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107th Congress *1st Session*	SENATE	REPORT 107–88

OFFICE OF GOVERNMENT ETHICS AUTHORIZATION ACT OF 2001

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 1202

TO AMEND THE ETHICS IN GOVERNMENT ACT OF 1978 (5 U.S.C. APP.) TO EXTEND THE AUTHORIZATION OF APPROPRIATIONS FOR THE OFFICE OF GOVERNMENT ETHICS THROUGH FISCAL YEAR 2006



OCTOBER 30, 2001.—Ordered to be printed

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OCTOBER 30, 2001.—Ordered to be printed

Mr. LIEBERMAN, from the Committee on Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1202]

The Committee on Governmental Affairs, to whom was referred the bill (S. 1202) to amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to extend the authorization of appropriations for the Office of Government Ethics through fiscal year 2006, having considered the same, reports favorably thereon and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

The purpose of S. 1202 is to continue programs that foster high ethical standards for employees in the Executive Branch by extending the authorization of appropriations for the Office of Government Ethics (OGE) through the end of the 2006 fiscal year.

II. BACKGROUND AND NEED FOR LEGISLATION

OGE was established by Title IV of the Ethics in Government Act of 1978 (Ethics Act), 5 U.S.C. App., to provide "overall direction of executive branch policies related to preventing conflicts of interest on the part of officers and employees of any executive agency."

OGE's role has subsequently expanded by statute and executive order. In addition to its programs relating to prevention of conflict of interest, OGE now provides interpretive guidance, training, and administrative support on a number of other requirements related to employee conduct, such as potential misuse of one's official position and the rules governing gifts between employees. More recently, in light of the corrosive effect of corruption upon certain foreign governments and economies, U.S. foreign-policy agencies have called upon OGE to provide technical assistance to foreign governments regarding methods for preventing conflict of interest and other ethics violations as part of broader anti-corruption efforts.

A. CREATION AND PAST AUTHORIZATIONS OF THE OFFICE OF GOVERNMENT ETHICS

In response to a 1976 General Accounting Office report to Congress identifying a number of problems with the federal government's ethics system, President Carter submitted draft legislation in 1977 proposing the creation of OGE. The following year, on October 26, 1978, the Ethics Act was signed into law as Public Law 95–521. (For a more detailed history of the creation and past authorizations of OGE, see Senate Report No. 106–216, issued by this Committee on November 5, 1999, regarding S. 1503, 106th Cong.)

OGE was originally established within the Office of Personnel Management (OPM) and was authorized for five years, through September 30, 1983. In 1983, OGE was reauthorized for another five years pursuant to Public Law 98–150. This law extended OGE's authorization through September 20, 1988, gave OGE additional powers and responsibilities, and granted it greater independence from the rest of OPM. OGE was again reauthorized in 1988, this time for six years, through September 30, 1994, by Public Law 100–598. The 1988 law made a number of additional enhancements in OGE's authority and established OGE as an independent agency, separate from OPM.

During the period of 1988 to 1994, the executive branch ethics program and OGE's responsibilities increased as a result adoption of the Ethics Reform Act of 1989 (Public Law 101–194), which included extensive ethics reform provisions, and two Executive Orders. Executive Order 12674 (April 12, 1989) required the promulgation of comprehensive Standards of Ethical Conduct for Executive Branch Employees and Executive Order 12834 (January 20, 1993) created new post-employment rules for political appointees.

After a two-year lapse of authorization, in 1996 OGE was reauthorized by Public Law 104–179 for three years, through September 20, 1999. In the 106th Congress, the Committee reported out S. 1503 on November 3, 1999, to reauthorize OGE for four years, and the Senate passed S. 1503 on November 19, 1999. The House of Representatives also passed a four-year reauthorization bill, H.R. 2904, on November 8, 1999. Neither bill was enacted, however, so the authorization of appropriations remains lapsed. During this period, funding for OGE's activities has continued to be provided by appropriations legislation enacted for FY 2000, Public Law 106–58, and for FY 2001, Public Law 106–554, and would be provided for FY 2002 by the conference report on H.R. 2590, H. Rept. No. 107–253, which was filed October 26, 2001.

B. DEVELOPMENTS SINCE OGE'S LAST REAUTHORIZATION

The statutes and the basic elements of the ethics program administered by OGE have not changed dramatically since the Office was last reauthorized in 1996, and OGE has focused on improving how it provides its ethics services and on evaluating the impact of the program.[1]

In the last four years, OGE has expanded its desk officer program, which assigns OGE staff to specific agencies to provide more direct and consistent services to those agencies. OGE has enhanced the employee training materials it produces for use by agencies and has designed new courses for educating agency ethics officials, including those located outside of the Washington, D.C., area. It has recently redesigned its web site (*www.usoge.gov*) to make ethics information more easily accessible to ethics officials as well as to the public. And it developed a CD-ROM containing all of the basic resource and reference materials important to carrying out its program. It also developed the software used in the completion of the confidential financial disclosure forms filed by more than 250,000 employees in the Executive Branch.

In time for the transition of administrations following the 2000 election, OGE completed the development of software necessary to complete, save the data on, and print the public financial disclosure form, the SF 278. This form must be filed by all senior officials in the Executive Branch, including those individuals who are nominated by the President for Senate-confirmed positions. OGE is required to review and certify the financial disclosure forms of those nominees. From January 1996 through September 2001, OGE has reviewed more than 1,600 of these nominee forms, including approximately 460 during the period from January 2001 through September 2001. OGE also reviews certain of the financial disclosure forms that senior employees file annually and upon termination, and, from January 1996 through September 2001, OGE reviewed approximately 5,600 of these annual and termination reports. Furthermore, OGE has continued to provide interpretive guidance on the criminal conflict of interest statutes and to review and update its regulations for the Standards of Ethical Conduct.

In 2000, OGE, working with an international consulting firm, conducted its first survey of Executive Branch employees in order to begin developing a way to measure the effectiveness of the ethics program and assess employee perceptions of the ethical culture of the agencies for which they worked. Key survey findings and recommendations included: (1) employees are generally aware of the ethics program and are familiar with and use the ethics resources in their agencies; however, improved communication to employees may help reduce the number whose needs have not been met; (2) the frequency of ethics training is related to the perception of a positive ethical culture; therefore, providing additional ethics training may lead to improved employee perception of the ethical culture and increased employee awareness of an agency's ethics program; and (3) supervisory and executive leadership attention to ethics are important factors in creating and maintaining a positive ethics culture; therefore, efforts to get supervisors and agency lead-

[1] This description of developments since OGE's last reauthorization is based largely on briefings and documents provided by OGE to the Committee.

ership to play a more active and visible role in the promotion of an agency's ethics programs may be critical to program success. The survey results also provide a benchmark against which future program changes may be measured.

Finally, in response to a requirement proposed by this Committee in the Presidential Transition Act of 2000, Public Law 106–293, OGE conducted a study and issued a "Report on Improvements to the Financial Disclosure Process for Presidential Nominees." That report led OGE to propose amending the public financial disclosure requirements for Executive Branch officials under the Ethics in Government Act. OGE Director Amy Comstock testified before the Committee on April 5, 2001 in support of these proposals. OGE's research also identified potential overlap and redundant questions on the various disclosure forms that must be completed by Presidential nominees to Senate-confirmed positions, and OGE shared these findings with the Senate committees that consider nominations. OGE has also committed to undertaking a study of the criminal conflict of interest laws.

Recently, as attention has focused on the important effects of corruption on certain governments and economies outside of the United States, OGE has been called upon by U.S. foreign policy agencies to provide technical assistance to other governments regarding the elements of a preventative program as one part of any government's overall anti-corruption efforts.

C. OGE'S BUDGET AND STAFFING

Since OGE's last reauthorization in 1996, its budget and staffing levels have been as follows:

Fiscal year	Funding	Authorized staff levels
1997	$8,078,000	87
1998	8,265,000	84
1999	8,492,000	84
2000	9,114,000	84
2001	9,663,000	82
2002	[2] 10,117,000	82

[2] This funding level for FY 2002 would be provided by the conference report on H.R. 2590, H. Rept. No. 107–253, filed October 26, 2001.

D. DURATION OF THE REAUTHORIZATION

S. 1202 would reauthorize OGE's appropriations through the end of the 2006 fiscal year. This time span accommodates OGE's preference that a reauthorization process not occur during the first or fourth year of Presidential term, when the agency's resources are significantly devoted to matters arising from election and transition activities.

III. LEGISLATIVE HISTORY

S. 1202 was introduced by Senator Lieberman, for himself and Senator Thompson, on July 19, 2001, and referred to the Committee on Governmental Affairs. Senior staff of OGE made a comprehensive presentation to Committee staff with regard to OGE's recently completed and ongoing programs, its future program plans, and its role in the current transition process. No hearings were held on the legislation.

S. 1202 was considered by the Committee at its business meeting on August 2, 2001, and was ordered reported favorably, without amendment, by voice vote. Committee members present were: Senators Levin, Akaka, Torricelli, Carper, Dayton, Thompson, Collins, Cochran, and Lieberman.

IV. Regulatory Impact Statement

Paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate the "regulatory impact which would be incurred in carrying out this bill." Carrying out S. 1202 would have no regulatory impact.

V. Congressional Budget Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, DC, August 9, 2001.

Hon. Joseph I. Lieberman,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1202, the Office of Government Ethics Authorization Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

Barry B. Anderson
(For Dan L. Crippen, Director).

Enclosure.

S. 1202—Office of Government Ethics Authorization Act of 2001

Summary: S. 1202 would reauthorize the Office of Government Ethics (OGE) for fiscal years 2002 through 2006. Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 1202 would cost $56 million over the 2002–2006 period. This estimate assumes adjustments for anticipated inflation. Without such adjustments, we estimate that implementation would cost $49 million over the 2002–2006 period.

Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply. S. 1202 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1202 is shown in the following table. For this estimate, CBO assumes that the necessary amounts will be appropriated by the start of each fiscal year and that outlays will follow the historical spending pattern of the OGE. Estimated authorization levels for 2002 through 2006 are based on the 2001 appropriation for the OGE, and $10 million. The costs of this legislation fall within budget function 800 (general government).

	By fiscal year, in millions of dollars—					
	2001	2002	2003	2004	2005	2006
SPENDING SUBJECT TO APPROPRIATION						
OGE Spending Under Current Law						
Budget Authority [1]	10	0	0	0	0	0
Estimated Outlays	10	1	0	0	0	0
Proposed Changes						
Estimated Authorization Level	0	11	11	11	12	12
Estimated Outlays	0	10	11	11	12	12
OGE Spending Under S. 1202						
Estimated Authorization Level [1]	10	11	11	11	12	12
Estimated Outlays	10	11	11	11	12	12

[1] The 2001 level is the amount appropriated for that year.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: S. 1202 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Mark Grabowicz. Impact on State, Local, and Tribal Governments: Susan Sieg Tompkins. Impact on the Private Sector: Patrice Gordon.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

VI. CHANGES TO EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1202 as reported are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

* * * * * * *

APPENDIX

ETHICS IN GOVERNMENT ACT OF 1978

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TITLE IV. OFFICE OF GOVERNMENT ETHICS

* * * * * * *

§ 405. Authorization of appropriations

There are authorized to be appropriated to carry out this title such sums as may be necessary for each of fiscal years [1997 through 1999] *2002 through 2006*.

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