

Calendar No. 350111TH CONGRESS
2^D SESSION**S. 3111**

To establish the Commission on Freedom of Information Act Processing
Delays.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2010

Mr. LEAHY (for himself, Mr. CORNYN, Mr. WHITEHOUSE, Mr. FEINGOLD, and
Ms. KLOBUCHAR) introduced the following bill; which was read twice and
referred to the Committee on the Judiciary

APRIL 19, 2010

Reported by Mr. LEAHY, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To establish the Commission on Freedom of Information
Act Processing Delays.

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. COMMISSION ON FREEDOM OF INFORMATION**
4 **ACT PROCESSING DELAYS.**

5 (a) **SHORT TITLE.**—This Act may be cited as the
6 “Faster FOIA Act of 2010”.

1 (b) ESTABLISHMENT.—There is established the Com-
2 mission on Freedom of Information Act Processing Delays
3 (in this Act referred to as the “Commission” for the pur-
4 pose of conducting a study relating to methods to help
5 reduce delays in processing requests submitted to Federal
6 agencies under section 552 of title 5, United States Code
7 (commonly referred to as the “Freedom of Information
8 Act”).

9 (c) MEMBERSHIP.—

10 (1) IN GENERAL.—The Commission shall be
11 composed of 16 members of whom—

12 (A) 3 shall be appointed by the chairman
13 of the Committee on the Judiciary of the Sen-
14 ate;

15 (B) 3 shall be appointed by the ranking
16 member of the Committee on the Judiciary of
17 the Senate;

18 (C) 3 shall be appointed by the chairman
19 of the Committee on Government Reform of the
20 House of Representatives;

21 (D) 3 shall be appointed by the ranking
22 member of the Committee on Government Re-
23 form of the House of Representatives;

24 (E) 1 shall be appointed by the Attorney
25 General of the United States;

1 (F) 1 shall be appointed by the Director of
2 the Office of Management and Budget;

3 (G) 1 shall be appointed by the Archivist
4 of the United States; and

5 (H) 1 shall be appointed by the Comp-
6 troller General of the United States.

7 ~~(2) QUALIFICATIONS OF CONGRESSIONAL AP-~~
8 ~~POINTEES.—Of the 3 appointees under each of sub-~~
9 ~~paragraphs (A), (B), (C), and (D) of paragraph~~
10 ~~(1)—~~

11 (A) at least 1 shall have experience in sub-
12 mitting requests under section 552 of title 5,
13 United States Code, to Federal agencies, such
14 as on behalf of nonprofit research or edu-
15 cational organizations or news media organiza-
16 tions; and

17 (B) at least 1 shall have experience in aca-
18 demic research in the fields of library science,
19 information management, or public access to
20 Government information.

21 ~~(2) QUALIFICATIONS OF CONGRESSIONAL AP-~~
22 ~~POINTEES.—Of the 3 appointees under each of sub-~~
23 ~~paragraphs (A), (B), (C), and (D) of paragraph (1)~~
24 ~~at least 2 shall have experience in academic research~~

1 *in the fields of library science, information manage-*
 2 *ment, or public access to Government information.*

3 (3) *TIMELINESS OF APPOINTMENTS.*—*Appoint-*
 4 *ments to the Commission shall be made as expedi-*
 5 *tiously as possible, but not later than 60 days after*
 6 *the date of enactment of this Act.*

7 (d) *STUDY.*—The Commission shall conduct a study
 8 to—

9 (1) identify methods that—

10 (A) will help reduce delays in the proc-
 11 essing of requests submitted to Federal agen-
 12 cies under section 552 of title 5, United States
 13 Code; and

14 (B) ensure the efficient and equitable ad-
 15 ministration of that section throughout the
 16 Federal Government; ~~and~~

17 (2) examine whether the system for charging
 18 fees and granting waivers of fees under section 552
 19 of title 5, United States Code, needs to be reformed
 20 in order to reduce delays in processing requests;
 21 *and*

22 (3) *examine and determine—*

23 (A) *why the Federal Government's use of the*
 24 *exemptions under section 552(b) of title 5,*

1 *United States Code, increased during fiscal year*
2 *2009;*

3 *(B) the reasons for any increase, including*
4 *whether the increase was warranted and whether*
5 *the increase contributed to FOIA processing*
6 *delays;*

7 *(C) what efforts were made by Federal*
8 *agencies to comply with President Obama's Jan-*
9 *uary 21, 2009 Presidential Memorandum on*
10 *Freedom of Information Act Requests and wheth-*
11 *er those efforts were successful; and*

12 *(D) make recommendations on how the use*
13 *of exemptions under section 552(b) of title 5,*
14 *United States Code, may be limited.*

15 (e) REPORT.—Not later than 1 year after the date
16 of enactment of this Act, the Commission shall submit a
17 report to Congress and the President containing the re-
18 sults of the study under this section, which shall include—

19 (1) a description of the methods identified by
20 the study;

21 (2) the conclusions and recommendations of the
22 Commission regarding—

23 (A) each method identified; and

24 (B) the charging of fees and granting of
25 waivers of fees; and

1 (3) recommendations for legislative or adminis-
2 trative actions to implement the conclusions of the
3 Commission.

4 (f) STAFF AND ADMINISTRATIVE SUPPORT SERV-
5 ICES.—The Comptroller General of the United States
6 shall provide to the Commission such staff and adminis-
7 trative support services, including research assistance at
8 the request of the Commission, as necessary for the Com-
9 mission to perform its functions efficiently and in accord-
10 ance with this section.

11 (g) INFORMATION.—To the extent permitted by law,
12 the heads of executive agencies, the Government Account-
13 ability Office, and the Congressional Research Service
14 shall provide to the Commission such information as the
15 Commission may require to carry out its functions.

16 (h) COMPENSATION OF MEMBERS.—Members of the
17 Commission shall serve without compensation for services
18 performed for the Commission.

19 (i) TRAVEL EXPENSES.—The members of the Com-
20 mission shall be allowed travel expenses, including per
21 diem in lieu of subsistence, at rates authorized for employ-
22 ees of agencies under subchapter I of chapter 57 of title
23 5, United States Code, while away from their homes or
24 regular places of business in the performance of services
25 for the Commission.

1 (j) APPLICABILITY OF FEDERAL ADVISORY COM-
2 MITTEE ACT.—The Federal Advisory Committee Act (5
3 U.S.C. App.) shall apply to the Commission.

4 (k) TERMINATION.—The Commission shall terminate
5 30 days after the submission of the report under sub-
6 section (e).

Calendar No. 350

11TH CONGRESS
2^D Session

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