

110TH CONGRESS
1ST SESSION

H. R. 2822

To establish an Independent Ethics Commission within the House of Representatives composed of former Federal judges.

IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2007

Mr. SESTAK introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish an Independent Ethics Commission within the House of Representatives composed of former Federal judges.

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 “Independent Ethics
5 Commission Act of 2007”.

6 **SEC. 2. ESTABLISHMENT OF INDEPENDENT ETHICS COM-**
7 **MISSION.**

8 (a) ESTABLISHMENT.—There is established an inde-
9 pendent ethics commission within the House of Represent-

1 atives to be known as the Independent Ethics Committee
2 (in this Act referred to as the “Commission”).

3 (b) MEMBERSHIP AND TERMS OF OFFICE.—(1) The
4 Commission shall consist of 9 commissioners, 4 appointed
5 by the Speaker and 4 by the minority leader of the House,
6 and one selected by the affirmative vote of two-thirds of
7 the 8 appointed commissioners for a term of 5 years. No
8 commissioner may serve for more than 5 years.

9 (2) Commissioners shall be appointed for terms of 5
10 years, except that of the commissioners first appointed,
11 2 appointed by the Speaker and 2 by the minority leader
12 shall be for 3-year terms and 2 appointed by the Speaker
13 and 2 by the minority leader shall be for 4-year terms
14 as designated by the Speaker and the minority leader at
15 the time of appointment.

16 (c) QUALIFICATIONS.—Only former Federal judges
17 shall be eligible for appointment to the Commission.

18 (1) DISQUALIFICATIONS FOR APPOINTMENTS.—

19 (A) LOBBYING.—No individual who has
20 been a lobbyist registered under the Lobbying
21 Disclosure Act of 1995 or engages in, or is oth-
22 erwise employed in, lobbying of the Congress or
23 who is an agent of a foreign principal registered
24 under the Foreign Agents Registration Act
25 within the 4-year period immediately preceding

1 appointment shall be eligible for appointment
2 to, or service on, the Commission.

3 (B) INCOMPATIBLE OFFICE.—No member
4 of the Commission appointed under subsection
5 (b) may be a Member of the House of Rep-
6 resentatives or Senator.

7 (2) VACANCIES.—A vacancy on the Commission
8 shall be filled in the manner in which the original
9 appointment was made.

10 (d) COMPENSATION.—Members shall each be entitled
11 to receive the daily equivalent of the maximum annual rate
12 of basic pay in effect for Level III of the Executive Sched-
13 ule for each day (including travel time) during which they
14 are engaged in the actual performance of duties vested in
15 the Commission.

16 (e) QUORUM.—A majority of the members of the
17 Commission shall constitute a quorum.

18 (f) MEETINGS.—The Commission shall meet at the
19 call a majority of its members.

20 **SEC. 3. DUTIES OF COMMISSION.**

21 (a) DUTIES.—The Commission is authorized—

22 (1) to receive, monitor, and oversee financial
23 disclosure and other reports filed by Members of the
24 House and officers and employees of the House
25 under the Ethics in Government Act of 1978, and

1 reports filed by registered lobbyists under the Lob-
2 bying Disclosure Act of 1995;

3 (2) in accordance with the procedures set forth
4 under subsection (b), to investigate any alleged vio-
5 lation, by a Member, officer, or employee of the
6 House of Representatives, of any rule or other
7 standard of conduct applicable to the conduct of
8 such Member, officer, or employee under House
9 rules in the performance of his duties or the dis-
10 charge of his responsibilities;

11 (3) to present a case of probable ethics viola-
12 tions to the Committee on Standards of Official
13 Conduct of the House of Representatives;

14 (4) to make recommendations to the Committee
15 on Standards of Official Conduct of the House of
16 Representatives that it report to the appropriate
17 Federal or State authorities any substantial evidence
18 of a violation by a Member, officer, or employee of
19 the House of Representatives of any law applicable
20 to the performance of his duties or the discharge of
21 his responsibilities, which may have been disclosed in
22 an investigation by the Office;

23 (5) to provide information and informal guid-
24 ance to Members, officers and employees of the
25 House of Representatives regarding any rules and

1 other standards of conduct applicable to such indi-
2 viduals in their official capacities, and develop and
3 carry out periodic educational briefings for Mem-
4 bers, officers, and employees of the House of Rep-
5 resentatives on those laws, rules, regulations, or
6 other standards; and

7 (6) to give consideration to the request of any
8 Member, officer, or employee of the House of Rep-
9 resentatives for a formal advisory opinion or other
10 formal ruling, subject to the review of the Com-
11 mittee on Standards of Official Conduct of the
12 House of Representatives, as applicable, with respect
13 to the general propriety of any current or proposed
14 conduct of such Member, officer, or employee and,
15 with appropriate deletions to assure the privacy of
16 the individual concerned, to publish such opinion for
17 the guidance of other Members, officers, and em-
18 ployees of the House of Representatives.

19 (b) PROCEDURES FOR INITIATION OF INVESTIGA-
20 TIONS AND OTHER MATTERS.—

21 (1) IN GENERAL.—An investigation may be ini-
22 tiated by the filing of a complaint with the Commis-
23 sion by a Member of the House of Representatives
24 or an outside complainant, or by the Commission on
25 its own initiative, based on any information in its

1 possession. The Commission shall not accept a com-
2 plaint concerning a Member within 90 days of an
3 election involving such Member.

4 (2) DEADLINE FOR DETERMINATION OF AC-
5 TION.—

6 (A) IN GENERAL.—Not later than 45 days
7 after receiving a complaint, the Commission
8 shall make an initial determination as to wheth-
9 er the complaint should be dismissed or whether
10 there are sufficient grounds to conduct an in-
11 vestigation in response to the complaint.

12 (B) EXTENSION UPON MAJORITY AP-
13 PROVAL.—The Commission may, by vote of the
14 majority of its members, extend the deadline es-
15 tablished under subparagraph (A) to such dead-
16 line as it considers appropriate.

17 (C) TREATMENT OF FRIVOLOUS COM-
18 PLAINTS.—In any instance in which the Com-
19 mission decides to dismiss a complaint, the
20 Commission may issue a determination that the
21 complaint is frivolous. If the Commission issues
22 such a determination, the Commission may not
23 accept any future complaint filed by that same
24 person and the complainant shall be required to
25 pay for the costs of the Commission resulting

1 from such complaint. The Commission may
2 refer the matter to the Attorney General to col-
3 lect such costs.

4 (D) SPECIAL RULE FOR INVESTIGATIONS
5 CONDUCTED ON COMMISSION'S OWN INITIA-
6 TIVE.—For any investigation conducted by the
7 Commission at its own initiative, the Commis-
8 sion shall make a preliminary determination of
9 whether there are sufficient grounds to conduct
10 an investigation. Before making that determina-
11 tion, the subject of the investigation shall be
12 provided by the Commission with an oppor-
13 tunity to submit information to the Commission
14 to show that there are not sufficient grounds to
15 conduct an investigation.

16 **SEC. 4. POWERS OF COMMISSION.**

17 (a) HEARINGS AND EVIDENCE.—The Commission
18 may for the purpose of carrying out this Act—

19 (1) hold such hearings and sit and act at such
20 times and places, take such testimony, receive such
21 evidence, administer such oaths; and

22 (2) subject to subsection (b), require, by sub-
23 poena or otherwise, the attendance and testimony of
24 such witnesses and the production of such books,
25 records, correspondence, memoranda, papers, and

1 documents, as the Commission may determine advis-
2 able.

3 (b) SUBPOENAS.—A subpoena may be issued only
4 with a majority of the Commission.

5 (c) OBTAINING INFORMATION.—Upon request of the
6 Commission, the head of any agency or instrumentality
7 of the Government shall furnish information deemed nec-
8 essary by the Commission to enable it to carry out its du-
9 ties.

10 (d) REFERRALS TO THE DEPARTMENT OF JUS-
11 TICE.—Whenever the Commission has reason to believe
12 that a violation of the Lobbying Disclosure Act of 1995
13 may have occurred, that matter may be referred to the
14 Department of Justice for it to investigate.

15 (e) GENERAL AUDITS.—The Commission shall have
16 the authority to conduct general audits of filings under
17 the Lobbying Disclosure Act of 1995.

18 **SEC. 5. INVESTIGATIONS AND INTERACTION WITH THE**
19 **HOUSE COMMITTEE ON STANDARDS OF OFFI-**
20 **CIAL CONDUCT.**

21 (a) NOTIFICATION.—Whenever the Commission de-
22 termines that there are sufficient grounds to conduct an
23 investigation—

1 (1) the Commission shall notify the Committee
2 on Standards of Official Conduct of this determina-
3 tion;

4 (2) the applicable committee may overrule the
5 determination of the Commission if, within 10 legis-
6 lative days—

7 (A) the committee by an affirmative, roll-
8 call vote of two-thirds of the full committee
9 votes to overrule the determination of the Com-
10 mission;

11 (B) the committee issues a public report
12 detailing its reasoning for overruling the Com-
13 mission;

14 (C) the vote of each member of the com-
15 mittee on such roll-call vote is included in the
16 report;

17 (D) dissenting members are allowed to
18 issue their own report detailing their reasons
19 for disagreeing with the majority vote; and

20 (E) if the committee votes to overrule the
21 determination of the Commission pursuant to
22 subparagraph (B), the Commission may publish
23 and make available to the general public a re-
24 port detailing the reasons that the Commission

1 concluded there were sufficient grounds to con-
2 duct an investigation.

3 (b) CONDUCTING INVESTIGATIONS.—(1) If the Com-
4 mission determines that there are sufficient grounds to
5 conduct an investigation and his determination is not over-
6 ruled under subsection (a)(5), the Commission shall con-
7 duct an investigation to determine if probable cause exists
8 that a violation occurred.

9 (2) As part of an investigation, the Commission
10 may—

11 (A) administer oaths;

12 (B) issue subpoenas;

13 (C) compel the attendance of witnesses and the
14 production of papers, books, accounts, documents,
15 and testimony; and

16 (D) take the deposition of witnesses.

17 (3) If a person disobeys or refuses to comply
18 with a subpoena, or if a witness refuses to testify to
19 a matter, he may be held in contempt of Congress.

20 (c) PRESENTATION OF CASE TO HOUSE COMMITTEE
21 ON STANDARDS OF OFFICIAL CONDUCT.—(1) If the Com-
22 mission determines, upon conclusion of an investigation,
23 that probable cause exists that an ethics violation has oc-
24 curred, the Commission shall notify the Committee on

1 Standards of Official Conduct of the House of Representa-
2 tives of this determination.

3 (2) The committee may overrule the determination of
4 the Commission if, within 10 legislative days—

5 (A) the committee by an affirmative, roll-call
6 vote of two-thirds of the full committee votes to
7 overrule the determination of the Commission;

8 (B) the committee issues a public report detail-
9 ing its reasoning for overruling the Commission;

10 (C) the vote of each member of the committee
11 on such roll-call vote is included in the report; and

12 (D) dissenting members are allowed to issue
13 their own report detailing their reasons for dis-
14 agreeing with the majority vote.

15 (3) If the committee votes to overrule the determina-
16 tion of the Commission pursuant to paragraph (2), the
17 Commission may publish and make available to the gen-
18 eral public a report detailing the reasons that he concluded
19 there were sufficient grounds to present such case to the
20 committee.

21 (4)(A) If the Commission determines there is prob-
22 able cause that an ethics violation has occurred and the
23 Commission's determination is not overruled, the Commis-
24 sion shall present the case and evidence to the Committee
25 on Standards of Official Conduct of the House of Rep-

1 representatives to hear and make a determination pursuant
2 to its rules.

3 (B) The committee shall vote upon whether the indi-
4 vidual who is the subject of the investigation has violated
5 any rules or other standards of conduct applicable to that
6 individual in his official capacity. Such votes shall be a
7 roll-call vote of the full committee, a quorum being
8 present. The committee shall issue a public report which
9 shall include the vote of each member of the committee
10 on such roll-call vote. Dissenting members may issue their
11 own report detailing their own reasons for disagreeing
12 with the majority vote.

13 (d) SANCTIONS.—Whenever the Committee on Stand-
14 ards of Official Conduct of the House of Representatives
15 finds that an ethics violation has occurred the Commission
16 shall recommend appropriate sanctions to the committee
17 and whether a matter should be referred to the Depart-
18 ment of Justice for investigation.

19 **SEC. 6. PROCEDURAL RULES.**

20 (a) MAJORITY APPROVAL.—No report or rec-
21 ommendation relating to the official conduct of a Member,
22 officer, or employee of the House of Representatives shall
23 be made by the Commission, and no investigation of such
24 conduct shall be undertaken by the Commission, unless

1 approved by the affirmative vote of a majority of the mem-
2 bers of the Commission.

3 (b) INVESTIGATIONS.—Except in the case of an in-
4 vestigation undertaken by the Commission on its own ini-
5 tiative, the Commission may undertake an investigation
6 relating to the official conduct of an individual Member,
7 officer, or employee of the House of Representatives
8 only—

9 (1) upon receipt of a complaint, in writing and
10 under oath, made by or submitted to a Member of
11 the House of Representatives and transmitted to the
12 Commission by such Member, or

13 (2) upon receipt of a complaint from the chair-
14 man of the Committee on Standards of Official Con-
15 duct of the House of Representatives, in writing and
16 under oath, made by that committee.

17 (c) PROHIBITION OF CERTAIN INVESTIGATIONS.—No
18 investigation shall be undertaken by the Commission of
19 any alleged violation of a law, rule, regulation, or standard
20 of conduct not in effect at the time of the alleged violation.

21 (d) DISCLOSURE.—No information or testimony re-
22 ceived, or the contents of a complaint or the fact of its
23 filing, shall be publicly disclosed by any member of the
24 Commission or staff of the Commission unless specifically
25 authorized in each instance by a vote of the Commission.

1 **SEC. 7. STAFF OF COMMISSION.**

2 The Commission may appoint and fix the compensa-
3 tion of such staff as the Commission considers necessary
4 to perform its duties. The Commission shall be appointed
5 jointly by the Speaker and minority leader and shall be
6 paid at a rate not to exceed the rate of basic pay payable
7 for Level III of the Executive Schedule.

8 **SEC. 8. AMENDMENTS TO THE RULES OF THE HOUSE TO**
9 **CHANGE THE DUTIES OF THE COMMITTEE ON**
10 **STANDARDS OF OFFICIAL CONDUCT.**

11 (a) HOUSE RULES AMENDMENTS.—Clause 3 of rule
12 XI of the Rules of the House of Representatives is amend-
13 ed as follows:

14 (1) In paragraph (a), strike subparagraphs (1),
15 (2), and (3), and redesignate subparagraphs (4),
16 (5), and (6), as subparagraphs (1), (2), and (3), re-
17 spectively.

18 (2)(A) Paragraph (b)(1) is amended by striking
19 “(A)”, by striking “a resolution, report, rec-
20 ommendation, or” and inserting “an”, and by strik-
21 ing “, or, except as provided in subparagraph (2),
22 undertake an investigation”, and by striking subdivi-
23 sion (B).

24 (B) Paragraph (b) is further amended by strik-
25 ing subparagraphs (2), (3), (4), and (5) and by re-

1 designating subparagraphs (6) and (7) as subpara-
2 graphs (2) and (3), respectively.

3 (3) Strike paragraphs (j) (k), (l), (m), (n), (o),
4 (p), and (q).

5 (b) CONFORMING AMENDMENTS.—Section 803 of the
6 Ethics Reform Act of 1989 (2 U.S.C. 29d) is amended
7 by striking subsections (c) and (d).

8 **SEC. 9. ACTION ON COMMISSION RECOMMENDATIONS.**

9 (a) PRINTING OF REPORTS IN CONGRESSIONAL
10 RECORD.—Upon receipt by the Committee on Standards
11 of Official Conduct of the House of Representatives of any
12 report of the Commission, the Speaker of the House of
13 Representatives shall have the report printed in the Con-
14 gressional Record.

15 (b) HOUSE CONSIDERATION OF INDEPENDENT ETH-
16 ICS COMMISSION RECOMMENDATIONS.—Within 14 cal-
17 endar days after a report referred to in subsection (a) is
18 printed in the Congressional Record, that portion of the
19 report recommending action by the House of Representa-
20 tives respecting any alleged violation, by a Member, offi-
21 cer, or employee of the House of Representatives, of any
22 law, rule, regulation, or other standard of conduct applica-
23 ble to the conduct of such Member, officer, or employee
24 in the performance of his duties or the discharge of his
25 responsibilities shall be introduced (by request) in the

1 House by the Speaker of the House, for himself and the
2 minority leader of the House in the form of a resolution.
3 This resolution shall constitute a question of privilege
4 under rule IX of the Rules of the House of Representa-
5 tives. Any Member favoring the resolution may call it up
6 as a question of privilege but only on the third day after
7 the calendar date upon which such Member announces to
8 the House his intention to do so.

9 **SEC. 10. EFFECTIVE DATE.**

10 This Act shall take effect upon the date of its enact-
11 ment, except that sections 3, 4, and 8 shall take effect
12 immediately prior to noon January 3, 2009.

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