) **Functions.** — The Advisory Board may advise the Secretary on —

- (1) means of promoting public participation for the land and resource management plan for the Recreation Area; and (2) environmental education.

(g) **Meetings.** —

- (1) Frequency. — The Advisory Board shall meet at least biannually.
- (2) Public meeting. — A meeting of the Advisory Board shall be open to the general public.
- (3) Notice of meetings. — The chairperson, through the placement of notices in local news media and by other appropriate means shall give 2 weeks' public notice of each meeting of the Advisory Board.

(h) **No Termination.** — Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Board.

Trade Deficit Review Commission

(112 Stat. 2681-547)

Sec.127. TRADE DEFICIT REVIEW COMMISSION.

(a) **Short Title.** — This section may be cited as the “Trade Deficit Review Commission Act.”

(b) **Findings.** — Congress makes the following findings:

(1) The United States continues to run substantial merchandise trade and current account deficits.

(2) Economic forecasts anticipate continued growth in such deficits in the next few years.

(3) The positive net international asset position that the United States built up over many years was eliminated in the 1980s. The United States today has become the world’s largest debtor nation.

(4) The United States merchandise trade deficit is characterized by large bilateral trade imbalances with a handful of countries.

(5) The United States has one of the most open borders and economies in the world. The United States faces significant tariff and non-tariff trade barriers with its trading partners. The United States does not benefit from fully reciprocal market access.

(6) The United States is once again at a critical juncture in trade policy development. The nature of the United States trade deficit and its causes and consequences must be analyzed and documented.

(c) **Establishment of Commission.** —

(1) Establishment. — There is established a commission to be known as the Trade Deficit Review Commission (hereafter in this section referred to as the “Commission”).

(2) PURPOSE. — The purpose of the Commission is to study the nature, causes, and consequences of the United States merchandise trade and current account deficits.

(3) MEMBERSHIP OF COMMISSION. —

(A) COMPOSITION. — The Commission shall be composed of 12 members as follows:

(i) Three persons shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader of the Senate, after consultation with the Chairman of the Committee on Finance.

(ii) Three persons shall be appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate, after consultation with the ranking minority member of the Committee on Finance.

(iii) Three persons shall be appointed by the Speaker of the House of Representatives, after consultation with the Chairman of the Committee on Ways and Means.

(iv) Three persons shall be appointed by the Minority Leader of the House of Representatives, after consultation with the ranking minority member of the Committee on Ways and Means.

(B) QUALIFICATION OF MEMBERS. —

(i) APPOINTMENTS. — Persons who are appointed under subparagraph (A) shall be persons who —

(I) have expertise in economics, international trade, manufacturing, labor, environment, business, or have other pertinent qualifications or experience; and

(II) are not officers or employees of the United States.

(ii) OTHER CONSIDERATIONS. — In appointing Commission members, every effort shall be made to ensure that the members —

(I) are representative of a broad cross-section of economic and trade perspectives within the United States; and

(II) provide fresh insights to analyzing the causes and consequences of United States merchandise trade and current account deficits.

(4) PERIOD OF APPOINTMENT; VACANCIES. —

(A) IN GENERAL. — Members shall be appointed not later than 60 days after the date of enactment of this Act and the appointment shall be for the life of the Commission.

(B) VACANCIES. — Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(5) INITIAL MEETING. — Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(6) MEETINGS. — The Commission shall meet at the call of the Chairperson.

(7) CHAIRPERSON AND VICE CHAIRPERSON. — The members of the Commission shall elect a chairperson from among the members of the Commission.

(8) QUORUM. — A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(9) VOTING. — Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(d) **Duties of the Commission.** —

(1) IN GENERAL. — The Commission shall be responsible for examining the nature, causes, and consequences of , and the accuracy of available data on, the United States merchandise trade and current account deficits.

(2) ISSUES TO BE ADDRESSED. — The Commission shall examine and report to the President, the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and other appropriate committees of Congress on the following:

(A) The relationship of the merchandise trade and current account balances to the overall well-being of the United States economy, and to wages and employment in various sectors of the United States economy.

(B) The impact that United States monetary and fiscal policies may have on the United States merchandise trade and current account deficits.

(C) The extent to which the coordination, allocation, and accountability of trade responsibilities among Federal agencies may contribute to the trade and current account deficits.

(D) The causes and consequences of the merchandise trade and current account deficits and specific bilateral trade deficits, including

- - (i) identification and quantification of —
 - (I) the macroeconomic factors and bilateral trade barriers that may contribute to the United States merchandise trade and current account deficits;
 - (II) any impact of the merchandise trade and current account deficits on the domestic economy, industrial base, manufacturing capacity, technology, number and quality of jobs, productivity, wages, and the United States standard of living;
 - (III) any impact of the merchandise trade and current account deficits on the defense production and innovation capacities of the United States; and
 - (IV) trade deficits within individual industrial, manufacturing, and production sectors, and any relationship between such deficits and the increasing volume of intra-industry and intro-company transactions;
 - (ii) a review of the adequacy and accuracy of the current collection and reporting of import and export data, and the identification and development of additional data bases and economic measurements that may be needed to properly quantify the merchandise trade and current account balances may have on the United States economy; and
 - (iii) the extent to which there is reciprocal market access substantially equivalent to that afforded by the United States in each country with which the United States has a persistent and substantial bilateral trade deficit, and the extent to which such deficits have become structural.

(E) Any relationship of United States merchandise trade and current account deficits to both comparative and competitive trade advantages within the global economy, including —

- (i) a systemic analysis of the United States trade patterns with different trading partners and to what extent the trade patterns are based on comparative and competitive trade advantages;
- (ii) the extent to which the increased mobility of capital and technology has changed both comparative and competitive trade advantages;
- (iv) the effect that offset and technology transfer agreements have on the long-term competitiveness of the United States manufacturing sectors; and

(v) any effect that international trade, labor, environmental, or other agreements may have on United States competitiveness.

(F) The extent to which differences in the growth rates of the United States and its trading partners may impact on United States merchandise trade and current account deficits.

(G) The impact that currency exchange rate fluctuations and any manipulation of exchange rates may have on United States merchandise trade and current account deficits.

(H) The flow of investments both into and out of the United States, including —

(i) any consequences for the United States economy of the current status of the United States as a debtor nation;

(ii) any relationship between such investment flows and the United States merchandise trade and current account deficits and living standards of United States workers;

(iii) any impact such investment flows may have on United States labor, community, environmental, and health and safety standards, and how such investment flows influence the location of manufacturing facilities; and

(iv) the effect of barriers to United States foreign direct investment in developed and developing nations, particularly nations with which the United States has a merchandise trade and current account deficit.

(e) Final Report. —

(1) **IN GENERAL.** — Not later than 12 months after the date of the initial meeting of the Commission, the Commission shall submit to the President and Congress a final report which contains —

(A) the findings and conclusions of the Commission described in subsection (d); and (B) recommendations for addressing the problems identified as part of the Commission's analysis.

(2) **SEPARATE VIEWS.** — Any Member of the Commission may submit additional findings and recommendations as part of the final report.

(f) Powers of Commission. —

(1) **HEARINGS.** — The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission may find advisable to fulfill the requirements of this section. The Commission shall hold at least 1 or more hearings in Washington, D.C., and 4 in different regions of the United States.

(2) **INFORMATION FROM FEDERAL AGENCIES.** — The Commission may secure directly from any Federal Department or agency such information as the Commission considers necessary to carry out the provisions of this section. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) **POSTAL SERVICES.** — The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(g) Commission Personnel Matters. —

(1) **COMPENSATION OF MEMBERS.** — Each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(2) **TRAVEL EXPENSES.** — The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter 1 of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) STAFF. —

(A) **IN GENERAL.** — The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(B) **COMPENSATION.** — The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) **DETAIL OF GOVERNMENT EMPLOYEES.** — Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(5) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.** — The Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(h) **Support Services.** — The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(i) **Appropriations.** — There are appropriated \$2,000,000 to the Commission to carry out the provisions of this section.

SEC. 128. None of the funds provided or otherwise made available in this Division of this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

The Denali Commission

(112 Stat. 2681-637)

SEC. 303. ESTABLISHMENT OF COMMISSION.

(a) **Establishment.** — There is established a commission to be known as the Denali Commission (referred to in this title as the “Commission”).

(b) **Membership.** —

(1) **Composition.** — The Commission shall be composed of 7 members, who shall be appointed by the Secretary of Commerce (referred to in this title as the “Secretary”), of whom —

(A) one shall be the Governor of the State of Alaska, or an individual selected from nominations submitted by the Governor, who shall serve as the State Cochairperson;

(B) one shall be the President of the University of Alaska, or an individual selected from nominations submitted by the President of the University of Alaska;

(C) one shall be the President of the Alaska Municipal League or an individual selected from nominations submitted by the President of the Alaska Municipal League;

(D) one shall be the President of the Alaska Federation or Natives or an individual selected from nominations submitted by the President of the Alaska Federation or Natives;

(E) one shall be the Executive President of the Alaska State AFL-CIO or an individual selected from nominations submitted by the Executive President;

(F) one shall be the President of the Associated General Contractors of Alaska or an individual selected from nominations submitted by the President of the Associated General Contractors of Alaska; and

(G) one shall be the Federal Cochairperson, who shall be selected in accordance with the requirements of paragraph (2).

(2) **Federal cochairperson.** —

(A) **In general.** — The President pro tempore of the Senate and the Speaker of the House of Representatives shall each submit a list of nominations for the position of the Federal Cochairperson under paragraph (1)(G), including pertinent biographical information, to the Secretary.

(B) **Appointment.** — The Secretary shall appoint the Federal Cochairperson from among the list of nominations submitted under subparagraph (A). The Federal Cochairperson shall serve as an employee of the Department of Commerce, and may be removed by the Secretary for cause.

(C) **Federal Cochairperson vote.** — The Federal Cochairperson appointed under this paragraph shall break any tie in the voting of the Commission.

(4) **Date.** — The appointments of the members of the Commission shall be made no later than January 1, 1999.

(c) **Period of Appointment; Vacancies.** — Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) **Meetings.** —

(1) In general. — The Commission shall meet at the call of the Federal Cochairperson not less frequently than 2 times each year, and may, as appropriate, conduct business by telephone or other electronic means.

(2) Notification. — Not later than 2 weeks before calling a meeting under this subsection, the Federal Cochairperson shall —

(A) notify each member of the Commission of the time, date and location of that meeting; and (B) provide each member of the Commission with a written agenda for the meeting, including any proposals for discussion and consideration, and any appropriate background materials.

(e) **Quorum.** — A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

SEC. 304. DUTIES OF THE COMMISSION.

(a) **Work Plan.** —

(1) In general. — Not later than 1 year after the date of enactment of this Act and annually thereafter, the Commission shall develop a proposed work plan for Alaska that meets the requirements of paragraph (2) and submit that plan to the Federal Cochairperson for review in accordance with the requirements of subsection (b).

(2) Work plan. — In developing the work plan, the Commission shall — (A) solicit project proposals from local governments and other entities and organizations; and (B) provide for a comprehensive work plan for rural and infrastructure development and necessary job training in the area covered under the work plan.

(3) Report. — Upon completion of a work plan under this subsection, the Commission shall prepare, and submit to the Secretary, the Federal Cochairperson, and the Director of the Office of Management and Budget, a report that outlines the work plan and contains recommendations for funding priorities.

(b) **Review by Federal CoChairperson.** —

(1) In general. — Upon receiving a work plan under this section, the Secretary, acting through the Federal Cochairperson, shall publish the work plan in the Federal Register, with notice and an opportunity for public comment. The period for public review and comment shall be the 30-day period beginning on the date of publication of that notice.

(2) Criteria for review. — In conducting a review under paragraph (1), the Secretary, acting through the Federal Cochairperson, shall —

(A) take into consideration the information, views, and comments received from interested parties through the public review and comment process specified in paragraph (1); and

(B) consult with appropriate Federal officials in Alaska including but not limited to Bureau of Indian Affairs, Economic Development Administration, and Rural Development Administration.

(3) Approval. — Not later than 30 days after the end of the period specified in paragraph (1), the Secretary acting through the Federal Cochairperson, shall

—
(A) approve, disapprove, or partially approve the work plan that is the subject of the review; and

(B) issue to the Commission a notice of the approval, disapproval, or partial approval that —

(i) specifies the reasons for disapproving any portion of the work plan; and

(ii) if applicable, includes recommendations for revisions to the work plan to make the plan subject to approval.

(4) Review of disapproval or partial approval. — If the Secretary, acting through the Federal Cochairperson, disapproves or partially approves a work plan, the Federal Cochairperson shall submit that work plan to the Commission for review and revision.

SEC. 305. POWERS OF THE COMMISSION.

(a) **Information from Federal Agencies.** — The Commission may secure directly from any Federal department or agency such information as it considers necessary to carry out the provisions of this Act. Upon request of the Federal Cochairperson of the Commission, the head of such department or agency shall furnish such information to the Commission. Agencies must provide the Commission with the requested information in a timely manner. Agencies are not required to provide the Commission any information that is exempt from disclosure by the Freedom of Information Act. Agencies may, upon request by the Commission, make services and personnel available to the Commission to carry out the duties of the Commission. To the maximum extent practicable, the Commission shall contract for completion of necessary work utilizing local firms and labor to minimize costs.

(b) **Postal Services.** — The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(c) **Gifts.** — The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 306. COMMISSION PERSONNEL MATTERS.

(a) **Compensation of Members.** — Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during the time such member is engaged in the performance of the duties of the Commission. All members of the Commission who

are officers or employees of the United States shall serve without compensation that is in addition to that received for their services as officers or employees of the United States.

(b) **Travel Expenses.** — The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) **Staff.** —

(1) In general. — The Federal Cochairperson of the Commission may, without regard to the civil service laws and regulations, appoint such personnel as may be necessary to enable the Commission to perform its duties.

(2) Compensation. — The Chairman of the Commission may fix the compensation of personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(d) **Detail of Government Employees.** — Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) **Procurement of Temporary and Intermittent Services.** — The Federal Cochairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) **Offices.** — The principal office of the Commission shall be located in Alaska, at a location that the Commission shall select.

SEC. 307. SPECIAL FUNCTIONS.

(a) **Rural Utilities.** — In carrying out its functions under this title, the Commission shall as appropriate, provide assistance, seek to avoid duplicating services and assistance, and complement the water and sewer wastewater programs under section 306D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926d) and section 303 of the Safe Drinking Water Act Amendments of 1996 (33 U.S.C. 1263a).

(b) **Bulk Fuels.** — The Commission, in consultation with the Commandant of the Coast Guard, shall develop a plan to provide for the repair or replacement of bulk fuel storage tanks in Alaska that are not in compliance with applicable —

(1) Federal law, including the Oil Pollution Act of 1990 (104 Stat. 484);

or

(2) State law.

SEC. 308. EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.

The Federal Advisory Committee Act shall not apply to the Commission.

SEC. 309. AUTHORIZATION OF APPROPRIATIONS.

(a) **In General.** — There are authorized to be appropriated to the Commission to carry out the duties of the Commission consistent with the purposes of this title and pursuant to the work plan approved under section 4 under this Act, \$20,000,000 for fiscal year 1999, and such sums as may be necessary for fiscal years 2000, 2001, 2002, and 2003.

(b) **Availability.** — Any sums appropriated under the authorization contained in this section shall remain available until expended.

President's Council on Counter-Narcotics (112 Stat. 2681-688)

SEC. 709. PRESIDENT'S COUNCIL ON COUNTER-NARCOTICS

(a) **Establishment.** — There is established a council to be known as the President's Council on Counter-Narcotics (referred to in this section as the "Council").

(b) **Membership.** —

(1) **IN GENERAL.** — Subject to paragraph (2), the Council shall be composed of 18 members, of whom —

(A) 1 shall be the President, who shall serve as the Chairman of the Council;

(B) 1 shall be the Vice President;

(C) 1 shall be the Secretary of State;

(D) 1 shall be the Secretary of the Treasury;

(E) 1 shall be the Secretary of Defense;

(F) 1 shall be the Attorney General;

(G) 1 shall be the Secretary of Transportation;

(H) 1 shall be the Secretary of Health and Human Services;

(I) 1 shall be the Secretary of Education;

(J) 1 shall be the Representative of the United States of America to the United Nations;

(K) 1 shall be the Director of the Office of Management and Budget;

(L) 1 shall be the Chief of Staff to the President;

(M) 1 shall be the Director of the Office, who shall serve as the Executive Director of the Council;

(N) 1 shall be the Director of the Office, who shall serve as the Executive Director of the Council;

(O) 1 shall be the Assistant to the President for National Security Affairs;

(P) 1 shall be the Counsel to the President;

(Q) 1 shall be the Chairman of the Joint Chiefs of Staff; and

(R) 1 shall be the National Security Adviser to the Vice President.

(2) **ADDITIONAL MEMBERS.** — The President may, in the discretion of the President, appoint additional members to the Council.

(c) **Functions.** — The Council shall advise and assist the President in —

(1) providing direction and oversight for the national drug control strategy, including relating drug control policy to other national security interests and establishing priorities; and

(2) ensuring coordination among departments and agencies of the Federal Government concerning implementation of the National Drug Control Strategy.

(d) Administration. —

(1) **IN GENERAL.** — The Council may utilize established or ad hoc committees, task forces, or interagency groups chaired by the Director (or a representative of the Director) in carrying out the functions of the Council under this section.

(2) **STAFF.** — The staff of the Office, in coordination with the staffs of the Vice President and the Assistant to the President for National Security Affairs, shall act as staff for the Council.

(3) **COOPERATION FROM OTHER AGENCIES.** — Each department and agency of the executive branch shall — (A) cooperate with the Council in carrying out the functions of the Council under this section; and (B) provide such assistance, information, and advice as the Council may request, to the extent permitted by law.

Parents' Advisory Council on Youth Drug Abuse (112 Stat. 2681-689)

(a) In General. —

(1) ESTABLISHMENT. — There is established a Council to be known as the Parents Advisory Council on Youth Drug Abuse (referred to in this section as the “Council”).

(2) MEMBERSHIP. — (A) COMPOSITION. — The Council shall be composed of 16 members, of whom —

(i) 4 shall be appointed by the President, each of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made;

(ii) 4 shall be appointed by the Majority Leader of the Senate, 3 of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made;

(iii) 2 shall be appointed by the Minority Leader of the Senate, each of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made;

(iv) 4 shall be appointed by the Speaker of the House of Representatives, 3 of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made; and

(v) 2 shall be appointed by the Minority Leader of the House of Representatives, each of whom shall be a parent or guardian of a child who is not less than 6 and not more than 18 years of age as of the date on which the appointment is made.

(B) REQUIREMENTS. —

(i) IN GENERAL. — Each member of the Council shall be an individual from the private sector with a demonstrated interest and expertise in research, education, treatment, or prevention activities related to youth drug abuse.

(ii) REPRESENTATIVES OF NONPROFIT ORGANIZATIONS. — Not less than 1 member appointed under each of clauses (i) through (v) of paragraph (2)(A) shall be a representative of a nonprofit organization focused on involving parents in antidrug education and prevention.

(C) DATE. — The appointments of the initial members of the Council shall be made not later than 60 days after the date of enactment of this section.

(D) EXECUTIVE DIRECTOR. — The Director shall appoint the Executive Director of the Council, who shall be an employee of the Office of National Drug Control Policy.

(3) PERIOD OF APPOINTMENT; VACANCIES. —

(A) PERIOD OF APPOINTMENT. — Each member of the Council shall be appointed for a term of 3 years, except that, of the initial members of the Council —

(i) 1 member appointed under each of clauses (i) through (v) of paragraph (2)(A) shall be appointed for a term of 1 year; and

(ii) 1 member appointed under each of clauses (i) through (v) of paragraph (2)(A) shall be appointed for a term of 2 years.

(B) VACANCIES. — Any vacancy in the Council shall not affect its powers, provided that a quorum is present, but shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term of that member, if the successor of that member has not been appointed.

(4) INITIAL MEETING. — Not later than 120 days after the date on which all initial members of the Council have been appointed, the Council shall hold its first meeting.

(5) MEETINGS. — The Council shall meet at the call of the Chairperson.

(6) QUORUM. — Nine members of the Council shall constitute a quorum, but a lesser number of members may hold hearings.

(7) CHAIRPERSON AND VICE CHAIRPERSON. —

(A) IN GENERAL. — The members of the Council shall select a Chairperson and Vice Chairperson from among the members of the Council.

(B) DUTIES OF CHAIRPERSON. — The Chairperson of the Council shall assign committee duties relating to the Council and direct and Executive Director to convene hearings and conduct other necessary business of the Council.

(C) DUTIES OF VICE CHAIRPERSON. — If the Chairperson of the Council is unable to serve, the Vice Chairperson shall serve as the Chairperson.

(b) **Duties of the Council.** —

(1) IN GENERAL. — The Council —

(A) shall advise the Director on drug prevention, education, and treatment and assist the Deputy Director of Demand Reduction in the responsibilities for the coordination of the demand reduction programs of the Federal Government and the analysis and consideration of prevention and treatment alternatives; and

(B) may issue reports and recommendations on drug prevention, education, and treatment, in addition to the reports detailed in paragraph (2), as the Council considers appropriated.

(2) SUBMISSION OF REPORTS. — Any report or recommendation issued by the Council shall be submitted to the Director and subsequently to Congress.

(3) ADVICE ON THE NATIONAL DRUG CONTROL STRATEGY. — Not later than December 1 of each year thereafter, the Council shall submit to the Director an annual report containing drug control strategy recommendations on drug prevention, education, and treatment. The Director may include any recommendations submitted under this paragraph in the report submitted by the Director under section 706(b).

(c) **Expenses.** — The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(d) **Authorization of Appropriations.** — There are authorized to be appropriated to the Council such sums as may be necessary to carry out this section.

Montana Fish and Wildlife Conservation Trust
Citizen Advisory Board
(112 Stat. 2681-716)

SEC. 1007. MONTANA FISH AND WILDLIFE CONSERVATION TRUST

(a) **Establishment.** — The Secretary [of the Interior], in consultation with the State [of Montana] congressional delegation and the Governor of the State, shall establish a nonprofit charitable permanent perpetual public trust in the State, to be known as the “Montana Fish and Wildlife Conservation Trust” (referred to in this section as the “Trust”).

(c) **Administration.** —

(1) **TRUST MANAGER.** — The Trust shall be managed by a trust manager, who —

(B) shall disburse funds from the Trust on receiving a request for disbursement from a majority of the members of the Joint State-Federal Agency Board established under paragraph (2) and after determining, in consultation with the Citizen Advisory Board established under paragraph (3) and after consideration of any comments submitted by members of the public, that the request meets the purpose of the Trust under subsection (b) and the requirements of subsections (d) and (e).

(2) **JOINT STATE-FEDERAL AGENCY BOARD.** —

(A) **ESTABLISHMENT.** — There is established a Joint State-Federal Agency Board, which shall consist of —

(i) 1 Forest Service employee employed in the State designated by the Forest Service;

(ii) 1 Bureau of Land Management employee employed in the State designated by the Bureau of Land Management;

(iii) 1 Bureau of Reclamation employee employed in the State designated by the Bureau of Reclamation;

(iv) 1 United States Fish and Wildlife Service employee employed in the State designated by the United States Fish and Wildlife Service; and

(v) 1 Montana Department of Fish, Wildlife and Parks employee designated by the Department.

(B) **REQUESTS FOR DISBURSEMENT.** — After consulting with the Citizen Advisory Board established under paragraph (3) and after consideration of the Trust plan prepared under paragraph (3)(C) and of any comments or requests submitted by members of the public, the Joint State-Federal Agency Board, by a vote of a majority of its members, may submit to the Trust Manager a request for disbursement if the Board determines that the request meets the purpose of the Trust.

(3) **CITIZEN ADVISORY BOARD.** —

(A) **IN GENERAL.** — The Secretary shall nominate, and the Joint State-Federal Agency Board shall approve by a majority vote, a Citizen Advisory Board.

(B) MEMBERSHIP. — The Citizen Advisory Board shall consist of 4 members, including 1 with a demonstrated commitment to improving public access to public land and to fish and wildlife conservation, from each of —

(i) a Montana organization representing agricultural landowners;

(ii) a Montana organization representing hunters;

(iii) a Montana organization representing fishermen; and

(iv) a Montana nonprofit land trust or environmental organization.

(C) DUTIES. — The Citizen Advisory Board, in conjunction with the Joint State-Federal Agency Board and the Montana Association of Counties, shall prepare and periodically update a Trust plan including recommendations for requests for disbursement by the Joint State-Federal Agency Board.

**Canyon Ferry-Broadwater County Trust Advisory
Committee**
(112 Stat. 2681-718)

SEC. 1008. CANYON FERRY-BROADWATER COUNTY TRUST.

(a) **Establishment.** — The Commissioners [Board of Commissioners for Broadwater County, Montana] shall establish a nonprofit charitable permanent perpetual public trust to be known as the “Canyon Ferry-Broadwater County Trust” (referred to in this section as the “Trust”).

(c) **Trust Management.** —

(3) Disbursement. — The Trust manager — (B) shall not make any expenditure except on the recommendation of the advisory committee established under subsection (d).

(d) **Advisory Committee.** —

(1) ESTABLISHMENT. — The Commissioners shall appoint an advisory committee consisting of not fewer than 3 nor more than 5 persons.

(2) DUTIES. — The advisory committee shall meet on a regular basis to establish priorities and make requests for the disbursement of funds to the Trust manager.

(3) APPROVAL BY THE COMMISSIONERS. — The advisory committee shall recommend only such expenditures as are approved by the Commissioners.

Advisory Commission on Electronic Commerce (112 Stat. 2681-722)

SEC. 1102. ADVISORY COMMISSION ON ELECTRONIC COMMERCE.

(a) **Establishment of Commission.** — There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the “Commission”). The Commission shall —

(1) be composed of 19 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) **Membership.** —

(1) In general. — The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) 3 representatives from the Federal Government, comprised of the Secretary of Commerce, the Secretary of the Treasury, and the United States Trade Representative (or their respective delegates).

(B) 8 representatives from State and local governments (one such representative shall be from a State or local government that does not impose a sales tax and one representative shall be from a State that does not impose an income tax).

(C) 8 representatives of the electronic commerce industry (including small business), telecommunications carriers, local retail businesses, and consumer groups, comprised of —

(i) 5 individuals appointed by the Majority Leader of the Senate;

(ii) 3 individuals appointed by the Minority Leader of the Senate;

(iii) 5 individuals appointed by the Speaker of the House of Representatives; and

(iv) 3 individuals appointed by the Minority Leader of the House of Representatives.

(2) Appointments. — Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) Vacancies. — Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) **Acceptance of Gifts and Grants.** — The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) **Other Resources.** — The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury,

and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) **Sunset.** — The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) **Rules of the Commission.** —

(1) **Quorum.** — Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) **Meetings.** — Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) **Opportunities to testify.** — The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) **Additional rules.** — The Commission may adopt other rules as needed.

(g) **Duties of the Commission.** —

(1) **In general.** — The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable intrastate, interstate or international sales activities.

(2) **Issues to be studied.** — The Commission may include in the study under subsection (a) —

(A) an examination of —

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on electronic commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of model State legislation that —

(i) would provide uniform definitions of categories of property, goods, service, or information subject to or exempt from sales and use taxes; and

(ii) would ensure that Internet access services, online services, and communications and transactions using the Internet, Internet access service, or online services would

be treated in a tax and technologically neutral manner relative to other forms of remote sales;

(E) an examination of the effects of taxation, including the absence of taxation, on all interstate sales transactions, including transactions using the Internet, on retail businesses and on State and local governments, which examination may include a review of the efforts of State and local governments to collect sales and use taxes owed on in-State purchases from out-of-State sellers; and

(F) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

(3) Effect on the communications act of 1934. — Nothing in this section shall include an examination of any fees or charges imposed by the Federal Communications Commission or States related to —

(A) obligations under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

(B) the implementation of the Telecommunications Act of 1996 (or of amendments made by that Act).

(h) National Tax Association Communications and Electronic Commerce Tax Project. — The Commission shall, to the extent possible, ensure that its work does not undermine the efforts of the National Tax Association Communications and Electronic Commerce Tax Project.

SEC. 1103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress for its consideration a report reflecting the results, including such legislative recommendations as required to address the findings of the Commission's study under this title. Any recommendation agreed to by the Commission shall be tax and technologically neutral and apply to all forms of remote commerce. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.