

percentage and the percentage that such qualified employee's wages in excess of \$25,000 bears to \$5,000.

“(e) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED SMALL EMPLOYER.—The term ‘qualified small employer’ means any employer (as defined in section 2(b)(2) of the Small Employers Health Benefits Program Act of 2006) which—

“(A) is a participating employer (as defined in section 2(b)(5) of such Act),

“(B) pays or incurs at least 60 percent of the qualified employee health insurance expenses of each qualified employee for self-only coverage, and

“(C) pays or incurs at least 50 percent of the qualified employee health insurance expenses of each qualified employee for all other categories of coverage.

“(2) QUALIFIED EMPLOYEE HEALTH INSURANCE EXPENSES.—

“(A) IN GENERAL.—The term ‘qualified employee health insurance expenses’ means any amount paid by an employer for health insurance coverage under such Act to the extent such amount is attributable to coverage provided to any employee while such employee is a qualified employee.

“(B) EXCEPTION FOR AMOUNTS PAID UNDER SALARY REDUCTION ARRANGEMENTS.—No amount paid or incurred for health insurance coverage pursuant to a salary reduction arrangement shall be taken into account under subparagraph (A).

“(3) QUALIFIED EMPLOYEE.—

“(A) DEFINITION.—

“(i) IN GENERAL.—The term ‘qualified employee’ means, with respect to any period, an employee (as defined in section 2(b)(1) of such Act) of an employer if the total amount of wages paid or incurred by such employer to such employee at an annual rate during the taxable year exceeds \$5,000 but does not exceed \$30,000.

“(ii) ANNUAL ADJUSTMENT.—For each taxable year after 2007, the dollar amounts specified for the preceding taxable year (after the application of this subparagraph) shall be increased by the same percentage as the average percentage increase in premiums under the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code for the calendar year in which such taxable year begins over the preceding calendar year.

“(B) WAGES.—The term ‘wages’ has the meaning given such term by section 3121(a) (determined without regard to any dollar limitation contained in such section).

“(f) CERTAIN RULES MADE APPLICABLE.—For purposes of this section, rules similar to the rules of section 52 shall apply.

“(g) CREDITS FOR NONPROFIT ORGANIZATIONS.—Any credit which would be allowable under subsection (a) with respect to a qualified small business if such qualified small business were not exempt from tax under this chapter shall be treated as a credit allowable under this subpart to such qualified small business.”

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period “, or from section 36 of such Code”.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

“Sec. 36. Small business employee health insurance expenses

“Sec. 37. Overpayments of tax”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2006.

#### SEC. 16. EFFECTIVE DATE.

Except as provided in section 10(e), this Act shall take effect on the date of enactment of this Act and shall apply to contracts that take effect with respect to calendar year 2007 and each calendar year thereafter.

### AMENDMENTS SUBMITTED AND PROPOSED

SA 2910. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 2899 proposed by Mr. KYL (for himself and Mr. ENSIGN) to the bill S. 2320, to make available funds included in the Deficit Reduction Act of 2005 for the Low-Income Home Energy Assistance Program for fiscal year 2006, and for other purposes; which was ordered to lie on the table.

SA 2911. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 2899 proposed by Mr. KYL (for himself and Mr. ENSIGN) to the bill S. 2320, supra; which was ordered to lie on the table.

SA 2912. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 2899 proposed by Mr. KYL (for himself and Mr. ENSIGN) to the bill S. 2320, supra; which was ordered to lie on the table.

SA 2913. Ms. SNOWE (for herself and Mr. SMITH) submitted an amendment intended to be proposed to amendment SA 2899 proposed by Mr. KYL (for himself and Mr. ENSIGN) to the bill S. 2320, supra.

SA 2914. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2899 proposed by Mr. KYL (for himself and Mr. ENSIGN) to the bill S. 2320, supra; which was ordered to lie on the table.

SA 2915. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2899 proposed by Mr. KYL (for himself and Mr. ENSIGN) to the bill S. 2320, supra; which was ordered to lie on the table.

SA 2916. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2899 proposed by Mr. KYL (for himself and Mr. ENSIGN) to the bill S. 2320, supra; which was ordered to lie on the table.

SA 2917. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2899 proposed by Mr. KYL (for himself and Mr. ENSIGN) to the bill S. 2320, supra; which was ordered to lie on the table.

SA 2918. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2906 submitted by Ms. SNOWE and intended to be proposed to the bill S. 2320, supra; which was ordered to lie on the table.

SA 2919. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2905 submitted by Ms. SNOWE and intended to be proposed to the bill S. 2320, supra; which was ordered to lie on the table.

SA 2920. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2905 submitted by Ms. SNOWE and intended to be proposed to the bill S. 2320, supra; which was ordered to lie on the table.

SA 2921. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2906 submitted by Ms. SNOWE and intended to be proposed to the bill S. 2320, supra; which was ordered to lie on the table.

SA 2922. Ms. SNOWE submitted an amendment intended to be proposed to amendment SA 2905 submitted by Ms. SNOWE and intended to be proposed to the bill S. 2320, supra; which was ordered to lie on the table.

SA 2923. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2899 proposed by Mr. KYL (for himself and Mr. ENSIGN) to the bill S. 2320, supra; which was ordered to lie on the table.

SA 2924. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2349, to provide greater transparency

in the legislative process; which was ordered to lie on the table.

SA 2925. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 2349, supra; which was ordered to lie on the table.

SA 2926. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 2349, supra; which was ordered to lie on the table.

SA 2927. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2349, supra; which was ordered to lie on the table.

SA 2928. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2349, supra; which was ordered to lie on the table.

SA 2929. Mr. OBAMA (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 2349, supra; which was ordered to lie on the table.

SA 2930. Mr. OBAMA (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 2349, supra; which was ordered to lie on the table.

SA 2931. Mr. OBAMA (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 2349, supra; which was ordered to lie on the table.

SA 2932. Mr. REID proposed an amendment to the bill S. 2349, supra.

### TEXT OF AMENDMENTS

SA 2910. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 2899 proposed by Mr. KYL (for himself and Mr. ENSIGN) to bill S. 2320, to make available funds included in the Deficit Reduction Act of 2005 for the Low-Income Home Energy Assistance Program for fiscal year 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1, strike line 7 and all that follows through page 2, line 5, and insert the following:

(A) by striking “for a 1-time only obligation and expenditure”;

(B) in paragraph (1), by striking “\$250,000,000 for fiscal year 2007” and inserting “\$500,000,000 for fiscal year 2006”; and

(C) in paragraph (2), by striking “\$750,000,000 for fiscal year 2007” and inserting “\$500,000,000 for fiscal year 2006”;

SA 2911. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 2899 proposed by Mr. KYL (for himself and Mr. ENSIGN) to bill S. 2320, to make available funds included in the Deficit Reduction Act of 2005 for the Low-Income Home Energy Assistance Program for fiscal year 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 1, strike line 7 and all that follows through page 2, line 5, and insert the following:

(A) by striking “for a 1-time only obligation and expenditure”;

(B) in paragraph (1), by striking “\$250,000,000 for fiscal year 2007” and inserting “\$500,000,000 for fiscal year 2006”; and

(C) in paragraph (2), by striking “\$750,000,000 for fiscal year 2007” and inserting “\$500,000,000 for fiscal year 2006”;

SA 2912. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 2899 proposed by Mr. KYL (for himself and Mr. ENSIGN) to the bill S. 2320, to make available funds included in the Deficit Reduction Act of



bill S. 2320, to make available funds included in the Deficit Reduction Act of 2005 for the Low-Income Home Energy Assistance Program for fiscal year 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike lines 5 through 17, and insert the following:

(C) by striking paragraph (2); and  
(2) in subsection (b), by striking “September 30, 2007” and inserting “September 30, 2006”.

**SA 2924.** Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2349, to provide greater transparency in the legislative process; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ HONEST SERVICES ACT OF 2006.**

(a) **SHORT TITLE.**—This section may be cited as the “Honest Services Act of 2006”.

(b) **HONEST SERVICES FRAUD INVOLVING MEMBERS OF CONGRESS.**—

(1) **IN GENERAL.**—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

**“§ 1351. Honest services fraud involving members of Congress**

“(a) **IN GENERAL.**—Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice to defraud and deprive the United States, the Congress, or the constituents of a Member of Congress, of the right to the honest services of a Member of Congress by—

“(1) offering and providing to a Member of Congress, or an employee of a Member of Congress, anything of value, with the intent to influence the performance of an official act; or

“(2) being a Member of Congress, or an employee of a Member of Congress, accepting anything of value or holding an undisclosed financial interest, with the intent to be influenced in performing an official act; shall be fined under this title or imprisoned not more than 20 years, or both.

“(b) **DEFINITIONS.**—In this section:

“(1) **HONEST SERVICES.**—The term ‘honest services’ includes the right to conscientious, loyal, faithful, disinterested, and unbiased service, to be performed free of deceit, undue influence, conflict of interest, self-enrichment, self-dealing, concealment, bribery, fraud, and corruption.

“(2) **OFFICIAL ACT.**—The term ‘official act’—

“(A) has the meaning given that term in section 201(a)(3) of this title; and

“(B) includes supporting and passing legislation, placing a statement in the Congressional Record, participating in a meeting, conducting hearings, or advancing or advocating for an application to obtain a contract with the United States Government.

“(3) **UNDISCLOSED FINANCIAL INTEREST.**—The term ‘undisclosed financial interest’ includes any financial interest not disclosed as required by statute or by the Standing Rules of the Senate.

“(c) **NO INFERENCE AND SCOPE.**—Nothing in this section shall be construed to—

“(1) create any inference with respect to whether the conduct described in section 1351 of this title was already a criminal or civil offense prior to the enactment of this section; or

“(2) limit the scope of any existing criminal or civil offense.”.

(2) **CHAPTER ANALYSIS.**—The chapter analysis for chapter 63 of title 18, United States Code is amended by adding at the end, the following:

“1351. Honest services fraud involving Members of Congress.”.

(c) **AUTHORIZATION FOR ADDITIONAL PERSONNEL TO INVESTIGATE AND PROSECUTE HONEST SERVICES FRAUD, BRIBERY, GRAFT, AND CONFLICTS OF INTEREST OFFENSES.**—There are authorized to be appropriated to the Department of Justice, including the Public Integrity Section of the Criminal Division, and the Federal Bureau of Investigations, \$25,000,000 for each of the fiscal years 2007, 2008, 2009, and 2010, to increase the number of personnel to investigate and prosecute violations of section 1351 and sections 201, 203 through 209, 1001, 1341, 1343, and 1346 of title 18, United States Code, as amended by this section.

**SA 2925.** Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 2349, to provide greater transparency in the legislative process; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ SPOUSE LOBBYING MEMBERS.**

(a) **IN GENERAL.**—Section 207(e) of title 18, United States Code, is amended by adding at the end the following:

“(5) **SPOUSES.**—Any person who is the spouse of a Member of Congress and who was not serving as a registered lobbyist at least 1 year prior to the election of that Member of Congress to Federal office or at least 1 year prior to his or her marriage to that Member of Congress and who, after the election of such Member, knowingly lobbies on behalf of a client for compensation any Member of Congress or is associated with any such lobbying activity by an employer of that spouse shall be punished as provided in section 216 of this title.”.

(b) **GRANDFATHER PROVISION.**—The amendment made by subsection (a) shall not apply to any spouse of a Member of Congress serving as a registered lobbyist on the date of enactment of this Act.

**SA 2926.** Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 2349, to provide greater transparency in the legislative process; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ RESTORATION TO JUDICIARY OF POWER TO DECIDE TRADEMARK AND TRADE NAME CASES.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) Section 1 of Article III of the Constitution of the United States of America vests “judicial Power” exclusively in the courts. Section 2 of Article III states that this “judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties...”. In interpreting Article III of the Constitution, the Supreme Court in *Muskrat v. United States* defined the term “judicial power” to mean “the right to determine actual controversies arising between adverse litigants, duly instituted in courts of proper jurisdiction”.

(2) In 1996, a holder of a trademark registration issued by the Patent and Trademark Office asserted trademark infringement and other claims in a United States district court against an alleged infringer. The plaintiff’s claims for relief were based upon laws and treaties of the United States, including the Trademark Act of 1946 (15 U.S.C. 1051 et seq.) and the Inter-American

Convention for Trademark and Commercial Protection.

(3) In October 1998, just prior to commencement of the trial, the alleged infringer procured an amendment to the Department of Commerce and Related Agencies Appropriations Act, 1999 (as contained in section 101(b) of division A of Public Law 105-277; 112 Stat. 2681-88). That amendment is commonly referred to as “section 211” and has been of singular benefit to that defendant in the courts.

(4) Subsections (a)(2) and (b) of section 211 provide that “No United States court shall recognize, enforce, or otherwise validate any assertion of rights” of certain trademarks or commercial names of the type at issue in the litigation referred to in paragraph (2). Subsection (a)(1) of section 211 also rescinds the general authority permitting payment of the fees necessary for registration and renewal of such trademarks with the United States Patent and Trademark Office.

(5) The intended and actual effect of section 211 is to strip United States courts of the authority to decide the ownership and enforceability of such trademarks and trade names, including those at issue in the litigation described in paragraph (2). As a result of section 211, the plaintiff in the litigation was prevented from asserting the plaintiff’s infringement claim. By preventing the payment of fees for trademark registration and renewal in the Patent and Trademark Office, section 211 also denies parties the ability to preserve claims of ownership in such trademarks pending judicial determination of enforcement rights.

(6) Section 211 is not needed for the courts to reach equitable results with respect to the United States trademark and trade name rights of foreign nationals who have suffered from confiscation of their businesses at home. It has been the longstanding practice of the Federal courts to do equity in adjudicating disputes involving such rights.

(7) Repeal of section 211 is necessary and desirable to restore to the courts the power to determine the ownership and enforceability of all trademarks and trade names and to preserve trademark registrations pending such determinations.

(b) **PURPOSE.**—The purpose of this section is to restore to the judiciary the power to decide all trademark and trade name cases arising under the laws and treaties of the United States, and for other purposes.

(c) **RESTORATION OF JUDICIAL POWERS.**—

(1) **IN GENERAL.**—Section 211 of the Department of Commerce and Related Agencies Appropriations Act, 1999 (as contained in section 101(b) of division A of Public Law 105-277; 112 Stat. 2681-88) is repealed.

(2) **REGULATIONS.**—Not later than 30 days after the date of enactment of this Act, the Secretary of the Treasury shall issue such regulations as are necessary to carry out the repeal made by paragraph (1), including removing any prohibition on transactions or payments to which subsection (a)(1) of section 211 of the Department of Commerce and Related Agencies Appropriations Act, 1999 applied.

(3) **AUTHORITY OF COURTS.**—United States courts shall have the authority to recognize, enforce, or otherwise validate any assertion of rights in any mark or trade name based on common law rights or registration or under subsection (b) or (e) of section 44 of the Trademark Act of 1946 (15 U.S.C. 1126 (b) or (e)) or based on any treaty to which the United States is a party.

**SA 2927.** Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2349, to provide greater transparency in the legislative process; which was ordered to lie on the table, as follows:

At the end of the bill, add the following:

**TITLE III—CONGRESSIONAL ETHICS OFFICE**

**SEC. 301. ESTABLISHMENT OF CONGRESSIONAL ETHICS OFFICE.**

(a) **ESTABLISHMENT.**—There is established in the legislative branch an independent authority to be known as the Congressional Ethics Office, and to be headed by a Congressional Ethics Officer.

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The Congressional Ethics Officer shall be appointed in accordance with paragraph (2).

(2) **APPOINTMENT.**—The majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, the minority leader of the House of Representatives, the chairman and ranking member of the Committee on Standards of Official Conduct of the House of Representatives, and the chairman and the ranking member of the Select Committee on Ethics of the Senate shall nominate the Congressional Ethics Officer at the beginning of a Congress. The Congressional Ethics Officer shall be confirmed by both the Senate and the House of Representatives.

(c) **TERMS.**—

(1) **IN GENERAL.**—The Congressional Ethics Officer shall serve a term of 2 years and may be reappointed for 2 additional terms.

(2) **DEATH OR RESIGNATION.**—In the case of the death or resignation of the Congressional Ethics Officer a successor shall be appointed in the same manner to serve the remaining term of that Congressional Ethics Officer.

(d) **REMOVAL.**—The Congressional Ethics Officer may be removed only by resolution of the Senate or the House of Representatives.

(e) **DUTIES.**—It shall be the duty of the Congressional Ethics Officer to—

(1) receive requests for review of an allegation described in section 302(b);

(2) make such informal preliminary inquiries in response to such a request as the Congressional Ethics Officer deems to be appropriate;

(3) if, as a result of those inquiries, the Congressional Ethics Officer determines that a full investigation is not warranted, submit a report pursuant to section 302(f); and

(4) if, as a result of those inquiries, the Congressional Ethics Officer determines that there is probable cause, the Congressional Ethics Officer—

(A) may determine a full investigation is warranted and conduct such investigation; and

(B) shall provide a full report of the investigation which shall be available for public inspection to either the Select Committee on Ethics of the Senate or the Committee on Standards of Official Conduct of the House of Representatives.

(f) **COMPENSATION OF CONGRESSIONAL ETHICS OFFICER.**—

(1) **IN GENERAL.**—The Congressional Ethics Officer shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which he or she is engaged in the performance of the duties of the Congressional Ethics Officer.

(2) **TRAVEL EXPENSES.**—The Congressional Ethics Officer and members of the Congressional Ethics Officer staff shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Congressional Ethics Officer.

(g) **STAFF.**—

(1) **IN GENERAL.**—The Congressional Ethics Officer may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other additional personnel as are necessary to enable the Congressional Ethics Officer to perform his or her duties. The staff of the Congressional Ethics Office shall be nonpartisan.

(2) **STAFF COMPENSATION.**—The Congressional Ethics Officer may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(3) **DETAILLEES.**—Any Federal Government employee may be detailed to the Congressional Ethics Officer without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(4) **TEMPORARY SERVICES.**—The Congressional Ethics Officer may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(5) **STAFFING.**—Except at a time when additional personnel are needed to assist the Congressional Ethics Officer in his or her review of a particular request for review under section 302, the total number of staff personnel employed by or detailed to the Congressional Ethics Officer under this subsection shall not exceed 50.

(h) **INAPPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

**SEC. 302. REVIEW OF ALLEGATIONS OF MISCONDUCT AND VIOLATIONS OF ETHICS LAWS.**

(a) **DEFINITIONS.**—As used in this section, the term “officer or employee of Congress” means—

(1) an elected officer of the Senate or the House of Representatives who is not a member of the Senate or the House of Representatives;

(2) an employee of the Senate or the House of Representatives, any committee or subcommittee of the Senate or the House of Representatives, or any member of the Senate or the House of Representatives;

(3) an employee of the Vice President if such employee’s compensation is disbursed by the Secretary of the Senate; and

(4) an employee of a joint committee of Congress.

(b) **REQUEST FOR REVIEW.**—Any person, including a person who is not an officer or employee of Congress, may present to the Congressional Ethics Officer a request to review and investigate an allegation of—

(1) improper conduct that may reflect upon the Senate or the House of Representatives;

(2) a significant violation of law;

(3) a violation of the Senate Code of Official Conduct (rules XXXIV, XXXV, XXXVII, XXXVIII, XXXIX, XL, XLI, and XLII of the Standing Rules of the Senate) or the ethics rules of the House of Representatives; or

(4) a significant violation of a rule or regulation of the Senate or the House of Representatives, relating to the conduct of a person in the performance of his or her duties as a member, officer, or employee of the Senate or the House of Representatives.

(c) **SWORN STATEMENT.**—

(1) **IN GENERAL.**—A request for review under subsection (b) shall be accompanied by a

sworn statement, made under penalty of perjury under the laws of the United States, of facts within the personal knowledge of the person making the statement alleging improper conduct or a violation described in subsection (b).

(2) **FALSE STATEMENT.**—If the Congressional Ethics Officer determines that any part of a sworn statement presented under paragraph (1) may have been a false statement made knowingly and willfully, the Congressional Ethics Officer may refer the matter to the Attorney General for prosecution.

(d) **PROTECTION FROM FRIVOLOUS CHARGES.**—

(1) **IN GENERAL.**—Any person who—

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

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

(2) **SUBSEQUENT COMPLAINTS.**—Any person subject to either of the penalties in paragraph (1) may not file a complaint with the Congressional Ethics Office again.

(3) **BAN ON FILINGS PRIOR TO ELECTION.**—The Congressional Ethics Office may not accept charges filed in the—

(A) 30 days prior to a primary election for which the Member in question is a candidate; and

(B) 60 days prior to a general election for which the Member in question is a candidate.

(e) **SUBPOENA.**—The Congressional Ethics officer may bring a civil action to enforce a subpoena only when directed to do so by the adoption of a resolution by the Senate or the House of Representatives, as appropriate.

(f) **REFERRAL OF REPORTS TO THE SELECT COMMITTEE ON ETHICS OF THE SENATE, THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT OF THE HOUSE OF REPRESENTATIVES OR THE DEPARTMENT OF JUSTICE.**—

(1) **IN GENERAL.**—If, after making preliminary inquiries, the Congressional Ethics Officer finds probable cause that a violation of the ethics rules has occurred, the Congressional Ethics Officer shall submit to the members of the Senate, members of the House of Representatives, and the Department of Justice a report that—

(A) states findings of fact made as a result of the inquiries;

(B) states any conclusions that may be drawn with respect to whether there is substantial credible evidence that improper conduct or a violation of law may have occurred; and

(C) states its reasons for concluding that further investigation is not warranted.

(2) **NO ACTION.**—After submission of a report under paragraph (1), no action may be taken in the Senate or the House of Representatives to impose a sanction on a person who was the subject of the Congressional Ethics Officer’s inquiries on the basis of any conduct that was alleged in the request for review and sworn statement.

**SEC. 303. ADDITIONAL RESPONSIBILITIES.**

The Congressional Ethics Officer shall—

(1) periodically report to Congress any changes to the ethics law and regulations governing Congress that the Congressional Ethics Officer determines would improve the investigation and enforcement of such laws and regulations; and

(2) provide an annual report to Congress on the number of ethics complaints and a description of the ethics investigations undertaken during the prior year.

**SA 2928.** Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 2349, to provide greater transparency in the legislative process; which was ordered to lie on the table, as follows:

At the end, add the following:

**TITLE III—CONGRESSIONAL PENSION ACCOUNTABILITY**

**SEC. 301. SHORT TITLE.**

This title may be cited as the “Congressional Pension Accountability Act”.

**SEC. 302. DENIAL OF RETIREMENT BENEFITS.**

(a) IN GENERAL.—Section 8312(a) of title 5, United States Code, is amended—

(1) by striking “or” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “; or”, and by inserting after paragraph (2) the following:

“(3) was convicted of an offense described in subsection (d), to the extent provided by that subsection.”; and

(2) by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “; and”, and by inserting after subparagraph (B) the following:

“(C) with respect to the offenses described in subsection (d), to the period after the date of conviction.”.

(b) OFFENSES DESCRIBED.—Section 8312 of such title 5 is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following:

“(d) The offenses to which subsection (a)(3) applies are the following:

“(1) An offense within the purview of—

“(A) section 201 of title 18 (bribery of public officials and witnesses); or

“(B) section 371 of title 18 (conspiracy to commit offense or to defraud United States), to the extent of any conspiracy to commit an act which constitutes an offense within the purview of such section 201.

“(2) Perjury committed under the statutes of the United States or the District of Columbia in falsely denying the commission of any act which constitutes an offense within the purview of a statute named by paragraph (1), but only in the case of the statute named by subparagraph (B) of paragraph (1).

“(3) Subornation of perjury committed in connection with the false denial or false testimony of another individual as specified by paragraph (2).

An offense shall not be considered to be an offense described in this subsection except if or to the extent that it is committed by a Member of Congress (as defined by section 2106, including a Delegate to Congress).”.

(c) ABSENCE FROM UNITED STATES TO AVOID PROSECUTION.—Section 8313(a)(1) of such title 5 is amended by striking “or” at the end of subparagraph (A), by striking “and” at the end of subparagraph (B) and inserting “or”, and by adding at the end the following:

“(C) for an offense described under subsection (d) of section 8312; and”.

(d) NONACCRUAL OF INTEREST ON REVENUES.—Section 8316(b) of such title 5 is amended by striking “or” at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting “; or”, and by adding at the end the following:

“(3) if the individual was convicted of an offense described in section 8312(d), for the period after the conviction.”.

**SEC. 303. CONSTITUTIONAL AUTHORITY.**

The Constitutional authority for this title is the power of Congress to make all laws which shall be necessary and proper as enumerated in Article I, Section 8 of the United States Constitution, and the power to ascertain compensation for Congressional service under Article I, Section 6 of the United States Constitution.

**SA 2929.** Mr. OBAMA (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 2349, to provide greater transparency in the legislative process; which was ordered to lie on the table, as follows:

At the end of title I, add the following:

**SEC. 114. PROHIBITING ADVOCATING FOR EARMARK IN WHICH THERE EXISTS A FINANCIAL INTEREST.**

Rule XXXVII of the Standing Rules of the Senate is amended by adding at the end the following:

“13. No Member of the Senate may advocate to include an earmark in any bill or joint resolution (or an accompanying report) or in any conference report on a bill or joint resolution (including an accompanying joint statement of managers thereto) if the Member has a financial interest in such earmark.”.

**SA 2930.** Mr. OBAMA (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 2349, to provide greater transparency in the legislative process; which was ordered to lie on the table, as follows:

On page 5, line 21, after “hours” insert “or 1 business day, whichever is longer.”.

On page 6, line 7, after “hours” insert “or 1 business day, whichever is longer.”.

**SA 2931.** Mr. OBAMA (for himself and Mr. COBURN) submitted an amendment intended to be proposed by him to the bill S. 2349, to provide greater transparency in the legislative process; which was ordered to lie on the table, as follows:

At the end of title I, add the following:

**SEC. 114. BUYING VOTES.**

Rule XXXVII of the Standing Rules of the Senate is amended by adding at the end the following:

“13. No Member of the Senate shall condition the inclusion of language to provide funding for an earmark in any bill or joint resolution (or an accompanying report thereof) or in any conference report on a bill or joint resolution (including an accompanying joint statement of managers thereto) on any vote cast by the Member of the Senate in whose State the project will be carried out.”.

**SA 2932.** Mr. REID proposed an amendment to the bill S. 2349, to provide greater transparency in the legislative process; as follows:

Add at the end of the bill add the following:

**TITLE III—ADDITIONAL TRANSPARENCY AND ENFORCEMENT**

**SEC. 301. DISCLOSURE BY MEMBERS OF CONGRESSIONAL AND SENIOR CONGRESSIONAL STAFF OF EMPLOYMENT NEGOTIATIONS.**

(a) SENATE.—Rule XXXVII of the Standing Rules of the Senate is amended by adding at the end the following:

“13. (a) A Member of the Senate shall not negotiate or have any arrangement concerning prospective private employment if a conflict of interest or the appearance of a conflict of interest exists.

“(b)(1) An employee of the Senate earning in excess of 75 percent of the salary paid to a Senator shall notify the Committee on Ethics that he or she is negotiating or has any arrangement concerning prospective private employment if a conflict of interest or

the appearance of a conflict of interest may exist.

“(2) The disclosure and notification under this subparagraph shall be made within 3 business days after the commencement of such negotiation or arrangement.

“(3) An employee to whom this subparagraph applies shall recuse himself or herself from any matter in which there is a conflict of interest for that Member or employee under this rule and notify the Select Committee on Ethics of such recusal.

“(c)(1) The Select Committee on Ethics shall develop guidelines concerning conduct which is covered by this paragraph.

“(2) The Select Committee on Ethics shall maintain a current public record of all notifications received under subparagraph (a) and of all recusals under subparagraph (c).”.

(b) APPLICATION.—This section shall apply in lieu of section 109 of this Act.

**SEC. 302. ETHICS REVIEW OF EMPLOYMENT NEGOTIATIONS BY EXECUTIVE BRANCH OFFICIALS.**

Section 208 of title 18, United States Code, is amended—

(1) in subsection (b)(1)—

(A) by inserting after “the Government official responsible for appointment to his or her position” the following: “and the Office of Government Ethics”; and

(B) by striking “a written determination made by such official” and inserting “a written determination made by the Office of Government Ethics, after consultation with such official.”; and

(2) in subsection (b)(3), by striking “the official responsible for the employee’s appointment, after review of” and inserting “the Office of Government Ethics, after consultation with the official responsible for the employee’s appointment and after review of”; and

(3) in subsection (d)(1)—

(A) by striking “Upon request” and all that follows through “Ethics in Government Act of 1978.” and inserting “In each case in which the Office of Government Ethics makes a determination granting an exemption under subsection (b)(1) or (b)(3) to a person, the Office shall, not later than 3 business days after making such determination, make available to the public pursuant to the procedures set forth in section 105 of the Ethics in Government Act of 1978, and publish in the Federal Register, such determination and the materials submitted by such person in requesting such exemption.”; and

(B) by striking “the agency may withhold” and inserting “the Office of Government Ethics may withhold”.

**SEC. 303. WRONGFULLY INFLUENCING A PRIVATE ENTITY’S EMPLOYMENT DECISIONS OR PRACTICES.**

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

“§ 226. Wrongfully influencing a private entity’s employment decisions by a Member of Congress

“Whoever, being a Senator or Representative in, or a Delegate or Resident Commissioner to, the Congress or an employee of either House of Congress, with the intent to influence on the basis of partisan political affiliation an employment decision or employment practice of any private entity—

“(1) takes or withholds, or offers or threatens to take or withhold, an official act; or

“(2) influences, or offers or threatens to influence, the official act of another; shall be fined under this title or imprisoned for not more than 15 years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.”.

(b) NO INFERENCE.—Nothing in section 226 of title 18, United States Code, as added by

this section, shall be construed to create any inference with respect to whether the activity described in section 226 of title 18, United States Code, was already a criminal or civil offense prior to the enactment of this Act, including sections 201(b), 201(c), and 216 of title 18, United States Code.

(c) CHAPTER ANALYSIS.—The chapter analysis for chapter 11 of title 18, United States Code, is amended by adding at the end the following:

“226. Wrongfully influencing a private entity’s employment decisions by a Member of Congress.”.

**SEC. 304. BAN ON GIFTS FROM LOBBYISTS.**

(a) IN GENERAL.—Paragraph 1(a)(2) of rule XXXV of the Standing Rules of the Senate is amended by adding at the end the following: “This clause shall not apply to a gift from a lobbyist.”.

(b) RULES COMMITTEE REVIEW.—The Committee on Rules and Administration shall review the present exceptions to the Senate gift rule and make recommendations to the Senate not later than 3 months after the date of enactment of this Act on eliminating all but those which are absolutely necessary to effectuate the purpose of the rule.

(c) APPLICATION.—This section shall apply in lieu of section 106 of this Act.

**SEC. 305. PROHIBITION ON PRIVATELY FUNDED TRAVEL.**

Paragraph 2(a)(1) of rule XXXV of the Standing Rules of the Senate is amended by striking “an individual” and inserting “an organization recognized under section 501(c)(3) of the Internal Revenue Code of 1986 that is not affiliated with any group that lobbies before Congress”.

**SEC. 306. PROHIBITING LOBBYIST ORGANIZATION AND PARTICIPATION IN CONGRESSIONAL TRAVEL.**

(a) IN GENERAL.—Paragraph 2 of rule XXXV of the Standing Rules of the Senate is amended by adding at the end the following:

“(g) A Member, officer, or employee may not accept transportation or lodging on any trip sponsored by an organization recognized under section 501(c)(3) of the Internal Revenue Code of 1986 covered by this paragraph that is planned, organized, requested, arranged, or financed in whole, or in part by a lobbyist or foreign agent, or in which a lobbyist participates.

“(h) Before a Member, officer, or employee may accept transportation or lodging otherwise permissible under this paragraph from any person, such Member, officer, or employee shall obtain a written certification from such person (and provide a copy of such certification to the Select Committee on Ethics) that—

“(1) the trip was not planned, organized, requested, arranged, or financed in whole, or in part by a registered lobbyist or foreign agent and was not organized at the request of a registered lobbyist or foreign agent;

“(2) registered lobbyists will not participate in or attend the trip; and

“(3) the person did not accept, from any source, funds specifically earmarked for the purpose of financing the travel expenses. The Select Committee on Ethics shall make public information received under this subparagraph as soon as possible after it is received.”.

(b) CONFORMING AMENDMENTS.—Paragraph 2(c) of rule XXXV of the Standing Rules of the Senate is amended—

(1) by striking “of expenses reimbursed or to be reimbursed”;

(2) in clause (5), by striking “and” after the semicolon;

(3) in clause (6), by striking the period and inserting “; and”; and

(4) by adding at the end the following:

“(7) a description of meetings and events attended during such travel, except when

disclosure of such information is deemed by the Member or supervisor under whose direct supervision the employee works to jeopardize the safety of an individual or otherwise interfere with the official duties of the Member, officer, or employee.”.

(c) PUBLIC AVAILABILITY.—Paragraph 2(e) of rule XXXV is amended to read as follows:

“(e) The Secretary of the Senate shall make available to the public all advance authorizations, certifications, and disclosures filed pursuant to subparagraphs (a) and (h) as soon as possible after they are received.”.

(d) APPLICATION.—The provisions of this section shall apply in addition to the requirements of section 107(a).

**SEC. 307. ADDITIONAL LOBBYING DISCLOSURE REQUIREMENTS.**

(a) IN GENERAL.—Section 5(b) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604(b)) is amended by adding at the end the following:

“(8) a certification that the lobbying firm or registrant has not provided, requested, or directed a gift, including travel, to a Member or employee of Congress in violation of rule XXXV of the Standing Rules of the Senate.”.

(b) CONFORMING AMENDMENT.—The requirements of this Act shall not apply to the activities of any political committee described in section 301(4) of the Federal Election Campaign Act of 1971.

**SEC. 308. PENALTY FOR FALSE CERTIFICATION IN CONNECTION WITH CONGRESSIONAL TRAVEL.**

(a) CIVIL FINE.—

(1) IN GENERAL.—Whoever makes a false certification in connection with the travel of a Member, officer, or employee of either House of Congress (within the meaning given those terms in section 207 of title 18, United States Code), under paragraph 2(h) of rule XXXV of the Standing Rules of the Senate, shall, upon proof of such offense by a preponderance of the evidence, be subject to a civil fine depending on the extent and gravity of the violation.

(2) MAXIMUM FINE.—The maximum fine per offense under this section depends on the number of separate trips in connection with which the person committed an offense under this subsection, as follows:

(A) FIRST TRIP.—For each offense committed in connection with the first such trip, the amount of the fine shall be not more than \$100,000 per offense.

(B) SECOND TRIP.—For each offense committed in connection with the second such trip, the amount of the fine shall be not more than \$300,000 per offense.

(C) ANY OTHER TRIPS.—For each offense committed in connection with any such trip after the second, the amount of the fine shall be not more than \$500,000 per offense.

(3) ENFORCEMENT.—The Attorney General may bring an action in United States district court to enforce this subsection.

(b) CRIMINAL PENALTY.—

(1) IN GENERAL.—Whoever knowingly and willfully fails to comply with any provision of this section shall be imprisoned for not more than 5 years, or fined under title 18, United States Code, or both.

(2) CORRUPTLY.—Whoever knowingly, willfully, and corruptly fails to comply with any provision of this section shall be imprisoned for not more than 10 years, or fined under title 18, United States Code, or both.

**SEC. 309. INCREASED CRIMINAL PENALTIES FOR FAILURE TO COMPLY WITH LOBBYING DISCLOSURE REQUIREMENTS.**

Section 7 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1606) is amended—

(1) by inserting “(a) CIVIL PENALTY.—” before “Whoever”; and

(2) by adding at the end the following:

“(b) CRIMINAL PENALTY.—

“(1) IN GENERAL.—Whoever knowingly and willfully fails to comply with any provision of this section shall be imprisoned for not more than 5 years, or fined under title 18, United States Code, or both.

“(2) CORRUPTLY.—Whoever knowingly, willfully, and corruptly fails to comply with any provision of this section shall be imprisoned for not more than 10 years, or fined under title 18, United States Code, or both.”.

**SEC. 310. SENSE OF THE SENATE ON CONFERENCE COMMITTEE PROTOCOLS.**

It is the sense of Senate that—

(1) conference committees should hold regular, formal meetings of all conferees that are open to the public;

(2) all conferees should be given adequate notice of the time and place of all such meetings;

(3) all conferees should be afforded an opportunity to participate in full and complete debates of the matters that such conference committees may recommend to their respective Houses;

(4) all matters before a conference committee should be resolved in conference by votes on the public record; and

(5) existing rules should be enforced and new rules adopted in the Senate to shine the light on special interest legislation that is enacted in the dead of night.

**SEC. 311. ACTUAL VOTING REQUIRED IN CONFERENCE COMMITTEE MEETINGS.**

Rule XXVIII of the Standing Rules of the Senate is amended by adding at the end the following:

“8. Each Senate member of a conference committee shall be afforded an opportunity at an open meeting of the conference to vote on the full text of the proposed report of the conference.”.

**NOTICES OF HEARINGS/MEETINGS**

**COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP**

Ms. SNOWE. Mr. President, I wish to inform Members that the Committee on Small Business & Entrepreneurship will hold a public hearing to consider, “The President’s fiscal year 2007 Budget Request and Legislative Proposals for the SBA” on Thursday, March 9, 2006 at 10 a.m., in room 428A Russell Senate Office Building. The Honorable Hector Barreto, SBA Administrator, will testify.

The Chair urges every member to attend.

**SUBCOMMITTEE ON NATIONAL PARKS**

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks.

The hearing will be held on Tuesday, March 14th, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to review the President’s proposed budget for the National Park Service fiscal year 2007.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Tom Lillie, David Szymanski, or Sara Zecher.