

107TH CONGRESS
1ST SESSION

H. R. 3068

To establish a Presidential commission to strengthen and improve financial privacy and national security.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 9, 2001

Mr. NEY introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To establish a Presidential commission to strengthen and improve financial privacy and national security.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Financial Privacy and
5 National Security Enhancement Act”.

1 **SEC. 2. ESTABLISHMENT.**

2 There is hereby established a commission to be known
3 as the “Presidential Commission on Financial Privacy and
4 National Security” (hereafter in this Act referred to as
5 the “Commission”).

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

7 (a) IN GENERAL.—The Commission shall conduct an
8 ongoing study of the practices in the financial service in-
9 dustry for protecting the privacy of consumer financial in-
10 formation, the manner and extent to which such practices
11 are regulated by financial service regulators, and ways to
12 improve and strengthen financial information privacy
13 while preserving effective financial information flow for
14 national security.

15 (b) SPECIFIC QUESTIONS.—In conducting the study,
16 the Commission shall address and seek comments on the
17 following issues:

18 (1) In what manner and to what extent would
19 the existence of State financial privacy laws or other
20 restrictions on the free flow of financial information
21 impair or hinder the ability of the Federal Govern-
22 ment to investigate money laundering or fraud, in-
23 cluding identity theft?

24 (2) Is the information already being distributed
25 to the consumers concerning the privacy of consumer

1 financial information readily understandable and is
2 it a benefit to the consumer?

3 (3) What is the cost, to a financial institution
4 and ultimately to each consumer, of mailing or oth-
5 erwise distributing privacy notices to each consumer
6 in accordance with applicable law.

7 (4) What financial information privacy concerns
8 are not addressed by title V of the Gramm-Leach-
9 Bliley Act and other laws and regulations imple-
10 menting such title?

11 (5) To what extent is there a uniform agree-
12 ment among financial regulators on what constitutes
13 financial privacy and what processes are utilized to
14 review developments and technological changes in
15 the delivery of financial services that may affect fi-
16 nancial privacy?

17 (6) What would be the potential impact on con-
18 sumers if there were a variety of requirements with
19 respect to financial privacy in effect under the laws
20 of the several States and how would the existence of
21 such a variety of requirements cost the financial
22 services industry?

23 **SEC. 4. MEMBERSHIP.**

24 (a) NUMBER AND APPOINTMENT.—The Commission
25 shall be composed of 11 members :

1 (1) The Chairman of the Securities and Ex-
2 change Commission, or a Commissioner of the Secu-
3 rities and Exchange Commission designated by the
4 Chairman.

5 (2) The Chairman of the Board of Governors of
6 the Federal Reserve System, or a member of such
7 Board designated by the Chairman.

8 (3) The Secretary of the Treasury, or an officer
9 of the Department of the Treasury designated by
10 the Secretary.

11 (4) The Attorney General, or an officer of the
12 Department of Justice designated by the Attorney
13 General.

14 (5) A State insurance commissioner appointed
15 by the President after consulting with the National
16 Association of Insurance Commissioners.

17 (6) The Speaker of the House of Representa-
18 tives, or a designee of the Speaker.

19 (7) The minority leader of the House of Rep-
20 resentatives, or a designee of the minority leader.

21 (8) The majority leader of the Senate, or a des-
22 ignee of the majority leader.

23 (9) The minority leader of the Senate, or a des-
24 ignee of the minority leader.

1 (10) 2 members appointed by the President
2 from among individuals who are especially well
3 qualified to serve by virtue of their education, train-
4 ing, and experience in the financial services industry.

5 (b) CONTINUATION OF MEMBERSHIP.—If a member
6 was appointed to the Commission as a Member of Con-
7 gress or by virtue of such member’s position in the House
8 of Representatives, the Senate, or a Federal agency and
9 the member ceases to be a Member of Congress or to serve
10 in any such position that member may continue as a mem-
11 ber for not longer than the 30-day period beginning on
12 the date that member ceases to be a Member of Congress
13 or serve in such position.

14 (c) TERMS.—

15 (1) IN GENERAL.—Each member shall be ap-
16 pointed for the life of the Commission.

17 (2) VACANCIES.—Any member appointed to fill
18 a vacancy occurring before the expiration of the
19 term for which the member’s predecessor was ap-
20 pointed shall be appointed only for the remainder of
21 that term. A member may serve after the expiration
22 of that member’s term until a successor has taken
23 office.

1 (d) VACANCY.—A vacancy in the Commission shall
2 be filled in the manner in which the original appointment
3 was made.

4 (e) NO PAY.—Members shall serve without pay.

5 (f) TRAVEL EXPENSES.—Each member shall receive
6 travel expenses, including per diem in lieu of subsistence,
7 in accordance with sections 5702 and 5703 of title 5,
8 United States Code.

9 (g) QUORUM.—A majority of the members of the
10 Commission shall constitute a quorum but a lesser number
11 may hold hearings.

12 (h) CHAIRPERSON.—The Chairperson of the Com-
13 mission shall be elected by the members from the member-
14 ship of the Commission.

15 (i) MEETINGS.—

16 (1) IN GENERAL.—The Commission shall meet
17 at least once each calendar quarter at the call of the
18 Chairperson or a majority of the members.

19 (2) OPEN MEETINGS REQUIRED.—Section 552b
20 of title 5, United States Code, shall apply.

21 **SEC. 5. DIRECTOR AND STAFF OF COMMISSION; EXPERTS**
22 **AND CONSULTANTS.**

23 (a) DIRECTOR.—The Commission may, without re-
24 gard to section 5311(b) of title 5, United States Code,
25 have a Director who shall be appointed by the Commis-

1 sion. The Director shall be paid at a rate not to exceed
2 \$140,000 per year.

3 (b) STAFF.—The Commission may appoint and fix
4 the pay of such additional personnel as the Commission
5 considers appropriate.

6 (c) APPLICABILITY OF CERTAIN CIVIL SERVICE
7 LAWS.—The Director and staff of the Commission may
8 be appointed without regard to the provisions of title 5,
9 United States Code, governing appointments in the com-
10 petitive service, and may be paid without regard to the
11 provisions of chapter 51 and subchapter III of chapter 53
12 of that title relating to classification and General Schedule
13 pay rates, except that an individual so appointed may not
14 receive pay in excess of \$140,000 per year.

15 (d) EXPERTS AND CONSULTANTS.—Subject to regu-
16 lations prescribed by the Commission, the Commission
17 may procure temporary and intermittent services under
18 section 3109(b) of title 5, United States Code.

19 (e) STAFF OF FEDERAL AGENCIES.—Upon request
20 of the Commission, the head of any Federal department
21 or agency may detail, on a reimbursable basis, any of the
22 personnel of that department or agency to the Commission
23 to assist it in carrying out its duties under this Act.

1 **SEC. 6. POWERS OF COMMISSION.**

2 (a) HEARINGS AND SESSIONS.—The Commission
3 may, for the purpose of carrying out this Act, hold hear-
4 ings, sit and act at times and places, take testimony, and
5 receive evidence as the Commission considers appropriate.

6 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-
7 ber or agent of the Commission may, if authorized by the
8 Commission, take any action which the Commission is au-
9 thorized to take by this section.

10 (c) OBTAINING OFFICIAL DATA.—The Commission
11 may secure directly from any department or agency of the
12 United States information necessary to enable it to carry
13 out this Act. Upon request of the Chairperson of the Com-
14 mission, the head of that department or agency shall fur-
15 nish that information to the Commission.

16 (d) MAILS.—The Commission may use the United
17 States mails in the same manner and under the same con-
18 ditions as other departments and agencies of the United
19 States.

20 (e) ADMINISTRATIVE SUPPORT SERVICES.—Upon
21 the request of the Commission, the Administrator of Gen-
22 eral Services shall provide to the Commission, on a reim-
23 bursable basis, the administrative support services nec-
24 essary for the Commission to carry out its responsibilities
25 under this Act.

1 **SEC. 7. REPORT.**

2 The Commission shall transmit a final report to the
3 President and the Congress not later than March 31,
4 2005. The final report shall contain a detailed statement
5 of the findings and conclusions of the Commission, to-
6 gether with its recommendations for such legislative or ad-
7 ministrative actions as the Commission considers appro-
8 priate.

9 **SEC. 8. TERMINATION.**

10 The Commission shall terminate 30 days after sub-
11 mitting its final report pursuant to section 7.

12 **SEC. 9. MORATORIUM ON STATE FINANCIAL PRIVACY**

13 **LAWS.**

14 (a) **IN GENERAL.**—During the period beginning on
15 the date of the enactment of this Act and ending on the
16 date the Commission terminates under section 8, no re-
17 quirement or prohibition may be imposed under the laws
18 of any State, including laws relating to the business of
19 insurance, concerning the use or disclosure by a financial
20 institution of information relating to a consumer that has
21 obtained a financial product or service from the financial
22 institution.

23 (b) **EXCEPTION.**—Subsection (a) shall not apply
24 State insurance laws or regulations referred to in section
25 505(a)(6) of the Gramm-Leach-Bliley Act.