

105TH CONGRESS
1ST SESSION

H. R. 2977

IN THE SENATE OF THE UNITED STATES

NOVEMBER 10, 1997

Received

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

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

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

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

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

21 “**REQUIREMENTS RELATING TO THE NATIONAL ACADEMY**
22 **OF SCIENCES AND THE NATIONAL ACADEMY OF PUB-**
23 **LIC ADMINISTRATION**

24 “**SEC. 15. (a) IN GENERAL.**—An agency may not use
25 any advice or recommendation provided by the National
26 Academy of Sciences or National Academy of Public Ad-

1 ministration that was developed by use of a committee cre-
2 ated by that academy under an agreement with an agency,
3 unless—

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

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

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

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

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

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

23 “(1) The Academy shall determine and provide
24 public notice of the names and brief biographies of
25 individuals that the Academy appoints or intends to

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

22 “(2) The Academy shall determine and provide
23 public notice of committee meetings that will be
24 open to the public.

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

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

1 “(5) The Academy shall make available to the
2 public its final report, at reasonable charge if appro-
3 priate, unless the Academy determines that the re-
4 port would disclose matters described in section
5 552(b) of title 5, United States Code. If the Acad-
6 emy determines that the report would disclose mat-
7 ters described in that section, the Academy shall
8 make public an abbreviated version of the report
9 that does not disclose those matters.

10 “(6) After publication of the final report, the
11 Academy shall make publicly available the names of
12 the principal reviewers who reviewed the report in
13 draft form and who are not officials, agents, or em-
14 ployees of the Academy.

15 “(c) REGULATIONS.—The Administrator of General
16 Services may issue regulations implementing this sec-
17 tion.”.

18 (c) EFFECTIVE DATE AND APPLICATION.—

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

23 (2) RETROACTIVE EFFECT.—Subsection (a) and
24 the amendments made by subsection (a) shall be ef-
25 fective as of October 6, 1972, except that they shall

1 not apply with respect to or otherwise affect any
2 particular advice or recommendations that are sub-
3 ject to any judicial action filed before the date of the
4 enactment of this Act.

5 **SEC. 3. REPORT.**

6 Not later than 1 year after the date of the enactment
7 of this Act, the Administrator of General Services shall
8 submit a report to the Congress on the implementation
9 of and compliance with the amendments made by this Act.

 Passed the House of Representatives November 10
(legislative day, November 9), 1997.

Attest:

ROBIN H. CARLE,
Clerk.