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(Original Signature of Member)

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R.** \_\_\_\_\_

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

Mr. HUTCHINSON introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To establish the Commission for the Comprehensive Study  
of Privacy Protection.

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 "Privacy Commission  
5 Act".

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:



1           (1) Americans are increasingly concerned about  
2 their civil liberties and the security and use of their  
3 personal information, including medical records, edu-  
4 cational records, library records, magazine subscrip-  
5 tion records, records of purchases of goods and other  
6 payments, and driver's license numbers.

7           (2) Commercial entities are increasingly aware  
8 that consumers expect them to adopt privacy policies  
9 and take all appropriate steps to protect the per-  
10 sonal information of consumers.

11           (3) There is a growing concern about the con-  
12 fidentiality of medical records, because there are in-  
13 adequate Federal guidelines and a patchwork of con-  
14 fusing State and local rules regarding privacy pro-  
15 tection for individually identifiable patient informa-  
16 tion.

17           (4) In light of recent changes in financial serv-  
18 ices laws allowing for increased sharing of informa-  
19 tion between traditional financial institutions and in-  
20 surance entities, a coordinated and comprehensive  
21 review is necessary regarding the protections of per-  
22 sonal data compiled by the health care, insurance,  
23 and financial services industries.

24           (5) The use of Social Security numbers has ex-  
25 panded beyond the uses originally intended.



1           (6) Use of the Internet has increased at as-  
2           tounding rates, with approximately 5 million current  
3           Internet sites and 64 million regular Internet users  
4           each month in the United States alone.

5           (7) Financial transactions over the Internet  
6           have increased at an astounding rate, with 17 mil-  
7           lion American households spending \$20 billion shop-  
8           ping on the Internet last year.

9           (8) Use of the Internet as a medium for com-  
10          mercial activities will continue to grow, and it is esti-  
11          mated that by the end of 2000, 56 percent of the  
12          companies in the United States will sell their prod-  
13          ucts on the Internet.

14          (9) There have been reports of surreptitious  
15          collection of consumer data by Internet marketers  
16          and questionable distribution of personal information  
17          by on-line companies.

18          (10) In 1999, the Federal Trade Commission  
19          found that 87 percent of Internet sites provided  
20          some form of privacy notice, which represented an  
21          increase from 15 percent in 1998.

22          (11) The United States is the leading economic  
23          and social force in the global information economy,  
24          largely because of a favorable regulatory climate and  
25          the free flow of information. It is important for the



1 United States to continue that leadership. As na-  
2 tions and governing bodies around the world begin  
3 to establish privacy standards, these standards will  
4 directly affect the United States.

5 (12) The shift from an industry-focused econ-  
6 omy to an information-focused economy calls for a  
7 reassessment of the most effective way to balance  
8 personal privacy and information use, keeping in  
9 mind the potential for unintended effects on tech-  
10 nology development, innovation, the marketplace,  
11 and privacy needs.

12 (13) This Act shall not be construed to prohibit  
13 the enactment of legislation on privacy issues by the  
14 Congress during the existence of the Commission. It  
15 is the responsibility of the Congress to act to protect  
16 the privacy of individuals, including individuals'  
17 medical and financial information. Various commit-  
18 tees of the Congress are currently reviewing legisla-  
19 tion in the area of medical and financial privacy.  
20 Further study by the Commission established by this  
21 Act should not be considered a prerequisite for fur-  
22 ther consideration or enactment of financial or med-  
23 ical privacy legislation by the Congress.



1 **SEC. 3. ESTABLISHMENT.**

2 There is established a commission to be known as the  
3 “Commission for the Comprehensive Study of Privacy  
4 Protection” (in this Act referred to as the “Commission”).

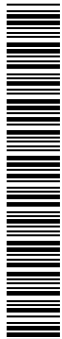
5 **SEC. 4. DUTIES OF COMMISSION.**

6 (a) STUDY.—The Commission shall conduct a study  
7 of issues relating to protection of individual privacy and  
8 the appropriate balance to be achieved between protecting  
9 individual privacy and allowing appropriate uses of infor-  
10 mation, including the following:

11 (1) The monitoring, collection, and distribution  
12 of personal information by Federal, State, and local  
13 governments, including personal information col-  
14 lected for a decennial census, and such personal in-  
15 formation as a driver’s license number.

16 (2) Current efforts to address the monitoring,  
17 collection, and distribution of personal information  
18 by Federal and State governments, individuals, or  
19 entities, including—

20 (A) existing statutes and regulations relat-  
21 ing to the protection of individual privacy, such  
22 as section 552a of title 5, United States Code  
23 (commonly referred to as the Privacy Act of  
24 1974) and section 552 of title 5, United States  
25 Code (commonly referred to as the Freedom of  
26 Information Act);



1 (B) legislation pending before the Con-  
2 gress;

3 (C) privacy protection efforts undertaken  
4 by the Federal Government, State governments,  
5 foreign governments, and international gov-  
6 erning bodies;

7 (D) privacy protection efforts undertaken  
8 by the private sector; and

9 (E) self-regulatory efforts initiated by the  
10 private sector to respond to privacy issues.

11 (3) The monitoring, collection, and distribution  
12 of personal information by individuals or entities, in-  
13 cluding access to and use of medical records, finan-  
14 cial records (including credit cards, automated teller  
15 machine cards, bank accounts, and Internet trans-  
16 actions), personal information provided to on-line  
17 sites accessible through the Internet, Social Security  
18 numbers, insurance records, education records, and  
19 driver's license numbers.

20 (4) Employer practices and policies with respect  
21 to the financial and health information of employees,  
22 including—

23 (A) whether employers use or disclose em-  
24 ployee financial or health information for mar-



1           keting, employment, or insurance underwriting  
2           purposes;

3           (B) what restrictions employers place on  
4           disclosure or use of employee financial or health  
5           information;

6           (C) employee rights to access, copy, and  
7           amend their own health records and financial  
8           information;

9           (D) what type of notice employers provide  
10          to employees regarding employer practices with  
11          respect to employee financial and health infor-  
12          mation; and

13          (E) practices of employer medical depart-  
14          ments with respect to disclosing employee  
15          health information to administrative or other  
16          personnel of the employer.

17          (5) The extent to which individuals in the  
18          United States can obtain redress for privacy viola-  
19          tions.

20          (6) The extent to which older individuals and  
21          disabled individuals are subject to exploitation in-  
22          volving the disclosure or use of their financial infor-  
23          mation.

24          (b) FIELD HEARINGS.—



1           (1) IN GENERAL.—The Commission shall con-  
2           duct at least 2 field hearings in each of the 5 geo-  
3           graphical regions of the United States.

4           (2) BOUNDARIES.—For purposes of this sub-  
5           section, the Commission may determine the bound-  
6           aries of the five geographical regions of the United  
7           States.

8           (c) REPORT.—

9           (1) IN GENERAL.—Not later than 18 months  
10          after appointment of all members of the  
11          Commission—

12                 (A) a majority of the members of the Com-  
13                 mission shall approve a report; and

14                 (B) the Commission shall submit the ap-  
15                 proved report to the Congress and the Presi-  
16                 dent.

17          (2) CONTENTS.—The report shall include a de-  
18          tailed statement of findings, conclusions, and rec-  
19          ommendations, including the following:

20                 (A) Findings on potential threats posed to  
21                 individual privacy.

22                 (B) Analysis of purposes for which sharing  
23                 of information is appropriate and beneficial to  
24                 consumers.



1 (C) Analysis of the effectiveness of existing  
2 statutes, regulations, private sector self-regu-  
3 latory efforts, technology advances, and market  
4 forces in protecting individual privacy.

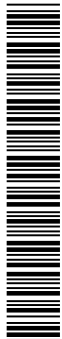
5 (D) Recommendations on whether addi-  
6 tional legislation is necessary, and if so, specific  
7 suggestions on proposals to reform or augment  
8 current laws and regulations relating to indi-  
9 vidual privacy.

10 (E) Analysis of purposes for which addi-  
11 tional regulations may impose undue costs or  
12 burdens, or cause unintended consequences in  
13 other policy areas, such as security, law en-  
14 forcement, medical research, or critical infra-  
15 structure protection.

16 (F) Cost analysis of legislative or regu-  
17 latory changes proposed in the report.

18 (G) Analysis of the impact of altering ex-  
19 isting protections for individual privacy on the  
20 overall operation and functionality of the Inter-  
21 net, including the impact on the private sector.

22 (H) Recommendations on non-legislative  
23 solutions to individual privacy concerns, includ-  
24 ing education, market-based measures, industry  
25 best practices, and new technology.



1 (I) Review of the effectiveness and utility  
2 of third-party verification of privacy statements,  
3 including specifically with respect to existing  
4 private sector self-regulatory efforts.

5 (d) ADDITIONAL REPORT.—Together with the report  
6 under subsection (c), the Commission shall submit to the  
7 Congress and the President any additional report of dis-  
8 senting opinions or minority views by a member or mem-  
9 bers of the Commission.

10 (e) INTERIM REPORT.—The Commission may submit  
11 to the Congress and the President an interim report ap-  
12 proved by a majority of the members of the Commission.

13 **SEC. 5. MEMBERSHIP.**

14 (a) NUMBER AND APPOINTMENT.—The Commission  
15 shall be composed of 17 members appointed as follows:

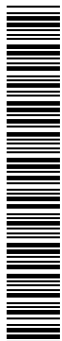
16 (1) 2 members appointed by the President.

17 (2) 4 members appointed by the majority leader  
18 of the Senate.

19 (3) 3 members appointed by the minority leader  
20 of the Senate.

21 (4) 4 members appointed by the Speaker of the  
22 House of Representatives.

23 (5) 3 members appointed by the minority leader  
24 of the House of Representatives.



1           (6) 1 member, who shall serve as Chairperson  
2           of the Commission, appointed jointly by the Presi-  
3           dent, the majority leader of the Senate, and the  
4           Speaker of the House of Representatives.

5           (b) DIVERSITY OF VIEWS.—The appointing authori-  
6           ties under subsection (a) shall seek to ensure that the  
7           membership of the Commission has a diversity of views  
8           and experiences on the issues to be studied by the Com-  
9           mission, such as views and experiences of Federal, State,  
10          and local governments, the media, the academic commu-  
11          nity, consumer groups, public policy groups and other ad-  
12          vocacy organizations, business and industry (including  
13          small business), the medical community, civil liberties ex-  
14          perts, and the financial services industry.

15          (c) DATE OF APPOINTMENT.—The appointment of  
16          the members of the Commission shall be made not later  
17          than 30 days after the date of the enactment of this Act.

18          (d) TERMS.—Each member of the Commission shall  
19          be appointed for the life of the Commission.

20          (e) VACANCIES.—A vacancy in the Commission shall  
21          be filled in the same manner in which the original appoint-  
22          ment was made.

23          (f) COMPENSATION; TRAVEL EXPENSES.—Members  
24          of the Commission shall serve without pay, but shall re-  
25          ceive travel expenses, including per diem in lieu of subsist-



1 ence, in accordance with sections 5702 and 5703 of title  
2 5, United States Code.

3 (g) QUORUM.—A majority of the members of the  
4 Commission shall constitute a quorum, but a lesser num-  
5 ber may hold hearings.

6 (h) MEETINGS.—

7 (1) IN GENERAL.—The Commission shall meet  
8 at the call of the Chairperson or a majority of its  
9 members.

10 (2) INITIAL MEETING.—Not later than 45 days  
11 after the date of the enactment of this Act, the  
12 Commission shall hold its initial meeting.

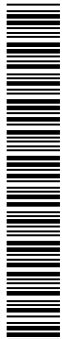
13 **SEC. 6. DIRECTOR; STAFF; EXPERTS AND CONSULTANTS.**

14 (a) DIRECTOR.—

15 (1) IN GENERAL.—Not later than 30 days after  
16 the appointment of the Chairperson of the Commis-  
17 sion, the Chairperson of the Commission shall ap-  
18 point a Director without regard to the provisions of  
19 title 5, United States Code, governing appointments  
20 to the competitive service.

21 (2) PAY.—The Director shall be paid at the  
22 rate payable for level III of the Executive Schedule  
23 established under section 5314 of such title.

24 (b) STAFF.—The Director may appoint staff as the  
25 Director determines appropriate.



1 (c) APPLICABILITY OF CERTAIN CIVIL SERVICE  
2 LAWS.—

3 (1) IN GENERAL.—The staff of the Commission  
4 shall be appointed without regard to the provisions  
5 of title 5, United States Code, governing appoint-  
6 ments in the competitive service.

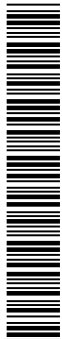
7 (2) PAY.—The staff of the Commission shall be  
8 paid in accordance with the provisions of chapter 51  
9 and subchapter III of chapter 53 of that title relat-  
10 ing to classification and General Schedule pay rates,  
11 but at rates not in excess of the maximum rate for  
12 grade GS-15 of the General Schedule under section  
13 5332 of that title.

14 (d) EXPERTS AND CONSULTANTS.—The Director  
15 may procure temporary and intermittent services under  
16 section 3109(b) of title 5, United States Code.

17 (e) STAFF OF FEDERAL AGENCIES.—

18 (1) IN GENERAL.—Upon request of the Direc-  
19 tor, the head of any Federal department or agency  
20 may detail, on a reimbursable basis, any of the per-  
21 sonnel of that department or agency to the Commis-  
22 sion to assist it in carrying out this Act.

23 (2) NOTIFICATION.—Before making a request  
24 under this subsection, the Director shall give notice  
25 of the request to each member of the Commission.



1 **SEC. 7. 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 The Commission may administer oaths or affirmations to  
7 witnesses appearing before it.

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

12 (c) OBTAINING OFFICIAL INFORMATION.—

13 (1) IN GENERAL.—Except as provided in para-  
14 graph (2), if the Chairperson of the Commission  
15 submits a request to a Federal department or agen-  
16 cy for information necessary to enable the Commis-  
17 sion to carry out this Act, the head of that depart-  
18 ment or agency shall furnish that information to the  
19 Commission.

20 (2) EXCEPTION FOR NATIONAL SECURITY.—If  
21 the head of that department or agency determines  
22 that it is necessary to guard that information from  
23 disclosure to protect the national security interests  
24 of the United States, the head shall not furnish that  
25 information to the Commission.



1 (d) **MAILS.**—The Commission may use the United  
2 States mails in the same manner and under the same con-  
3 ditions as other departments and agencies of the United  
4 States.

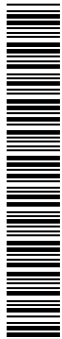
5 (e) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon  
6 the request of the Director, the Administrator of General  
7 Services shall provide to the Commission, on a reimburs-  
8 able basis, the administrative support services necessary  
9 for the Commission to carry out this Act.

10 (f) **GIFTS AND DONATIONS.**—The Commission may  
11 accept, use, and dispose of gifts or donations of services  
12 or property to carry out this Act, but only to the extent  
13 or in the amounts provided in advance in appropriation  
14 Acts.

15 (g) **CONTRACTS.**—The Commission may contract  
16 with and compensate persons and government agencies for  
17 supplies and services, without regard to section 3709 of  
18 the Revised Statutes (41 U.S.C. 5).

19 (h) **SUBPOENA POWER.**—

20 (1) **IN GENERAL.**—The Commission may issue  
21 subpoenas requiring the attendance and testimony of  
22 witnesses and the production of any evidence relat-  
23 ing to any matter that the Commission is empow-  
24 ered to investigate by section 4. The attendance of  
25 witnesses and the production of evidence may be re-

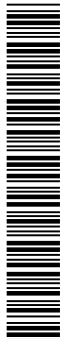


1       quired by such subpoena from any place within the  
2       United States and at any specified place of hearing  
3       within the United States.

4               (2) FAILURE TO OBEY A SUBPOENA.—If a per-  
5       son refuses to obey a subpoena issued under para-  
6       graph (1), the Commission may apply to a United  
7       States district court for an order requiring that per-  
8       son to appear before the Commission to give testi-  
9       mony, produce evidence, or both, relating to the  
10      matter under investigation. The application may be  
11      made within the judicial district where the hearing  
12      is conducted or where that person is found, resides,  
13      or transacts business. Any failure to obey the order  
14      of the court may be punished by the court as civil  
15      contempt.

16              (3) SERVICE OF SUBPOENAS.—The subpoenas  
17      of the Commission shall be served in the manner  
18      provided for subpoenas issued by a United States  
19      district court under the Federal Rules of Civil Pro-  
20      cedure for the United States district courts.

21              (4) SERVICE OF PROCESS.—All process of any  
22      court to which application is made under paragraph  
23      (2) may be served in the judicial district in which  
24      the person required to be served resides or may be  
25      found.



1 (i) RULES.—The Commission shall adopt other rules  
2 as necessary for its operation.

3 **SEC. 8. TERMINATION.**

4 The Commission shall terminate 30 days after sub-  
5 mitting a report under section 4(c).

6 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

7 (a) IN GENERAL.—There are authorized to be appro-  
8 priated to the Commission \$5,000,000 to carry out this  
9 Act.

10 (b) AVAILABILITY.—Any sums appropriated pursu-  
11 ant to the authorization in subsection (a) shall remain  
12 available until expended.

13 **SEC. 10. BUDGET ACT COMPLIANCE.**

14 Any new contract authority authorized by this Act  
15 shall be effective only to the extent or in the amounts pro-  
16 vided in advance in appropriation Acts.

17 **SEC. 11. PRIVACY PROTECTIONS.**

18 (a) DESTRUCTION OR RETURN OF INFORMATION RE-  
19 QUIRED.—Upon the conclusion of the matter or need for  
20 which individually identifiable information was disclosed  
21 to the Commission, the Commission shall either destroy  
22 the individually identifiable information or return it to the  
23 person or entity from which it was obtained, unless the  
24 individual that is the subject of the individually identifi-  
25 able information has authorized its disclosure.



1 (b) DISCLOSURE OF INFORMATION PROHIBITED.—

2 The Commission—

3 (1) shall protect individually identifiable infor-  
4 mation from improper use; and

5 (2) may not disclose such information to any  
6 person, including the Congress or the President, un-  
7 less the individual that is the subject of the informa-  
8 tion has authorized such a disclosure.

9 (c) PROPRIETARY BUSINESS INFORMATION AND FI-  
10 NANCIAL INFORMATION.—The Commission shall protect  
11 from improper use, and may not disclose to any person,  
12 proprietary business information and proprietary financial  
13 information that may be viewed or obtained by the Com-  
14 mission in the course of carrying out its duties under this  
15 Act.

16 (d) INDIVIDUALLY IDENTIFIABLE INFORMATION DE-  
17 FINED.—For the purposes of this Act, the term “individ-  
18 ually identifiable information” means any information,  
19 whether oral or recorded in any form or medium, that  
20 identifies an individual, or with respect to which there is  
21 a reasonable basis to believe that the information can be  
22 used to identify an individual.

