

109TH CONGRESS
2D SESSION

S. 2259

To establish an Office of Public Integrity in the Congress and a Congressional Ethics Enforcement Commission.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 8, 2006

Mr. OBAMA introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To establish an Office of Public Integrity in the Congress and a Congressional Ethics Enforcement Commission.

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 “Congressional Ethics
5 Enforcement Commission Act of 2006”.

6 **SEC. 2. OFFICE OF PUBLIC INTEGRITY.**

7 (a) IN GENERAL.—There is established in the legisla-
8 tive branch an independent office to be known as the “Of-
9 fice of Public Integrity” (referred to in this Act as the

1 “Office”) the authority of which shall be vested in the
2 Commission established in section 3.

3 (b) AUTHORITY.—The Commission shall have the fol-
4 lowing authority:

5 (1) Investigating lobbying disclosures filed with
6 the Senate and the House of Representatives.

7 (2) Investigating Senate members and staff who
8 violate restrictions on interactions with lobbyists, as
9 provided in section 4.

10 (3) Conducting research concerning govern-
11 mental ethics and implement any public educational
12 programs it considers necessary to give effect to this
13 Act.

14 (4) Reporting, not later than December 1 of
15 each year, to the Senate Select Committee on Ethics
16 and the House Committee on Standards of Official
17 Conduct on the Commission’s activities in the pre-
18 ceding fiscal year which report shall include a sum-
19 mary of Commission determinations and advisory
20 opinions. The report may contain recommendations
21 on matters within the Commission’s jurisdiction.

22 **SEC. 3. CONGRESSIONAL ETHICS ENFORCEMENT COMMIS-**
23 **SION.**

24 (a) MEMBERSHIP.—The Congressional Ethics En-
25 forcement Commission shall consist of 9 members—

1 (1) 2 of whom shall be appointed by the Major-
2 ity Leader of the Senate;

3 (2) 2 of whom shall be appointed by the Minor-
4 ity Leader of the Senate;

5 (3) 2 of whom shall be appointed by Speaker of
6 the House;

7 (4) 2 of whom shall be appointed by the Minor-
8 ity Leader of the House; and

9 (5) the last member shall be chosen by agree-
10 ment of at least 3 of the Speaker, the Senate Major-
11 ity Leader, the House Minority Leader, and the
12 Senate Minority Leader

13 All members of the Commission shall be United States
14 citizens. Of the 2 members each appointed by the Senate
15 Majority Leader and Minority Leader, the Speaker of the
16 House, and the Minority Leader for the House, 1 shall
17 be a former judge, and 1 shall be a former member of
18 Congress.

19 (b) PAY AND STAFF.—Commissioners shall receive a
20 \$100 per diem for each day of service for the Commission.
21 Each Commissioner shall have 1 enforcement counsel as
22 staff, housed in an Office of Public Integrity created by
23 this Act.

24 (c) TERMS OF SERVICE.—The members of the Com-
25 mission shall be appointed not later than 60 days after

1 the investment of this Act to serve a 2-year term. There-
2 after, each member shall serve 4-year terms.

3 (d) VACANCIES.—Vacancies in membership of the
4 Commission shall be filled by appointment by the original
5 appointing authority in the same manner as the original
6 appointments.

7 (e) LIMITS ON EMPLOYMENT.—While serving on the
8 Commission, a member shall not—

9 (1) serve as a fundraiser for a Senate or House
10 candidate;

11 (2) contribute to a candidate for Federal office;

12 (3) serve as an officer in a political party;

13 (4) participate in the management or conduct
14 of the political campaign of a candidate; or

15 (5) serve as a registered lobbyist.

16 (f) DISMISSAL.—A member of the Commission may
17 be removed only by unanimous agreement between the
18 Speaker of the House, the Minority Leader of the House,
19 the Majority Leader of the Senate, and the Minority Lead-
20 er of the Senate, and only for cause.

21 (g) CHAIR AND VICE CHAIR.—The chair and the vice
22 chair of the Commission shall be elected by a majority vote
23 of the members of the Commission. The chair and the vice
24 chair shall serve terms of 1 year and may be reelected.
25 The chair shall preside at meetings of the Commission.

1 The vice chair shall preside in the absence or disability
2 of the chair.

3 (h) MEETINGS.—The Commission shall meet not
4 later than 90 days after the date of enactment of this Act.
5 The time and place of the meeting shall be determined
6 by the chair. Thereafter, the Commission shall meet twice
7 a year or at such times deemed necessary at the call of
8 the chair or a majority of its members.

9 (i) QUORUM.—A quorum of the Commission shall
10 consist of 5 or more members.

11 (j) VOTE REQUIRED.—An affirmative vote of 5 or
12 more members shall be necessary for Commission action.

13 **SEC. 4. INVESTIGATIONS AND REPORTS.**

14 (a) COMPLAINTS.—

15 (1) SWORN COMPLAINT.—

16 (A) CITIZEN INITIATED.—The Commission
17 may only initiate an investigation as a result of
18 a sworn complaint filed by a citizen of the
19 United States.

20 (B) BAN ON FILING PRIOR TO ELEC-
21 TION.—The Commission may not accept
22 charges filed in the—

23 (i) 30 days prior to a primary election
24 for which the Member in question is a can-
25 didate; and

1 (ii) 60 days prior to a general election
2 for which the Member in question is a can-
3 didate.

4 (2) CONTENT.—The complaint shall be a nota-
5 rized written statement alleging a violation against
6 1 or more named persons and stating the essential
7 facts constituting the violation charged. The Com-
8 mission shall have no jurisdiction in absence of a
9 complaint. A member of the Commission may file a
10 complaint.

11 (3) SERVICE.—Not later than 10 days after the
12 filing of a complaint, the Commission shall cause a
13 copy of the complaint to be served upon the person
14 alleged to have committed the violation.

15 (4) ANSWER.—Not later than 20 days after
16 service of the complaint, the person alleged to have
17 committed the violation may file an answer with the
18 Commission. The filing of an answer is wholly per-
19 missive, and no inferences shall be drawn from the
20 failure to file an answer.

21 (b) INQUIRY.—

22 (1) IN GENERAL.—Not later than 10 days after
23 the Commission receives the answer under sub-
24 section (a)(4), or the time expires for the filing of
25 an answer, the Commission shall initiate a prelimi-

1 nary inquiry into any alleged violation of this code.
2 If a majority of the Commission staff determines
3 that the complaint fails to state a claim of an ethics
4 violation or is clearly spurious, the complaint shall
5 be dismissed.

6 (2) STATUS.—Not later than 30 days after the
7 commencement of the inquiry, the Commission staff
8 shall give notice of the status of the complaint and
9 a general statement of the applicable law to the per-
10 son alleged to have committed a violation.

11 (c) RIGHTS OF ALLEGED VIOLATOR.—The Commis-
12 sion shall afford a person who is the subject of a prelimi-
13 nary inquiry an opportunity to appear in response to the
14 allegations in the complaint. The person shall have the
15 right to be represented by counsel, to appear and be heard
16 under oath, and to offer evidence in response to the allega-
17 tions in the complaint.

18 (d) COMMISSION PROCEEDING.—All Commission pro-
19 ceedings, including the complaint and answer and other
20 records relating to a preliminary inquiry, shall be con-
21 fidential until a final determination is made by the Com-
22 mission, except—

23 (1) the Commission may, at any time, turn over
24 to the Attorney General of the United States evi-

1 dence which may be used in criminal proceedings;
2 and

3 (2) if the complainant or alleged violator pub-
4 licly discloses the existence of a preliminary inquiry,
5 the Commission may publicly confirm the existence
6 of the inquiry and, in its discretion, make public any
7 documents which were issued to either party.

8 (e) DISPOSITION.—If the Commission—

9 (1) determines by the answer or in the prelimi-
10 nary inquiry that the complaint does not allege facts
11 sufficient to constitute a violation of the rules of the
12 Senate or the House of Representatives or the Lob-
13 bying Disclosure Act of 1995, the Commission—

14 (A) shall immediately terminate the matter
15 and notify in writing the complainant and the
16 person alleged to have committed a violation;

17 (B) may confidentially inform the alleged
18 violator of potential violations and provide in-
19 formation to ensure future compliance with the
20 law; and

21 (C) if the alleged violator publicly discloses
22 the existence of such action by the Commission,
23 may confirm the existence of the action and, in
24 its discretion, make public any documents that
25 were issued to the alleged violator; and

1 (2) during the course of the preliminary in-
2 quiry, finds probable cause to believe that an ethics
3 violation has occurred, the Commission—

4 (A) shall notify the alleged violator of the
5 finding; and

6 (B) may, upon majority vote, either—

7 (i) due to mitigating circumstances
8 such as lack of significant economic advan-
9 tage or gain by the alleged violator, lack of
10 significant economic loss to the state, or
11 lack of significant impact on public con-
12 fidence in government—

13 (I) confidentially reprimand, in
14 writing, the alleged violator for poten-
15 tial violations of the law and provide
16 a copy of the reprimand to the pre-
17 siding officer of the House in which
18 the alleged violator serves, or the al-
19 leged violator's employer, if the al-
20 leged violator is a legislative agent; or

21 (II) if the alleged violator pub-
22 licly discloses the existence of such an
23 action, confirm the existence of the
24 action and, in its discretion, make

1 public any documents which were
2 issued to the alleged violator; or
3 (ii) initiate an adjudicatory proceeding
4 to determine whether to present a case to
5 the Select Committee on Ethics of the Sen-
6 ate or the Committee on Standards of Offi-
7 cial Conduct of the House of Representa-
8 tives as to whether there has been a viola-
9 tion.

10 (f) CONDUCTING INVESTIGATION.—As a part of an
11 investigation, the Commission may—

- 12 (1) administer oaths;
13 (2) issue subpoenas;
14 (3) compel the attendance of witnesses and the
15 production of papers, books, accounts, documents,
16 and testimony;
17 (4) take the deposition of witnesses; and
18 (5) conduct general audits of filings under the
19 Lobbying Disclosure Act of 1995.

20 (g) CONTEMPT.—If a person disobeys or refuses to
21 comply with a subpoena, or if a witness refuses to testify
22 to a matter regarding which he may be held in contempt
23 of Congress.

24 (h) FEES FOR WITNESSES.—Each witness subpoe-
25 naed under this section shall receive for his attendance

1 the fees and mileage provided for witnesses in the District
2 of Columbia Circuit Court, which shall be audited and
3 paid upon the presentation of proper vouchers sworn to
4 by the witness.

5 (i) ETHICS COMMITTEES.—

6 (1) PRELIMINARY INVESTIGATION.—The inves-
7 tigation of the Commission under this section shall
8 be in lieu of the preliminary ethics investigation re-
9 quired for the Select Committee on Ethics of the
10 Senate or the Committee on Standards of Official
11 Conduct of the House of Representatives. Those
12 committees shall not conduct preliminary investiga-
13 tions upon the establishment of the Commission.

14 (2) REFERRAL.—Upon a majority vote of the
15 Commission at the conclusion of the adjudicatory
16 proceeding, the Commission may present a case with
17 evidence to the Select Committee on Ethics of the
18 Senate or the Committee on Standards of Official
19 Conduct of the House of Representatives, as appro-
20 priate. The Select Committee on Ethics of the Sen-
21 ate and the Committee on Standards of Official
22 Conduct of the House of Representatives shall retain
23 the authority to impose sanctions.

24 (j) CIVIL OFFENSE.—Upon a majority vote of the
25 Commission, the Office of Public Integrity could refer po-

1 tential legal violations to the Justice Department for Civil
2 Enforcement.

3 (k) PUBLIC REPORT.—Unless otherwise provided in
4 this Act, the Commission shall make each report and
5 statement filed under this Act available for public inspec-
6 tion and copying during regular office hours at the ex-
7 pense of any person requesting copies of them and at a
8 charge not to exceed actual cost, not including the cost
9 of staff required.

10 **SEC. 5. PROTECTION FROM FRIVOLOUS CHARGES.**

11 (a) IN GENERAL.—Any person who—

12 (1) knowingly files with the Commission a false
13 complaint of misconduct on the part of any legislator
14 or other person shall be subject to a \$10,000 fine or
15 the cost of the preliminary review, whichever is
16 greater, and up to 1 year in prison; and

17 (2) encourages another person to file a false
18 complaint of misconduct on the part of any legislator
19 or other person shall be shall subject to a \$10,000
20 fine or the cost of the preliminary review, whichever
21 is greater, and up to 1 year in jail.

22 (b) SUBSEQUENT COMPLAINTS.—Any person subject
23 to either of the penalties in subsection (a) may not file
24 a complaint with the Commission again.

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