

105TH CONGRESS  
1ST SESSION

# H. R. 2977

To amend the Federal Advisory Committee Act to clarify public disclosure requirements that are applicable to the National Academy of Sciences and the National Academy of Public Administration.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 1997

Mr. HORN (for himself, Mrs. MALONEY of New York, Mr. BURTON of Indiana, and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on Government Reform and Oversight

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## A BILL

To amend the Federal Advisory Committee Act to clarify public disclosure requirements that are applicable to the National Academy of Sciences and the National Academy of Public Administration.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Advisory Com-  
5 mittee Act Amendments of 1997”.

1 **SEC. 2. AMENDMENTS TO THE FEDERAL ADVISORY COM-**  
2 **MITTEE ACT.**

3 (a) EXCLUSIONS FROM DEFINITION.—Section 3(2)  
4 of the Federal Advisory Committee Act (5 U.S.C. App.)  
5 is amended in the matter following subparagraph (C), by  
6 striking “such term excludes” and all that follows through  
7 the period and inserting the following: “such term ex-  
8 cludes (i) any committee that is composed wholly of full-  
9 time, or permanent part-time, officers or employees of the  
10 Federal Government, and (ii) any committee that is cre-  
11 ated by the National Academy of Sciences or the National  
12 Academy of Public Administration.”.

13 (b) REQUIREMENTS RELATING TO THE NATIONAL  
14 ACADEMY OF SCIENCES AND THE NATIONAL ACADEMY  
15 OF PUBLIC ADMINISTRATION.—Such Act is further  
16 amended by redesignating section 15 as section 16 and  
17 inserting after section 14 the following new section:

18 “REQUIREMENTS RELATING TO THE NATIONAL ACADEMY  
19 OF SCIENCES AND THE NATIONAL ACADEMY OF PUB-  
20 LIC ADMINISTRATION

21 “SEC. 15. (a) IN GENERAL.—An agency may not use  
22 any advice or recommendation provided by the National  
23 Academy of Sciences or National Academy of Public Ad-  
24 ministration that was developed by use of a committee cre-  
25 ated by that academy under an agreement with an agency,  
26 unless—

1           “(1) the committee was not subject to any ac-  
2           tual management or control by an agency or an offi-  
3           cer of the Federal Government;

4           “(2) in the case of a committee created after  
5           the date of the enactment of the Federal Advisory  
6           Committee Act Amendments of 1997, the member-  
7           ship of the committee was appointed in accordance  
8           with the requirements described in subsection (b)(1);  
9           and

10           “(3) in developing the advice or recommenda-  
11           tion, the academy complied with—

12                   “(A) subsection (b)(2) through (6), in the  
13                   case of any advice or recommendation provided  
14                   by the National Academy of Sciences; or

15                   “(B) subsection (b)(2) and (5), in the case  
16                   of any advice or recommendation provided by  
17                   the National Academy of Public Administration.

18           “(b) REQUIREMENTS.—The requirements referred to  
19           in subsection (a) are as follows:

20                   “(1) The Academy shall determine and provide  
21                   public notice of the names and brief biographies of  
22                   individuals that the Academy appoints or intends to  
23                   appoint to serve on the committee. The Academy  
24                   shall determine and provide a reasonable opportunity  
25                   for the public to comment on such appointments be-

1 fore they are made or, if the Academy determines  
2 such prior comment is not practicable, in the period  
3 immediately following the appointments. The Acad-  
4 emy shall make its best efforts to ensure that (A)  
5 no individual appointed to serve on the committee  
6 has a conflict of interest that is relevant to the func-  
7 tions to be performed, unless such conflict is  
8 promptly and publicly disclosed and the Academy de-  
9 termines that the conflict is unavoidable, (B) the  
10 committee membership is fairly balanced as deter-  
11 mined by the Academy to be appropriate for the  
12 functions to be performed, and (C) the final report  
13 of the Academy will be the result of the Academy's  
14 independent judgment. The Academy shall require  
15 that individuals that the Academy appoints or in-  
16 tends to appoint to serve on the committee inform  
17 the Academy of the individual's conflicts of interest  
18 that are relevant to the functions to be performed.

19 “(2) The Academy shall determine and provide  
20 public notice of committee meetings that will be  
21 open to the public.

22 “(3) The Academy shall ensure that meetings  
23 of the committee to gather data from individuals  
24 who are not officials, agents, or employees of the  
25 Academy are open to the public, unless the Academy

1 determines that a meeting would disclose matters  
2 described in section 552(b) of title 5, United States  
3 Code. The Academy shall make available to the pub-  
4 lic, at reasonable charge if appropriate, written ma-  
5 terials presented to the committee by individuals  
6 who are not officials, agents, or employees of the  
7 Academy, unless the Academy determines that mak-  
8 ing material available would disclose matters de-  
9 scribed in that section.

10 “(4) The Academy shall make available to the  
11 public as soon as practicable, at reasonable charge  
12 if appropriate, a brief summary of any committee  
13 meeting that is not a data gathering meeting, unless  
14 the Academy determines that the summary would  
15 disclose matters described in section 552(b) of title  
16 5, United States Code. The summary shall identify  
17 the committee members present, the topics dis-  
18 cussed, materials made available to the committee,  
19 and such other matters that the Academy deter-  
20 mines should be included.

21 “(5) The Academy shall make available to the  
22 public its final report, at reasonable charge if appro-  
23 priate, unless the Academy determines that the re-  
24 port would disclose matters described in section  
25 552(b) of title 5, United States Code. If the Acad-

1       emy determines that the report would disclose mat-  
2       ters described in that section, the Academy shall  
3       make public an abbreviated version of the report  
4       that does not disclose those matters.

5               “(6) After publication of the final report, the  
6       Academy shall make publicly available the names of  
7       the principal reviewers who reviewed the report in  
8       draft form and who are not officials, agents, or em-  
9       ployees of the Academy.

10       “(c) REGULATIONS.—The Administrator of General  
11       Services may issue regulations implementing this sec-  
12       tion.”.

13       (c) EFFECTIVE DATE AND APPLICATION.—

14               (1) IN GENERAL.—Except as provided in para-  
15       graph (2), this section and the amendments made by  
16       this section shall take effect on the date of the en-  
17       actment of this Act.

18               (2) RETROACTIVE EFFECT.—Subsection (a) and  
19       the amendments made by subsection (a) shall be ef-  
20       fective as of October 6, 1972, except that they shall  
21       not apply with respect to or otherwise affect any  
22       particular advice or recommendations that are sub-  
23       ject to any judicial action filed before the date of the  
24       enactment of this Act.

1 **SEC. 3. REPORT.**

2       Not later than 1 year after the date of the enactment  
3 of this Act, the Administrator of General Services shall  
4 submit a report to the Congress on the implementation  
5 of and compliance with the amendments made by this Act.

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