

109TH CONGRESS  
1ST SESSION

# S. 1358

To protect scientific integrity in Federal research and policymaking.

---

IN THE SENATE OF THE UNITED STATES

JUNE 30, 2005

Mr. DURBIN (for himself and Mr. LAUTENBERG) introduced the following bill;  
which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

---

## A BILL

To protect scientific integrity in Federal research and  
policymaking.

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; TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Restore Scientific Integrity to Federal Research and Pol-  
6       icymaking Act”.

7       (b) **TABLE OF CONTENTS.**—The table of contents for  
8       this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purpose.

Sec. 3. Prohibition of political interference with science.

Sec. 4. Whistleblower extension for disclosures relating to interference with  
science.

Sec. 5. Requirements relating to Federal scientific advisory committees.  
Sec. 6. Peer review.  
Sec. 7. State of scientific integrity report.  
Sec. 8. Definitions.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) America has for its history served as a  
4 world leader of scientific innovation and research.

5 (2) Multiple policy and legislative decisions af-  
6 fecting the health and safety of the American public  
7 and the state of the environment depend upon com-  
8 prehensive, accurate scientific information.

9 (3) The Federal Government plays a key role in  
10 fostering and supporting scientific research.

11 (4) The conduct of such research depends on  
12 free investigation and open exchange of ideas.

13 (5) Scientific advisory committees must be com-  
14 prised of individuals with the appropriate expertise  
15 regardless of political affiliation.

16 (6) Over the past four years, leading scientific  
17 associations and scientific journals, Inspectors Gen-  
18 eral, senior scientists within the Federal Govern-  
19 ment, former scientific officials from both Repub-  
20 lican and Democratic administrations, and 48 Nobel  
21 Laureates have raised concerns about political inter-  
22 ference with science in the executive branch of the  
23 Federal Government.

(7) This interference has included tampering with the conduct of research, gagging of government scientists, distortion of scientific information presented to Congress and the public, and manipulation of Federal scientific advisory committees.

6 (b) PURPOSE.—The purpose of this Act is to protect  
7 scientific integrity in Federal research and policymaking.

8 SEC. 3. PROHIBITION OF POLITICAL INTERFERENCE WITH  
9 SCIENCE.

(a) IN GENERAL.—Subchapter V of chapter 73 of title 5, United States Code, is amended by adding at the end the following:

### 13 “§ 7354. Interference with science

14       “(a) IN GENERAL.—An employee may not engage in  
15   any of the following:

16           “(1) Tampering with the conduct of federally  
17           funded scientific research or analysis.

18 “(2) Censorship of findings of federally funded  
19 scientific research or analysis.

20 “(3) Directing the dissemination of scientific in-  
21 formation known by the directing employee to be  
22 false or misleading.

23 “(b) PENALTIES.—An employee who violates this sec-  
24 tion shall be subject to appropriate disciplinary action by  
25 the employing agency or entity.”.

1 (b) PROHIBITED PERSONNEL PRACTICE.—Section  
 2 2302(b) of title 5, United States Code, is amended—

3 (1) in paragraph (11), by striking “or” at the  
 4 end;

5 (2) in paragraph (12), by striking the period  
 6 and inserting “; or”; and

7 (3) by inserting after paragraph (12) the fol-  
 8 lowing:

9 “(13) take or fail to take, or threaten to take  
 10 or fail to take, a personnel action with respect to  
 11 any employee because of the development or dissemi-  
 12 nation, within the scope of employment, of scientific  
 13 research or analysis that the employee reasonably  
 14 believes to be accurate and valid.”.

15 (c) CLERICAL AMENDMENT.—The table of sections  
 16 for chapter 73 of title 5, is amended by inserting after  
 17 the item relating to section 7353 the following:

“7354. Interference with science.”.

18 **SEC. 4. WHISTLEBLOWER EXTENSION FOR DISCLOSURES**  
 19 **RELATING TO INTERFERENCE WITH**  
 20 **SCIENCE.**

21 (a) IN GENERAL.—Subparagraphs (A)(ii) and (B)(ii)  
 22 of section 2302(b)(8) of title 5, United States Code, are  
 23 amended by inserting after “authority,” the following: “in-  
 24 cluding but not limited to tampering with the conduct of  
 25 federally funded scientific research or analysis, censoring

1 the findings of federally funded scientific research or anal-  
2 ysis, or directing the dissemination of scientific informa-  
3 tion known by the directing employee to be false or mis-  
4 leading,”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 1212(a)(3) of title 5, United States  
7 Code, is amended by inserting after “authority,” the  
8 following: “including but not limited to tampering  
9 with the conduct of federally funded scientific re-  
10 search or analysis, censoring the findings of feder-  
11 ally funded scientific research or analysis, or direct-  
12 ing the dissemination of scientific information known  
13 by the directing employee to be false or mis-  
14 leading,”.

15 (2) Section 1213(a) of such title is amended—

16 (A) in paragraph (1)(B), by inserting after  
17 “authority,” the following: “including but not  
18 limited to tampering with the conduct of feder-  
19 ally funded scientific research or analysis, cen-  
20 soring the findings of federally funded scientific  
21 research or analysis, or directing the dissemina-  
22 tion of scientific information known by the di-  
23 recting employee to be false or misleading,”;  
24 and

(B) in paragraph (2)(B), by inserting after “authority,” the following: “including but not limited to tampering with the conduct of federally funded scientific research or analysis, censoring the findings of federally funded scientific research or analysis, or directing the dissemination of scientific information known by the directing employee to be false or misleading,”.

**SEC. 5. REQUIREMENTS RELATING TO FEDERAL SCIENTIFIC ADVISORY COMMITTEES.**

(a) BAR ON LITMUS TESTS.—All appointments to Federal scientific advisory committees shall be made without regard to political affiliation, unless required by Federal statute.

(b) DESIGNATION OF MEMBERS AS SPECIAL GOVERNMENT EMPLOYEES OR REPRESENTATIVES.—

(1) An individual appointed to a Federal scientific advisory committee who is not a full-time or permanent part-time officer or employee of the Federal Government shall be designated, by the agency to which the committee reports, as either—

(A) a special Government employee, if the individual is providing advice based on the individual’s expertise or experience; or

1 (B) a representative, if the individual is  
 2 representing the views of individuals or entities  
 3 outside the Federal Government.

4 (2) An agency shall review the members of each  
 5 Federal scientific advisory committee that reports to  
 6 the agency to determine whether each member's des-  
 7 ignation is appropriate, and to redesignate members  
 8 if appropriate. Such review shall be made when the  
 9 committee's charter expires or, in the case of a com-  
 10 mittee with an indefinite charter, every 2 years.

11 (c) ENSURING INDEPENDENT ADVICE AND EXPER-  
 12 TISE.—

13 (1) Each agency shall, to the extent permitted  
 14 by law, appoint individuals to Federal scientific advi-  
 15 sory committees as special government employees.

16 (2) Each agency shall make its best efforts to  
 17 ensure that—

18 (A) no individual appointed to serve on a  
 19 Federal scientific advisory committee has a con-  
 20 flict of interest that is relevant to the functions  
 21 to be performed, unless such conflict is prompt-  
 22 ly and publicly disclosed and the agency deter-  
 23 mines that the conflict is unavoidable; and

24 (B) each report of the advisory committee  
 25 will be the result of the advisory committee's

1 independent judgment and include a statement  
2 indicating the process used by the advisory  
3 committee in formulating the recommendations  
4 or conclusions contained in the report.

5 (3) Each agency shall require that individuals  
6 that the agency appoints or intends to appoint to  
7 serve on a Federal scientific advisory committee in-  
8 form the agency of the individual's conflicts of inter-  
9 est that are relevant to the functions to be per-  
10 formed.

11 (4) If an agency determines that representative  
12 members are required on a Federal scientific advi-  
13 sory committee, the Advisory Committee Manage-  
14 ment Officer of the agency shall consult with the  
15 designated agency ethics official to ensure that the  
16 designation is appropriate and necessary to fulfilling  
17 the committee's purpose.

18 (5) The designated agency ethics official of  
19 each agency shall issue guidance to ensure that Fed-  
20 eral scientific advisory committees are providing suf-  
21 ficiently independent advice and expertise.

22 (6) The Administrator for General Services  
23 shall conduct an annual review of compliance by  
24 agencies with this subsection and shall submit to the  
25 Committee on Government Reform of the House of



1 Representatives and the Committee on Govern-  
2 mental Affairs and Homeland Security of the Senate  
3 a report on the results of the review.

4 (d) DISCLOSURE OF INFORMATION.—

5 (1) ITEMS REQUIRED TO BE DISCLOSED.—With  
6 respect to each Federal scientific advisory committee  
7 established before, on, or after the date of the enact-  
8 ment of this Act, the agency to which the committee  
9 reports shall make available as described in para-  
10 graph (2) the following information, at a minimum:

11 (A) The charter of the committee.

12 (B) A description of the committee forma-  
13 tion process, including at least—

14 (i) the process for identifying prospec-  
15 tive members;

16 (ii) the process of selecting members  
17 for balance of viewpoints or expertise; and

18 (iii) a justification of the need for rep-  
19 resentative members, if any.

20 (C) A list of all current members, includ-  
21 ing, for each member, the following:

22 (i) The name of any person or entity  
23 that nominated the member.

1 (ii) Whether the member is designated  
 2 as a special Government employee or a  
 3 representative.

4 (iii) In the case of a representative,  
 5 the individuals or entity whose viewpoint  
 6 the member represents.

7 (D) A list of all special Government em-  
 8 ployees who have received conflict of interest  
 9 waivers under section 208(b) of title 18, United  
 10 States Code, under regulations issued by the  
 11 Office of Government Ethics, a summary de-  
 12 scription of the conflict necessitating the waiv-  
 13 er, and the reason for granting the waiver.

14 (E) A summary of the process used by the  
 15 committee for making decisions.

16 (F) Transcripts of all meetings of the com-  
 17 mittee.

18 (G) Notices of future meetings of the com-  
 19 mittee.

20 (2) METHODS OF DISCLOSURE.—

21 (A)(i) Except as provided in clause (ii), the  
 22 information required to be disclosed by an  
 23 agency under this subsection shall be available  
 24 electronically, including on the official public  
 25 Internet site of the agency, at least 7 calendar

1 days before each meeting of a Federal scientific  
2 advisory committee.

3 (ii) In the case of a transcript of a meeting  
4 of a Federal scientific advisory committee, the  
5 transcript shall be disclosed by an agency under  
6 this subsection not later than 7 calendar days  
7 after the meeting.

8 (B) The Administrator of General Services  
9 shall provide, on the official public Internet site  
10 of the General Services Administration, elec-  
11 tronic access to the information made available  
12 by each agency under subparagraph (A).

13 **SEC. 6. PEER REVIEW.**

14 (a) AGENCY-DIRECTED PEER REVIEW.—Each agen-  
15 cy shall determine a peer review process appropriate for  
16 the agency's functions and needs.

17 (b) INEFFECTIVENESS OF INFORMATION QUALITY  
18 BULLETIN FOR PEER REVIEW.—The Information Quality  
19 Bulletin for Peer Review, issued in final form by the Office  
20 of Management and Budget on December 16, 2004 (70  
21 Fed. Reg. 2664; January 14, 2005), shall not apply to  
22 any agency that has established its own peer review proc-  
23 ess. The Office of Management and Budget shall not take  
24 any action to discourage an agency from determining and

1 establishing a peer-review process appropriate for its  
2 needs.

3 **SEC. 7. STATE OF SCIENTIFIC INTEGRITY REPORT.**

4 By January 15 of each year, beginning with January  
5 15, 2006, the Director of the Office of Science and Tech-  
6 nology Policy shall provide to Congress a report address-  
7 ing—

8 (1) major controversies regarding scientific in-  
9 tegrity that arose during the year, and the current  
10 status of such controversies, including controversies  
11 brought to the attention of the Director by members  
12 of Congress;

13 (2) by agency and with respect to the period  
14 covered by the report—

15 (A) the number of instances in which the  
16 amendments made by sections 3(a), 3(b), and  
17 4(a), respectively, were violated; and

18 (B) a brief description of the violations to  
19 which the information under subparagraph (A)  
20 relates, excluding any information that identi-  
21 fies or makes possible the identification of any  
22 individual;

23 (3) Federal policy changes during the year re-  
24 lated to scientific integrity, including changes that  
25 affect the right to publish, the use of data, commu-

1        nications with the public, participation in profes-  
2        sional scientific activities, and Federal advisory com-  
3        mittee membership; and

4            (4) administration efforts specifically designed  
5        to further scientific integrity.

6   **SEC. 8. DEFINITIONS.**

7        In this Act:

8            (1) FEDERAL SCIENTIFIC ADVISORY COM-  
9        MITTEE.—The term “Federal scientific advisory  
10       committee” means any advisory committee estab-  
11       lished in whole or in part to provide expert scientific  
12       advice, or to provide policy advice based in whole or  
13       in part on an assessment of scientific information.

14           (2) ADVISORY COMMITTEE.—The term “advi-  
15       sory committee” has the meaning provided in section  
16       3(2) of the Federal Advisory Committee Act (5  
17       U.S.C. App.).

18           (3) AGENCY.—The term “agency” has the same  
19       meaning as in section 551(1) of title 5, United  
20       States Code.

21           (4) SCIENTIFIC.—The term “scientific” means  
22       relating to the natural, medical, or social sciences or  
23       engineering, encompassing, but not limited to, the  
24       fields considered related to science and engineering  
25       by the National Science Foundation.

1           (5) TAMPERING.—The term “tampering”  
2 means improperly altering or obstructing so as to  
3 substantially distort, or directing others to do so.

4           (6) CENSORSHIP.—The term “censorship”  
5 means improper prevention of the dissemination of  
6 valid and nonclassified scientific findings.

7           (7) SPECIAL GOVERNMENT EMPLOYEE.—The  
8 term “special Government employee” has the same  
9 meaning as in section 202(a) of title 18, United  
10 States Code.

11           (8) ADVISORY COMMITTEE MANAGEMENT OFFI-  
12 CER.—The term “Advisory Committee Management  
13 Officer” means the officer designated under section  
14 8(b) of the Federal Advisory Committee Act (5  
15 U.S.C. App.).

16           (9) DESIGNATED AGENCY ETHICS OFFICIAL.—  
17 The term “designated agency ethics official” has the  
18 same meaning as in section 109(3) of the Ethics in  
19 Government Act of 1978 (5 U.S.C. App.).

○