

106TH CONGRESS
2D SESSION

S. 2309

To establish a commission to assess the performance of the civil works functions of the Secretary of the Army.

IN THE SENATE OF THE UNITED STATES

MARCH 28, 2000

Mr. DASCHLE introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To establish a commission to assess the performance of the civil works functions of the Secretary of the Army.

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 “Corps of Engineers
5 Civil Works Independent Investigation and Review Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) COMMISSION.—The term “Commission”
9 means the Corps of Engineers Civil Works Inde-

1 pendent Investigation and Review Commission estab-
2 lished under section 3(a).

3 (2) SESSION DAY.—The term “session day”
4 means a day on which both Houses of Congress are
5 in session.

6 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

7 (a) IN GENERAL.—As soon as practicable after the
8 date of enactment of this Act, the President shall establish
9 a commission to be known as the “Corps of Engineers
10 Civil Works Independent Investigation and Review Com-
11 mission”.

12 (b) MEMBERSHIP.—

13 (1) IN GENERAL.—The Commission shall be
14 composed of not to exceed 18 members, and shall
15 include—

16 (A) individuals appointed by the President
17 to represent—

- 18 (i) the Department of the Army;
19 (ii) the Department of the Interior;
20 (iii) the Department of Justice;
21 (iv) environmental interests;
22 (v) hydropower interests;
23 (vi) flood control interests;
24 (vii) recreational interests;
25 (viii) navigation interests;

1 (ix) the Council on Environmental
2 Quality; and

3 (x) such other affected interests as
4 are determined by the President to be ap-
5 propriate; and

6 (B) 6 governors from States representing
7 different regions of the United States, as deter-
8 mined by the President.

9 (2) DATE OF APPOINTMENTS.—The appoint-
10 ment of a member of the Commission shall be made
11 not later than 180 days after the date of enactment
12 of this Act.

13 (c) TERM; VACANCIES.—

14 (1) TERM.—A member shall be appointed for
15 the life of the Commission.

16 (2) VACANCIES.—A vacancy on the
17 Commission—

18 (A) shall not affect the powers of the Com-
19 mission; and

20 (B) shall be filled in the same manner as
21 the original appointment was made.

22 (d) INITIAL MEETING.—Not later than 30 days after
23 the date on which all members of the Commission have
24 been appointed, the Commission shall hold the initial
25 meeting of the Commission.

1 (e) MEETINGS.—The Commission shall meet at the
2 call of the Chairperson.

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

6 (g) CHAIRPERSON AND VICE CHAIRPERSON.—

7 (1) IN GENERAL.—The President shall select a
8 Chairperson and Vice Chairperson from among the
9 members of the Commission.

10 (2) NO CORPS REPRESENTATIVE.—The Chair-
11 person and the Vice Chairperson shall not be rep-
12 resentatives of the Department of the Army (includ-
13 ing the Corps of Engineers).

14 **SEC. 4. INVESTIGATION OF CORPS OF ENGINEERS.**

15 Not later than 2 years after the date of enactment
16 of this Act, the Commission shall complete an investiga-
17 tion and submit to Congress a report on the Corps of En-
18 gineers, with emphasis on—

19 (1) the effectiveness of civilian control over the
20 civil works functions of the Corps of Engineers, par-
21 ticularly the effectiveness of the relationship between
22 uniformed officers and the office of the Assistant
23 Secretary of the Army for Civil Works with respect
24 to—

25 (A) responsiveness;

1 (B) lines of authority; and

2 (C) coordination;

3 (2) compliance through the civil works func-
4 tions of the Corps of Engineers with environmental
5 laws in the design and operation of projects,
6 including—

7 (A) the Fish and Wildlife Coordination Act
8 (16 U.S.C. 661 et seq.);

9 (B) the Endangered Species Act of 1973
10 (16 U.S.C. 1531 et seq.); and

11 (C) the National Environmental Policy Act
12 of 1969 (42 U.S.C. 4321 et seq.);

13 (3) the quality and objectivity of scientific, envi-
14 ronmental, and economic analyses by the Corps of
15 Engineers, including the use of independent review-
16 ers of analyses performed by the Corps;

17 (4) the extent of coordination and cooperation
18 by the Corps of Engineers with other Federal and
19 State agencies in designing and implementing
20 projects;

21 (5) whether the size of the Corps of Engineers
22 is appropriate, including the size of the budget and
23 personnel of the Corps;

1 (6) whether the management structure of the
2 Corps of Engineers should be changed, and, if so,
3 how the management structure should be changed;

4 (7) whether any of the civil works functions of
5 the Corps of Engineers should be transferred from
6 the Department of the Army to a civilian agency or
7 should be privatized;

8 (8) whether any segments of the inland water
9 system should be closed;

10 (9) whether any planning regulations of the
11 Corps of Engineers should be revised to give equal
12 consideration to economic and environmental goals
13 of a project;

14 (10) whether any currently-authorized projects
15 should be deauthorized;

16 (11) whether all studies conducted by the Corps
17 of Engineers should be subject to independent re-
18 view; and

19 (12) the extent to which the benefits of pro-
20 posed projects—

21 (A) exceed the costs of the projects; or

22 (B) accrue to private interests.

23 **SEC. 5. POWERS.**

24 (a) HEARINGS.—The Commission may hold such
25 hearings, sit and act at such times and places, take such

1 testimony, and receive such evidence as the Commission
2 considers advisable to carry out this Act.

3 (b) INFORMATION FROM FEDERAL AGENCIES.—

4 (1) IN GENERAL.—The Commission may secure
5 directly from a Federal department or agency such
6 information as the Commission considers necessary
7 to carry out this Act.

8 (2) PROVISION OF INFORMATION.—On request
9 of the Chairperson of the Commission, the head of
10 the department or agency shall provide the informa-
11 tion to the Commission.

12 (c) POSTAL SERVICES.—The Commission may use
13 the United States mails in the same manner and under
14 the same conditions as other departments and agencies of
15 the Federal Government.

16 (d) GIFTS.—The Commission may accept, use, and
17 dispose of gifts or donations of services or personal prop-
18 erty.

19 **SEC. 6. COMMISSION PERSONNEL MATTERS.**

20 (a) COMPENSATION OF MEMBERS.—

21 (1) NON-FEDERAL EMPLOYEES.—A member of
22 the Commission who is not an officer or employee of
23 the Federal Government shall be compensated at a
24 rate equal to the daily equivalent of the annual rate
25 of basic pay prescribed for level IV of the Executive

1 Schedule under section 5315 of title 5, United
2 States Code, for each day (including travel time)
3 during which the member is engaged in the perform-
4 ance of the duties of the Commission.

5 (2) FEDERAL EMPLOYEES.—A member of the
6 Commission who is an officer or employee of the
7 Federal Government shall serve without compensa-
8 tion in addition to the compensation received for the
9 services of the member as an officer or employee of
10 the Federal Government.

11 (b) TRAVEL EXPENSES.—A member of the Commis-
12 sion shall be allowed travel expenses, including per diem
13 in lieu of subsistence, at rates authorized for an employee
14 of an agency under subchapter I of chapter 57 of title
15 5, United States Code, while away from the home or reg-
16 ular place of business of the member in the performance
17 of the duties of the Commission.

18 (c) STAFF.—

19 (1) IN GENERAL.—The Chairperson of the
20 Commission may, without regard to the civil service
21 laws (including regulations), appoint and terminate
22 an executive director and such other additional per-
23 sonnel as are necessary to enable the Commission to
24 perform the duties of the Commission.

1 (2) CONFIRMATION OF EXECUTIVE DIREC-
2 TOR.—The employment of an executive director shall
3 be subject to confirmation by the Commission.

4 (3) COMPENSATION.—

5 (A) IN GENERAL.—Except as provided in
6 subparagraph (B), the Chairperson of the Com-
7 mission may fix the compensation of the execu-
8 tive director and other personnel without regard
9 to the provisions of chapter 51 and subchapter
10 III of chapter 53 of title 5, United States Code,
11 relating to classification of positions and Gen-
12 eral Schedule pay rates.

13 (B) MAXIMUM RATE OF PAY.—The rate of
14 pay for the executive director and other per-
15 sonnel may not exceed the rate payable for level
16 V of the Executive Schedule under section 5316
17 of title 5, United States Code.

18 (d) DETAIL OF FEDERAL GOVERNMENT EMPLOY-
19 EES.—

20 (1) IN GENERAL.—An employee of the Federal
21 Government may be detailed to the Commission
22 without reimbursement.

23 (2) CIVIL SERVICE STATUS.—The detail of the
24 employee shall be without interruption or loss of civil
25 service status or privilege.

1 (e) PROCUREMENT OF TEMPORARY AND INTERMIT-
2 TENT SERVICES.—The Chairperson of the Commission
3 may procure temporary and intermittent services in ac-
4 cordance with section 3109(b) of title 5, United States
5 Code, at rates for individuals that do not exceed the daily
6 equivalent of the annual rate of basic pay prescribed for
7 level V of the Executive Schedule under section 5316 of
8 that title.

9 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

10 There is authorized to be appropriated to carry out
11 this Act \$10,000,000 for each of fiscal years 2001 through
12 2003, to remain available until expended.

13 **SEC. 8. TERMINATION OF COMMISSION.**

14 The Commission shall terminate on the date on which
15 the Commission submits the report to Congress under sec-
16 tion 4(a).

○