

**AN AMENDMENT TO ESTABLISH THE INDEPENDENT COMMISSION ON POLITICIZATION OF SCIENCE IN THE REGULATORY PROCESS.**

**AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2432 OFFERED BY MR. WAXMAN**

Add at the end the following new title:

**1 TITLE II—COMMISSION ON  
2 POLITICIZATION OF SCIENCE  
3 IN THE REGULATORY PROC-  
4 ESS**

**5 SEC. 201. ESTABLISHMENT OF COMMISSION.**

6 There is established in the legislative branch the  
7 Independent Commission on Politicization of Science in  
8 the Regulatory Process (in this Act referred to as the  
9 “Commission”).

**10 SEC. 202. DUTIES.**

11 The Commission shall carry out the following duties:

- 12 (1) Examine and evaluate executive branch reg-  
13 ulatory activities and associated decisions since Jan-  
14 uary 21, 2001, to determine the extent to which po-

1        litical considerations have undermined the quality  
2        and use of science. As part of this examination and  
3        evaluation, the Commission shall consider the regu-  
4        latory activities and associated decisions listed in—

5                (A) “Politics and Science in the Bush Ad-  
6                ministration,” an August 2003 report prepared  
7                by the minority staff of the Committee on Gov-  
8                ernment Reform of the House of Representa-  
9                tives; and

10                (B) “Scientific Integrity in Policymaking,”  
11                a March 2004 report prepared by the Union of  
12                Concerned Scientists.

13                (2) Report to Congress and the President on its  
14                findings and conclusions, as well as make rec-  
15                ommendations to Congress and the President on  
16                measures that can be taken to enhance the integrity  
17                of science in executive branch regulatory activities  
18                and associated decisions.

19        **SEC. 203. COMPOSITION OF COMMISSION.**

20                (a) MEMBERS.—The Commission shall be composed  
21        of 10 members, of whom—

22                (1) 1 member shall be appointed by the Presi-  
23                dent, who shall serve as chairman of the Commis-  
24                sion;

1           (2) 1 member shall be jointly appointed by the  
2 minority leader of the Senate and the minority lead-  
3 er of the House of Representatives, who shall serve  
4 as vice chairman of the Commission;

5           (3) 2 members shall be appointed by the major-  
6 ity leader of the Senate;

7           (4) 2 members shall be appointed by the Speak-  
8 er of the House of Representatives;

9           (5) 2 members shall be appointed by the minor-  
10 ity leader of the Senate; and

11           (6) 2 members shall be appointed by the minor-  
12 ity leader of the House of Representatives.

13 (b) QUALIFICATIONS; INITIAL MEETING.—

14           (1) NONGOVERNMENTAL APPOINTEES.—An in-  
15 dividual appointed to the Commission may not be an  
16 officer or employee of the Federal Government or  
17 any State or local government.

18           (2) OTHER QUALIFICATIONS.—Individuals that  
19 shall be appointed to the Commission should be  
20 prominent United States citizens, with national rec-  
21 ognition and significant depth of experience in sci-  
22 entific professions, governmental service, and public  
23 administration.

1           (3) DEADLINE FOR APPOINTMENT.—All mem-  
2           bers of the Commission shall be appointed within 45  
3           days following the enactment of this Act.

4           (4) MEETINGS.—The Commission shall meet  
5           and begin the operations of the Commission as soon  
6           as practicable. After its initial meeting, the Commis-  
7           sion shall meet upon the call of the chairman or a  
8           majority of its members.

9           (c) QUORUM; VACANCIES.—Six members of the Com-  
10          mission shall constitute a quorum. Any vacancy in the  
11          Commission shall not affect its powers, but shall be filled  
12          in the same manner in which the original appointment was  
13          made.

14          (d) CONFLICTS OF INTEREST.—Each member ap-  
15          pointed to the Commission shall submit a financial dislo-  
16          sure report pursuant to the Ethics in Government Act of  
17          1978, notwithstanding the minimum required rate of com-  
18          pensation or time period employed.

19          **SEC. 204. POWERS OF COMMISSION.**

20          (a) IN GENERAL.—

21                 (1) HEARINGS AND EVIDENCE.—The Commis-  
22                 sion or, on the authority of the Commission, any  
23                 subcommittee or member thereof, may, for the pur-  
24                 pose of carrying out this title—

1 (A) hold such hearings and sit and act at  
2 such times and places, take such testimony, re-  
3 ceive such evidence, administer such oaths; and

4 (B) subject to paragraph (2)(A), require,  
5 by subpoena or otherwise, the attendance and  
6 testimony of such witnesses and the production  
7 of such books, records, correspondence, memo-  
8 randa, papers, and documents,  
9 as the Commission or such designated subcommittee  
10 or designated member may determine advisable.

11 (2) SUBPOENAS.—

12 (A) ISSUANCE.—

13 (i) IN GENERAL.—A subpoena may be  
14 issued under this subsection only—

15 (I) by the agreement of the  
16 chairman and the vice chairman; or

17 (II) by the affirmative vote of 6  
18 members of the Commission.

19 (ii) SIGNATURE.—Subject to clause  
20 (i), subpoenas issued under this subsection  
21 may be issued under the signature of the  
22 chairman or any member designated by a  
23 majority of the Commission, and may be  
24 served by any person designated by the

1 chairman or by a member designated by a  
2 majority of the Commission.

3 (B) ENFORCEMENT.—

4 (i) IN GENERAL.—In the case of con-  
5 tumacy or failure to obey a subpoena  
6 issued under this subsection, the United  
7 States district court for the judicial district  
8 in which the subpoenaed person resides, is  
9 served, or may be found, or where the sub-  
10 poena is returnable, may issue an order re-  
11 quiring such person to appear at any des-  
12 ignated place to testify or to produce docu-  
13 mentary or other evidence. Any failure to  
14 obey the order of the court may be pun-  
15 ished by the court as a contempt of that  
16 court.

17 (ii) ADDITIONAL ENFORCEMENT.—In  
18 the case of any failure of any witness to  
19 comply with any subpoena or to testify  
20 when summoned under authority of this  
21 subsection, the Commission may, by major-  
22 ity vote, certify a statement of fact consti-  
23 tuting such failure to the appropriate  
24 United States attorney, who may bring the  
25 matter before the grand jury for its action,

1           under the same statutory authority and  
2           procedures as if the United States attorney  
3           had received a certification under sections  
4           102 through 104 of the Revised Statutes  
5           of the United States (2 U.S.C. 192  
6           through 194).

7           (b) CONTRACTING.—The Commission may, to such  
8           extent and in such amounts as are provided in appropria-  
9           tion Acts, enter into contracts to enable the Commission  
10          to discharge its duties of this Act.

11          (c) INFORMATION FROM FEDERAL AGENCIES.—

12           (1) IN GENERAL.—The Commission may secure  
13          directly from any executive department, bureau,  
14          agency, board, commission, office, independent es-  
15          tablishment, or instrumentality of the Federal Gov-  
16          ernment, information, suggestions, estimates, and  
17          statistics for the purposes of this Act. Each depart-  
18          ment, bureau, agency, board, commission, office,  
19          independent establishment, or instrumentality shall,  
20          to the extent authorized by law, furnish such infor-  
21          mation, suggestions, estimates, and statistics di-  
22          rectly to the Commission, upon request made by the  
23          chairman, the chairman of any subcommittee cre-  
24          ated by a majority of the Commission, or any mem-  
25          ber designated by a majority of the Commission.

1           (2) RECEIPT, HANDLING, STORAGE, AND DIS-  
2           SEMINATION.—Information shall only be received,  
3           handled, stored, and disseminated by members of  
4           the Commission and its staff consistent with all ap-  
5           plicable statutes, regulations, and Executive Orders.

6           (d) ASSISTANCE FROM FEDERAL AGENCIES.—

7           (1) GENERAL SERVICES ADMINISTRATION.—  
8           The Administrator of General Services shall provide  
9           to the Commission on a reimbursable basis adminis-  
10          trative support and other services for the perform-  
11          ance of the Commission's functions.

12          (2) OTHER DEPARTMENTS AND AGENCIES.—In  
13          addition to the assistance prescribed in paragraph  
14          (1), departments and agencies of the United States  
15          may provide to the Commission such services, funds,  
16          facilities, staff, and other support services as they  
17          may determine advisable and as may be authorized  
18          by law.

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

21          (f) POSTAL SERVICES.—The Commission may use  
22          the United States mails in the same manner and under  
23          the same conditions as departments and agencies of the  
24          United States.

1 **SEC. 205. STAFF OF COMMISSION.**

2 (a) IN GENERAL.—

3 (1) APPOINTMENT AND COMPENSATION.—The  
4 chairman, in consultation with vice chairman, in ac-  
5 cordance with rules agreed upon by the Commission,  
6 may appoint and fix the compensation of a staff di-  
7 rector and such other personnel as may be necessary  
8 to enable the Commission to carry out its functions,  
9 without regard to the provisions of title 5, United  
10 States Code, governing appointments in the competi-  
11 tive service, and without regard to the provisions of  
12 chapter 51 and subchapter III of chapter 53 of such  
13 title relating to classification and General Schedule  
14 pay rates, except that no rate of pay fixed under this  
15 subsection may exceed the equivalent of that payable  
16 for a position at level V of the Executive Schedule  
17 under section 5316 of title 5, United States Code.

18 (2) PERSONNEL AS FEDERAL EMPLOYEES.—

19 (A) IN GENERAL.—The staff director and  
20 any personnel of the Commission who are em-  
21 ployees shall be employees under section 2105  
22 of title 5, United States Code, for purposes of  
23 chapters 63, 81, 83, 84, 85, 87, 89, and 90 of  
24 that title.

1 (B) MEMBERS OF COMMISSION.—Subpara-  
2 graph (A) shall not be construed to apply to  
3 members of the Commission.

4 (b) DETAILEES.—Any Federal Government employee  
5 may be detailed to the Commission without reimbursement  
6 from the Commission, and such detailee shall retain the  
7 rights, status, and privileges of his or her regular employ-  
8 ment without interruption.

9 (c) CONSULTANT SERVICES.—The Commission is au-  
10 thorized to procure the services of experts and consultants  
11 in accordance with section 3109 of title 5, United States  
12 Code, but at rates not to exceed the daily rate paid a per-  
13 son occupying a position at level IV of the Executive  
14 Schedule under section 5315 of title 5, United States  
15 Code.

16 **SEC. 206. COMPENSATION AND TRAVEL EXPENSES.**

17 (a) COMPENSATION.—Each member of the Commis-  
18 sion may be compensated at a rate not to exceed the daily  
19 equivalent of the annual rate of basic pay in effect for  
20 a position at level IV of the Executive Schedule under sec-  
21 tion 5315 of title 5, United States Code, for each day dur-  
22 ing which that member is engaged in the actual perform-  
23 ance of the duties of the Commission.

24 (b) TRAVEL EXPENSES.—While away from their  
25 homes or regular places of business in the performance

1 of services for the Commission, members of the Commis-  
2 sion shall be allowed travel expenses, including per diem  
3 in lieu of subsistence, in the same manner as persons em-  
4 ployed intermittently in the Government service are al-  
5 lowed expenses under section 5703(b) of title 5, United  
6 States Code.

7 **SEC. 207. REPORTS OF COMMISSION; TERMINATION.**

8 (a) INTERIM REPORTS.—The Commission may sub-  
9 mit to Congress and the President interim reports con-  
10 taining such findings, conclusions, and recommendations  
11 for corrective measures as have been agreed to by a major-  
12 ity of Commission members.

13 (b) FINAL REPORT.—Not later than 18 months after  
14 the date of the enactment of this Act, the Commission  
15 shall submit to Congress and the President a final report  
16 containing such findings, conclusions, and recommenda-  
17 tions for corrective measures as have been agreed to by  
18 a majority of Commission members.

19 **SEC. 208. TERMINATION.**

20 (a) IN GENERAL.—The Commission, and all the au-  
21 thorities of this Act, shall terminate 60 days after the date  
22 on which the final report is submitted under subsection  
23 (b).

24 (b) ADMINISTRATIVE ACTIVITIES BEFORE TERMI-  
25 NATION.—The Commission may use the 60-day period re-

1 ferred to in paragraph (1) for the purpose of concluding  
2 its activities, including providing testimony to committees  
3 of Congress concerning its reports and disseminating the  
4 final report.

5 **SEC. 209. FUNDING.**

6 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There is  
7 authorized to be appropriated funds not to exceed  
8 \$5,000,000 for purposes of the activities of the Commis-  
9 sion under this Act.

10 (b) **DURATION OF AVAILABILITY.**—Amounts made  
11 available to the Commission under subsection (a) shall re-  
12 main available until the termination of the Commission.

Page 4, after line 20, insert the following:

13 **TITLE I—AMENDMENTS**

Redesignate sections 3, 4, 5, and 6 as sections 101,  
102, 103, and 104, respectively, and make necessary con-  
forming changes.