

112TH CONGRESS  
1ST SESSION

# S. 1466

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

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IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2011

Mr. LEAHY (for himself and Mr. CORNYN) introduced the following bill; which  
was read twice, considered, read the third time, and passed

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## 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 2011”.

7       (b) **ESTABLISHMENT.**—There is established the Com-  
8       mission on Freedom of Information Act Processing Delays  
9       (in this Act referred to as the “Commission” for the pur-  
10      pose of conducting a study relating to methods to help

1 reduce delays in processing requests submitted to Federal  
2 agencies under section 552 of title 5, United States Code  
3 (commonly referred to as the “Freedom of Information  
4 Act”).

5 (c) MEMBERSHIP.—

6 (1) IN GENERAL.—The Commission shall be  
7 composed of 12 members of whom—

8 (A) 2 shall be appointed by the chairman  
9 of the Committee on the Judiciary of the Sen-  
10 ate;

11 (B) 2 shall be appointed by the ranking  
12 member of the Committee on the Judiciary of  
13 the Senate;

14 (C) 2 shall be appointed by the chairman  
15 of the Committee on Government Reform of the  
16 House of Representatives;

17 (D) 2 shall be appointed by the ranking  
18 member of the Committee on Government Re-  
19 form of the House of Representatives;

20 (E) 1 shall be appointed by the Attorney  
21 General of the United States;

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

24 (G) 1 shall be appointed by the Archivist  
25 of the United States; and

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

3           (2) QUALIFICATIONS OF CONGRESSIONAL AP-  
4           POINTEES.—Of the 2 appointees under each of sub-  
5           paragraphs (A), (B), (C), and (D) of paragraph (1)  
6           at least 1 shall have experience as a FOIA re-  
7           questor, or in the fields of library science, informa-  
8           tion management, or public access to Government  
9           information.

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

14          (d) STUDY.—The Commission shall conduct a study  
15          to—

16               (1) identify methods that—

17                       (A) will help reduce delays in the proc-  
18                       essing of requests submitted to Federal agen-  
19                       cies under section 552 of title 5, United States  
20                       Code; and

21                       (B) ensure the efficient and equitable ad-  
22                       ministration of that section throughout the  
23                       Federal Government;

24               (2) examine whether the system for charging  
25               fees and granting waivers of fees under section 552

1 of title 5, United States Code, needs to be reformed  
2 in order to reduce delays in processing requests; and

3 (3) examine and determine—

4 (A) why the Federal Government’s use of  
5 the exemptions under section 552(b) of title 5,  
6 United States Code, increased during fiscal  
7 year 2009;

8 (B) the reasons for any increase, including  
9 whether the increase was warranted and wheth-  
10 er the increase contributed to FOIA processing  
11 delays;

12 (C) what efforts were made by Federal  
13 agencies to comply with President Obama’s  
14 January 21, 2009 Presidential Memorandum on  
15 Freedom of Information Act Requests and  
16 whether those efforts were successful;

17 (D) any recommendations on how the use  
18 of exemptions under section 552(b) of title 5,  
19 United States Code, may be limited; and

20 (E)(i) whether any disparities in proc-  
21 essing, processing times, and completeness of  
22 responses to FOIA requestors have occurred  
23 based upon political considerations, ideological  
24 viewpoints, the identity of the requestors, affli-

1           ation with the media, or affiliation with advoca-  
2           cacy groups;

3           (ii) if any disparities have occurred, why  
4           such disparities have occurred; and

5           (iii) the extent to which political appointees  
6           have been involved in the FOIA process.

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

11           (1) a description of the methods identified by  
12           the study;

13           (2) the conclusions and recommendations of the  
14           Commission regarding—

15           (A) each method identified; and

16           (B) the charging of fees and granting of  
17           waivers of fees; and

18           (3) recommendations for legislative or adminis-  
19           trative actions to implement the conclusions of the  
20           Commission.

21           (f) STAFF AND ADMINISTRATIVE SUPPORT SERV-  
22 ICES.—

23           (1) IN GENERAL.—The Archivist of the United  
24           States shall provide to the Commission such staff  
25           and administrative support services, including re-

1 search assistance at the request of the Commission,  
2 as necessary for the Commission to perform its func-  
3 tions efficiently and in accordance with this section.

4 (2) PAYMENT OF EXPENSES.—

5 (A) STAFF SALARIES.—The Archivist of  
6 the United States shall pay staff expenses relat-  
7 ing to salaries under this subsection from avail-  
8 able appropriations in the applicable account  
9 for salaries of the National Archives and  
10 Records Administration.

11 (B) ADMINISTRATIVE SUPPORT SERV-  
12 ICES.—Except as provided under subparagraph  
13 (A), the Archivist of the United States shall pay  
14 staff and administrative expenses under this  
15 subsection from available appropriations in the  
16 operating expenses account of the National Ar-  
17 chives and Records Administration.

18 (3) APPROPRIATIONS REQUESTS.—Expenses  
19 paid under this subsection shall not form the basis  
20 for additional appropriations requests from the Na-  
21 tional Archives and Records Administration in the  
22 future.

23 (g) INFORMATION.—To the extent permitted by law,  
24 the heads of executive agencies, the Government Account-  
25 ability Office, and the Congressional Research Service

1 shall provide to the Commission such information as the  
2 Commission may require to carry out its functions.

3 (h) COMPENSATION OF MEMBERS.—Members of the  
4 Commission shall serve without compensation for services  
5 performed for the Commission.

6 (i) TRAVEL EXPENSES.—

7 (1) IN GENERAL.—The members of the Com-  
8 mission shall be allowed travel expenses, including  
9 per diem in lieu of subsistence, at rates authorized  
10 for employees of agencies under subchapter I of  
11 chapter 57 of title 5, United States Code, while  
12 away from their homes or regular places of business  
13 in the performance of services for the Commission.

14 (2) PAYMENT OF EXPENSES.—The Adminis-  
15 trator of General Services shall pay travel expenses  
16 under this subsection from available appropriations  
17 in the operating expenses account of the General  
18 Services Administration.

19 (3) APPROPRIATIONS REQUESTS.—Expenses  
20 paid under this subsection shall not form the basis  
21 for additional appropriations requests from the Na-  
22 tional Archives and Records Administration in the  
23 future.

24 (j) TRANSPARENCY.—All meetings of the Commis-  
25 sion shall be open to the public, except that a meeting,

1 or any portion of it, may be closed to the public if it con-  
2 cerns matters or information described in chapter 552b(c)  
3 of title 5, United States Code. Interested persons shall be  
4 permitted to appear at open meetings and present oral or  
5 written statements on the subject matter of the meeting.  
6 The Commission may administer oaths or affirmations to  
7 any person appearing before the Commission.

8 (k) TERMINATION.—The Commission shall terminate  
9 30 days after the submission of the report under sub-  
10 section (e).

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