

“(E) facilitate public understanding of the purposes of the statutory exemptions of this section by including concise descriptions of the exemptions in both the agency’s handbook issued under subsection (g), and the agency’s annual report on this section, and by providing an overview, where appropriate, of certain general categories of agency records to which those exemptions apply;

“(F) offer training to agency staff regarding their responsibilities under this section;

“(G) serve as the primary agency liaison with the Office of Government Information Services and the Office of Information Policy; and

“(H) designate 1 or more FOIA Public Liaisons.

“(3) The Chief FOIA Officer of each agency shall review, not less frequently than annually, all aspects of the administration of this section by the agency to ensure compliance with the requirements of this section, including—

“(A) agency regulations;

“(B) disclosure of records required under paragraphs (2) and (8) of subsection (a);

“(C) assessment of fees and determination of eligibility for fee waivers;

“(D) the timely processing of requests for information under this section;

“(E) the use of exemptions under subsection (b); and

“(F) dispute resolution services with the assistance of the Office of Government Information Services or the FOIA Public Liaison.

“(k)(1) There is established in the executive branch the Chief FOIA Officers Council (referred to in this subsection as the ‘Council’).

“(2) The Council shall be comprised of the following members:

“(A) The Deputy Director for Management of the Office of Management and Budget.

“(B) The Director of the Office of Information Policy at the Department of Justice.

“(C) The Director of the Office of Government Information Services.

“(D) The Chief FOIA Officer of each agency.

“(E) Any other officer or employee of the United States as designated by the Co-Chairs.

“(3) The Director of the Office of Information Policy at the Department of Justice and the Director of the Office of Government Information Services shall be the Co-Chairs of the Council.

“(4) The Administrator of General Services shall provide administrative and other support for the Council.

“(5)(A) The duties of the Council shall include the following:

“(i) Develop recommendations for increasing compliance and efficiency under this section.

“(ii) Disseminate information about agency experiences, ideas, best practices, and innovative approaches related to this section.

“(iii) Identify, develop, and coordinate initiatives to increase transparency and compliance with this section.

“(iv) Promote the development and use of common performance measures for agency compliance with this section.

“(B) In performing the duties described in subparagraph (A), the Council shall consult on a regular basis with members of the public who make requests under this section.

“(6)(A) The Council shall meet regularly and such meetings shall be open to the public unless the Council determines to close the meeting for reasons of national security or to discuss information exempt under subsection (b).

“(B) Not less frequently than annually, the Council shall hold a meeting that shall be open to the public and permit interested persons to appear and present oral and written statements to the Council.

“(C) Not later than 10 business days before a meeting of the Council, notice of such meeting shall be published in the Federal Register.

“(D) Except as provided in subsection (b), the records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda, or other documents that were made available to

or prepared for or by the Council shall be made publicly available.

“(E) Detailed minutes of each meeting of the Council shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the Council. The minutes shall be redacted as necessary and made publicly available.”; and

(7) by adding at the end the following:

“(m)(1) The Director of the Office of Management and Budget, in consultation with the Attorney General, shall ensure the operation of a consolidated online request portal that allows a member of the public to submit a request for records under subsection (a) to any agency from a single website. The portal may include any additional tools the Director of the Office of Management and Budget finds will improve the implementation of this section.

“(2) This subsection shall not be construed to alter the power of any other agency to create or maintain an independent online portal for the submission of a request for records under this section. The Director of the Office of Management and Budget shall establish standards for interoperability between the portal required under paragraph (1) and other request processing software used by agencies subject to this section.”.

SEC. 3. REVIEW AND ISSUANCE OF REGULATIONS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the head of each agency (as defined in section 551 of title 5, United States Code) shall review the regulations of such agency and shall issue regulations on procedures for the disclosure of records under section 552 of title 5, United States Code, in accordance with the amendments made by section 2.

(b) REQUIREMENTS.—The regulations of each agency shall include procedures for engaging in dispute resolution through the FOIA Public Liaison and the Office of Government Information Services.

SEC. 4. PROACTIVE DISCLOSURE THROUGH RECORDS MANAGEMENT.

Section 3102 of title 44, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4); and

(2) by inserting after paragraph (1) the following:

“(2) procedures for identifying records of general interest or use to the public that are appropriate for public disclosure, and for posting such records in a publicly accessible electronic format.”.

SEC. 5. NO ADDITIONAL FUNDS AUTHORIZED.

No additional funds are authorized to carry out the requirements of this Act or the amendments made by this Act. The requirements of this Act and the amendments made by this Act shall be carried out using amounts otherwise authorized or appropriated.

Mr. LEAHY. Mr. President, I ask unanimous consent that the committee-reported substitute amendment be agreed to; the bill, as amended, be read a third time and passed; and the motion to reconsider be laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee-reported amendment in the nature of a substitute was agreed to.

The bill (S. 2520), as amended, was ordered to be engrossed for a third reading. was read the third time, and passed.

Mr. LEAHY. Mr. President, I see other Senators seeking the floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

McFERRAN NOMINATION

Mr. HARKIN. Mr. President, I speak in support of the nomination of Lauren McFerran to fill an approaching vacancy on the National Labor Relations Board. I was heartened by the recent cloture vote in support of the McFerran nomination and urge my colleagues in just a short while to vote in favor of her confirmation.

Ms. McFerran is well known to most of us as a senior staffer on the HELP Committee, where she has long served as chief labor counsel and more recently as deputy staff director. She has been nominated to fill a vacancy that will result from the departure later this month of a current Board Member, Nancy Schiffer. I would like to take this opportunity to publicly thank Ms. Schiffer for her dedicated service to the National Labor Relations Board. She has been a highly respected Board Member and I wish her every success in her future endeavors.

I also want to say a word about the previous nominee to the Board, Sharon Block, whose nomination was withdrawn at the insistence of Senate Republicans. Although I have no doubt that Ms. McFerran will serve with fairness and distinction, it is unfortunate that Sharon Block, a dedicated public servant, will not have the opportunity to serve further on the National Labor Relations Board. Ms. Block was an extraordinarily qualified nominee who was widely respected by both Democrats and Republicans alike. Ms. Block’s nomination was withdrawn as a result of circumstances wholly beyond her control. But her qualifications and experience are undiminished and untarnished by the circumstances that led to the withdrawal of her nomination.

The National Labor Relations Board is an agency that is absolutely critical to our country, to our economy, and to our middle class. Over 75 years ago, Congress enacted the National Labor Relations Act, guaranteeing American workers the right to form and join a union and to bargain for a better life. That act sets forth a national policy to encourage collective bargaining—to encourage collective bargaining. That is the national policy of this government, and has been since 1935.

Let me read what the act specifically states:

It is declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

That is the policy of the U.S. Government, to encourage collective bargaining, not to destroy it, not to tear it down, not to throw up roadblocks against collective bargaining, but to encourage it. Those who continually attack the National Labor Relations Board, who try to interfere in its procedures, many times are those who want to throw a monkey wrench into collective bargaining. Well, they are going against the policy of the United States.

I am proud to be a citizen of a country that promotes collective bargaining, to allow workers to negotiate for better wages, better conditions, safe working conditions, a country that protects fundamental rights such as the freedom of association.

The act provides these essential protections for union and nonunion workers alike. It gives workers a voice in the workplace, allowing them to join together and speak up for the very essence of middle-class jobs: fair wages, good benefits, safe working conditions. These rights ensure that the people who do the real work in this country have a shot at joining the middle class and receiving a fair share of the benefits when our economy grows.

The NLRB, the National Labor Relations Board, is the guardian of these fundamental rights. Workers themselves cannot enforce the National Labor Relations Act, but they can turn to the Board if they have been denied the basic protections provided under the law. In short, the Board plays a vital role in vindicating workers' rights.

Get this. Understand this. In the past 10 years, the National Labor Relations Board, the NLRB, has secured opportunities for reinstatement of 22,544 employees who were unjustly fired. Over that same past 10 years, the NLRB has recovered more than \$1 billion on behalf of workers whose rights and wages were violated.

The Board also provides relief and remedies to our Nation's employers. A lot of people think the NLRB is just there for the workers. Not so. It is there to help employers too. For example, employers can turn to the Board for relief if a union commences a wildcat strike or refuses to bargain in good faith during negotiations. The NLRB has a long history of helping businesses resolve disputes efficiently.

By preventing or resolving labor disputes that could disrupt our economy, the work the Board does is vital to every worker and every business across the Nation. That is why it is so important that we maintain a fully functional five-member NLRB. I am proud of the fact that just over a year ago, we were able to confirm Members to completely fill the first Board in over a decade. Now we need to fill a soon-to-be-open seat so the Board can continue to function effectively. That is what this vote coming up is all about.

It is unfortunate that some of my friends on the other side of the aisle do

not believe in the National Labor Relations Act—not all of them, but a very vocal minority, I would say. They do not agree that it should be the policy of the United States to promote collective bargaining and self-organization in order to prevent disruptions in “the free flow of commerce” that can have a detrimental impact on our Nation's economy.

They would like to change the existing law if they could, but they do not have the votes. So, instead, they have attempted to pull every possible lever to slow down the work that goes on at the NLRB. Recently, Republicans in the House of Representatives have held hearing after hearing specifically addressing the NLRB. They passed two bills to amend the NLRA, the National Labor Relations Act, to strip workers of their rights. Republican elected officials have tried to defund the agency, threatening the professional credentials and livelihoods of nonpartisan career employees, and even called on a Republican Board Member to resign in order to incapacitate the agency. You heard me right. Republicans called on a Republican Board Member of the National Labor Relations Board to leave it, and then they would not have enough Members to function.

What most concerns me about this political game-playing is how it affects the everyday lives of workers across America. For workers who are disciplined, penalized, even fired unjustly by employers, it is the NLRB that ensures that workers who are illegally punished, as I mentioned, can get back their jobs and lost wages.

This is exactly why we need to confirm Ms. McFerran today. No one can contest her qualifications. As I said, she currently serves as both chief labor counsel and deputy staff director of the Senate HELP Committee. I am proud to have her as a member of my staff. She has served this committee with excellence and great professionalism, first hired by my predecessor Senator Kennedy. She stayed on after his passing and my assumption of the chairmanship of the committee.

She has a deep knowledge of labor law. She is an incredibly talented lawyer. She is a person of sterling integrity and strong character. She will be a great asset to the Board. It is my hope that by promptly confirming Ms. McFerran's nomination to fill the upcoming vacancy, we can continue the progress that has been made recently and begin a new era where orderly transitions on the NLRB are the norm, where we do not go month after month, year after year, with vacancies, with a board that cannot function.

Instead of letting every vacancy become a political football, with threats to shutter the Board, and pressure for recess appointments, we should set a new precedent of confirming nominees, Democratic and Republican alike, in a timely manner, allowing the dedicated public servants at the Board to stop worrying about making headlines and

instead focus on the important work they do every day.

Again, that important work includes assuring that American workers are able to exercise their right to freedom of association. In the workplace, this freedom means collectively bargaining for better wages, benefits, and working conditions. It is enshrined in the National Labor Relations Act and upheld by the NLRB.

I have no doubt that Ms. McFerran will do an excellent job in this important position. I urge my colleagues to support her confirmation later this afternoon.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF JEFFERY MARTIN BARAN TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION

NOMINATION OF LAUREN MCGARITY MCFERRAN TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD

NOMINATION OF ELLEN DUDLEY WILLIAMS TO BE DIRECTOR OF THE ADVANCED RESEARCH PROJECTS AGENCY—ENERGY, DEPARTMENT OF ENERGY

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The assistant legislative clerk read the nominations of Jeffery Martin Baran, of Virginia, to be a Member of the Nuclear Regulatory Commission; Lauren McGarity McFerran, of the District of Columbia, to be a Member of the National Labor Relations Board; and Ellen Dudley Williams, of Maryland, to be Director of the Advanced Research Projects Agency—Energy, Department of Energy.

VOTE ON BARAN NOMINATION

The PRESIDING OFFICER. There is now 2 minutes of debate equally divided prior to the vote on the Baran nomination.

Who yields time?

Mr. VITTER. I yield back and ask for the yeas and nays.