

# Chronological: Markup of the Legislative Transparency and Accountability Act of 2006

Senator Daniel K. Inouye Papers  
Speeches, Chronological, Box SP14, Folder 52  
<https://hdl.handle.net/10524/72816>

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*Markup Statement*

**Blanco, Marie (Inouye)**

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**From:** Newman, Tonya (Vitter)  
**Sent:** Tuesday, March 07, 2006 6:00 PM  
**To:** Blanco, Marie (Inouye)  
**Subject:** RE: Senator Vitter's Indian Amendment 2908

Hi Marie,

It is possible, and we've learned that it will probably be tomorrow before they move to amendments due to the LIHEAP debate, so there shouldn't be any problem with Senator Inouye missing the debate. We can let you know what else we hear on timing once we get to tomorrow.

Thank  
Tonya

*need for en  
2-28-06*

**From:**  
**Sent:**  
**To:** F  
**Cc:** A  
**Subj:**  
**Importance:** High

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PM  
Tonya (Vitter)  
an, Kawe (Inouye); Erickson, Janet (Indian Affairs)  
ndment 2908

Kyle and Tonya,

I left a call back regarding Senator Vitter's Amendment No. 2908, relating to Indians. Senator Inouye would like an opportunity to debate the amendment with your boss on the floor but can't do it today. Among other things, the Senator is still feeling under the weather. He asks for Senator Vitter's consideration in delaying the amendment until tomorrow. Please advise if this is possible. Thank you.

Marie Blanco  
Legislative Director  
Office of Senator Daniel Inouye  
4-3934

*Mark us Statement*

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Tonya

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**From:** Blanco, Marie (Inouye)  
**Sent:** Tuesday, March 07, 2006 3:22 PM  
**To:** Ruckert, Kyle (Vitter); Newman, Tonya (Vitter)  
**Cc:** Alston, Chrystn (Inouye); Mossman, Kawe (Inouye); Erickson, Janet (Indian Affairs)  
**Subject:** Senator Vitter's Indian Amendment 2908  
**Importance:** High

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Marie Blanco  
Legislative Director  
Office of Senator Daniel Inouye  
4-3934

**M E M O R A N D U M**

**TO: SENATOR**

**DATE: FEBRUARY 28, 2006**

**FROM: CHRYSTN**

**RE: RULES COMMITTEE MARKUP OF THE LEGISLATIVE  
TRANSPARENCY AND ACCOUNTABILITY ACT OF 2006**

Today at 9:30, the Committee on Rules and Administration will markup the Legislative Transparency and Accountability Act of 2006. This is an original bill drafted by Chairman Lott without significant input from the Ranking Member Senator Dodd. Senators Dodd and Reid believe that this bill is far too weak to provide any real reform. Unfortunately, two (Senators Byrd and Nelson) of the four Democrats who do not support the Reid bill are Members of the Rules Committee. This makes it unlikely that all the Democrats on the Committee will support a "Democratic Substitute."

The Majority Leader is eager to move lobby reform forward. He has indicated that he plans to bring the issue to the floor next week. However, the Senate Homeland Security and Government Affairs (HSGAC) Committee is also considering lobbying reform legislation on Thursday. It is Senator Frist's intention to merge the Rules bill and the HSGAC bill for floor consideration. There are areas of overlapping jurisdiction and it is unclear how the differences in the two bills might be dealt with in the merge. This, combined with Senator Lott's statements that he does not think the Rules Committee or the full Senate should deal with changes to FECA, but that those changes should be determined in Conference (a bit hypocritical from the author of a bill purported to provide for greater transparency and fairness in the legislative process). The Democratic Leadership is concerned that no matter what is ultimately approved by the Senate, during the Conference the Republicans will include campaign finance reform language that will adversely impact the Democrats, while protecting the campaign activities of the Republicans.

The Rules Committee does not have a structure in place to deal with the filing of amendments in advance or limiting the scope of a markup. As a result, no amendments were provided by the Majority in advance of the markup. During the markup on campaign finance reform last year, the Chairman made a motion to report the bill out subject to amendment. The motion passed because none of the Members realized what they were voting on as it had never occurred in the Rules Committee. Senator Dodd has said that he will oppose such a motion and that he will ask that a vote occur on the final bill as amended.

**The use of proxies in the Rules Committee is a bit different than in other Committees. While other Committees will allow a Senator to provide a general proxy whereby for each vote the Senator holding the proxy will defer to staff instructions, the Rules Committee requires that the proxy specify the voting intentions of the non-present member for each amendment. This does not allow for flexibility during the markup. An appropriate proxy will be drafted for your signature.**

**Despite several long staff meetings, there is no Democratic consensus on the approach to take during the markup. It may be every man and woman for his or her self. Senator Dodd will offer a substitute that would replace the weaker provisions of the bill with the stronger language contained in Senator Reid's bill which you cosponsored. It would also remove any provisions that amend the Federal Election Campaign Act (FECA) in an effort to keep this bill "clean." The result would be that the problematic Indian provision would be eliminated.**

**● STATEMENT OF SENATOR DANIEL K. INOUYE  
ON THE MARKUP OF THE LEGISLATIVE  
TRANSPARENCY AND ACCOUNTABILITY ACT**

**I hate to admit this, but today Members of  
Congress have reputations that are about the  
same as that of used car salesmen. This is not  
something of which I am proud and I was  
● looking forward to this opportunity to  
improve upon the rules which govern  
ourselves and our staffs.**

- **However, I am disappointed that this is not a bipartisan bill and does not go far enough to change the way we do business and improve transparency for our constituents and the public at large.**

- **I am also disappointed that the underlying that we are taking up today includes a provision that singles out Native American tribes and amends their current treatment under the Federal Election Campaign Act. This provision was included without**
- **consultation with the minority or the tribes themselves. This has not been the subject of a hearing before this Committee. Although a hearing has been held before the Indian Affairs Committee this provision has not been considered by the Committee.**
-

- **I will offer an amendment to strike this provision. I believe it is premature until more information can be gathered and an informed decision about whether to alter the reporting requirements for Native American tribes can be made by this Committee.**



● I am confident this will be a interesting markup and I look forward to considering the changes proposed by my colleagues to improve our image.



## **BILL SUMMARY**

**Section 1: Would confer upon this bill the short title of the Legislative Transparency and Accountability Act of 2006.**

**Section 2: Out of scope matters in Conference Reports would be subject to an individual point of order. Should a Member wish to raise a point of order against a provision as being out of the scope of the Conference, the point of order can be waived by a simple majority vote of those present.**

**Section 3: Earmarks to any non-federal entity would have to be disclosed. An earmark would include any assistance such as budget authority, loan authority, expenditures, tax expenditures, and other revenue items. This expands earmark reform to include not only Appropriations Bill, but authorization and tax bills also. Each earmark would have to be disclosed with identification of the Member who requested the earmark and an explanation of the "essential government purpose" served by the earmark. All earmarks would be required to be publicly disclosed at least 24 hours prior to consideration of the bill containing the earmark.**

**Section 4: Conference Reports would be required to be made publicly available on the Internet at least 24 hours before the Senate considers it. This provision would be effective 60 day after enactment to allow the Rules Committee ample time to develop a website to handle the large data amounts and high downloads expected to be carried on this new public website.**

**Section 5: Elimination of floor privileges for former Members, Officers and the Speaker of the House who are registered lobbyists or who seek financial gain from legislation.**

**Section 6: Gifts from lobbyists would be banned and disclosure of the acceptance of food or refreshment by a Member or staff would be required within 15 days of the meal. Disclosure must be made with respect to the value of the meal or refreshments and the name of the person who paid for the food. Disclosure would be required with the Ethics Committee and on each Member's website.**

**Section 7: Privately funded travel by a Member, officer or employee of the Senate would be required to be pre approved by the Ethics Committee. For preapproval, the Member, officer or employee must receive certification that the travel was not financed in whole or in part by a registered lobbyist and then submit to the Ethics Committee a detailed itinerary, a determination that the trip would be primarily educational, would be consistent with the official duties of the Member, officer or employee, would not create an appearance of use of public office for private gain,**

and would have a minimal or no recreational component. Disclosure of the travel to the Ethics Committee and on the Member's website would be required within 30 days of the meeting and events attended during the trip and names of any registered lobbyist who participated in the trip. There is an exception for national security. Disclosure would also be required of the use of noncommercial air travel. This disclosure would include the date of the flight, the destination, owner or lessee of the aircraft, purpose of the flight, and the persons on the flight other than the pilot.

**Section 8:** Post-employment restrictions would be expanded with respect to highly-compensated employees who earn 75% of a Senator's pay to prohibit them from lobbying ANY Member, officer, or employee of the Senate for one year after leaving that position. The current restriction is on lobbying the Committee or Member by whom the person was employed. This provision would take effect 60 days after enactment, thus giving those important staffers the opportunity to months to quit and find a lobbying job.

**Section 9:** Indian Tribes would be required to report contributions in excess of \$1,000 per year made to candidates, political committee, or a Federal account of a State, district, or local committee of a political party. A separate memo is attached on this provision.

Calendar No. \_\_\_\_\_

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**S.** \_\_\_\_\_

To provide greater transparency in the legislative process.

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## IN THE SENATE OF THE UNITED STATES

from the Committee on Rules and Administration,  
reported the following original bill; which was read twice and placed on  
the calendar

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**A BILL**

To provide greater transparency in the legislative process.

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 “Legislative Trans-  
5 parency and Accountability Act of 2006”.

6 **SEC. 2. OUT OF SCOPE MATTERS IN CONFERENCE RE-**  
7 **PORTS.**

8 (a) **IN GENERAL.**—A point of order may be made by  
9 any Senator against consideration of a conference report  
10 that includes any matter not committed to the conferees

1 by either House. The point of order shall be made and  
2 voted on separately for each item in violation of this sec-  
3 tion.

4 (b) DISPOSITION.—If the point of order against a  
5 conference report under subsection (a) is sustained,  
6 then—

7 (1) the matter in such conference report shall  
8 be deemed to have been struck;

9 (2) when all other points of order under this  
10 section have been disposed of—

11 (A) the Senate shall proceed to consider  
12 the question of whether the Senate should re-  
13 cede from its amendment to the House bill, or  
14 its disagreement to the amendment of the  
15 House, and concur with a further amendment,  
16 which further amendment shall consist of only  
17 that portion of the conference report not  
18 deemed to have been struck;

19 (B) the question shall be debatable; and

20 (C) no further amendment shall be in  
21 order; and

22 (3) if the Senate agrees to the amendment,  
23 then the bill and the Senate amendment thereto  
24 shall be returned to the House for its concurrence  
25 in the amendment of the Senate.

1 (c) WAIVER.—This section may be waived by a ma-  
2 jority vote of Senators present and voting.

3 **SEC. 3. EARMARKS.**

4 The Standing Rules of the Senate are amended by  
5 adding at the end the following:

6 “RULE XLIV

7 “EARMARKS

8 “1. In this rule—

9 “(1) the term ‘earmark’ means a provision that  
10 specifies the identity of a non-Federal entity to re-  
11 ceive assistance and the amount of the assistance;  
12 and

13 “(2) the term ‘assistance’ means budget author-  
14 ity, contract authority, loan authority, and other ex-  
15 penditures, and tax expenditures or other revenue  
16 items.

17 “2. It shall not be in order to consider any Senate  
18 bill or Senate amendment or conference report on any bill,  
19 including an appropriations bill, a revenue bill, and an au-  
20 thorizing bill, unless a list of—

21 “(1) all earmarks in such measure;

22 “(2) an identification of the Member or Mem-  
23 bers who proposed the earmark; and

24 “(3) an explanation of the essential govern-  
25 mental purpose for the earmark;

1 is available along with any joint statement of managers  
2 associated with the measure to all Members and made  
3 available on the Internet to the general public for at least  
4 24 hours before its consideration.”.

5 **SEC. 4. AVAILABILITY OF CONFERENCE REPORTS ON THE**  
6 **INTERNET.**

7 (a) **IN GENERAL.**—Rule XXVIII of all the Standing  
8 Rules of the Senate is amended by adding at the end the  
9 following:

10 “9. It shall not be in order to consider a conference  
11 report unless such report is available to all Members and  
12 made available to the general public by means of the Inter-  
13 net for at least 24 hours before its consideration.”.

14 (b) **IMPLEMENTATION.**—Not later than 60 days after  
15 the date of enactment of this Act, the Secretary of the  
16 Senate, in consultation with the Enrolling Clerks of the  
17 Senate and House of Representatives, the Government  
18 Printing Office, and the Committee on Rules and Admin-  
19 istration, shall develop and establish a website capable of  
20 complying with the requirements of paragraph 9 of rule  
21 XXVIII of the Standing Rules of the Senate, as added  
22 by subsection (a).

23 (c) **EFFECTIVE DATE.**—This section shall take effect  
24 60 days after the date of enactment of this Act.

1 **SEC. 5. ELIMINATION OF FLOOR PRIVILEGES FOR FORMER**  
2 **MEMBERS, SENATE OFFICERS, AND SPEAK-**  
3 **ERS OF THE HOUSE WHO ARE LOBBYISTS OR**  
4 **SEEK FINANCIAL GAIN.**

5 Rule XXIII of the Standing Rules of the Senate is  
6 amended by—

7 (1) inserting “1.” before “Other”;

8 (2) inserting after “Ex-Senators and Senators  
9 elect” the following: “, except as provided in para-  
10 graph 2”;

11 (3) inserting after “Ex-Secretaries and ex-Ser-  
12 geants at Arms of the Senate” the following: “, ex-  
13 cept as provided in paragraph 2”;

14 (4) inserting after “Ex-Speakers of the House  
15 of Representatives” the following: “, except as pro-  
16 vided in paragraph 2”; and

17 (5) adding at the end the following:

18 “2. (a) The floor privilege provided in paragraph 1  
19 shall not apply to an individual covered by this paragraph  
20 who is—

21 “(1) a registered lobbyist or agent of a foreign  
22 principal; or

23 “(2) is in the employ of or represents any party  
24 or organization for the purpose of influencing, di-  
25 rectly, or indirectly, the passage, defeat, or amend-  
26 ment of any legislative proposal.

1       “(b) The Committee on Rules and Administration  
2 may promulgate regulations to allow individuals covered  
3 by this paragraph floor privileges for ceremonial functions  
4 and events designated by the Majority Leader and the Mi-  
5 nority Leader.”.

6 **SEC. 6. BAN ON GIFTS FROM LOBBYISTS.**

7       Paragraph 1(a)(2) of rule XXXV of the Standing  
8 Rules of the Senate is amended by—

9           (1) inserting “(A)” after “(2)”; and

10          (2) adding at the end the following:

11       “(B)(i) This clause shall not apply to a gift from a  
12 registered lobbyist or an agent of a foreign principal.

13       “(ii) Notwithstanding division (i), a Member, officer,  
14 or employee may accept a meal or refreshment from a reg-  
15 istered lobbyist or an agent of a foreign principal subject  
16 to the monetary limits in this clause. A Member shall list  
17 on the Member’s official website the value of any meals  
18 or refreshments permitted by this division to the Member  
19 or employee of the Member and the name of the person  
20 who paid for such items not later than 15 days after such  
21 meals or refreshments are received.”.

22 **SEC. 7. TRAVEL RESTRICTIONS AND DISCLOSURE.**

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

1                   “(III) does not create an appearance  
2                   of use of public office for private gain; and

3                   “(iv) has a minimal or no recreational  
4                   component; and

5                   “(C) obtain written approval of the trip from  
6                   the Select Committee on Ethics.

7                   “(2) Not later than 30 days after completion of trav-  
8 el, approved under this subparagraph, the Member, offi-  
9 cer, or employee shall file with the Select Committee on  
10 Ethics and the Secretary of the Senate a description of  
11 meetings and events attended during such travel and the  
12 names of any registered lobbyist who accompanied the  
13 Member, officer, or employee during the travel, except  
14 when disclosure of such information is deemed by the  
15 Member or supervisor under whose direct supervision the  
16 employee works to jeopardize the safety of an individual  
17 or adversely affect national security. Such information  
18 shall also be posted on the Member’s official website not  
19 later than 30 days after the completion of the travel, ex-  
20 cept when disclosure of such information is deemed by the  
21 Member to jeopardize the safety of an individual or ad-  
22 versely affect national security.”.

23                   (b) DISCLOSURE OF NONCOMMERCIAL AIR TRAV-  
24 EL.—

1       “(f)(1) Before a Member, officer, or employee may  
2 accept transportation or lodging otherwise permissible  
3 under this paragraph from any person, other than a gov-  
4 ernmental entity, such Member, officer, or employee  
5 shall—

6           “(A) obtain a written certification from such  
7 person (and provide a copy of such certification to  
8 the Select Committee on Ethics) that—

9           “(i) the trip was not financed in whole, or  
10 in part, by a registered lobbyist or foreign  
11 agent; and

12           “(ii) the person did not accept, directly or  
13 indirectly, funds from a registered lobbyist or  
14 foreign agent specifically earmarked for the  
15 purpose of financing the travel expenses;

16           “(B) provide the Select Committee on Ethics  
17 (in the case of an employee, from the supervising  
18 Member or officer), in writing—

19           “(i) a detailed itinerary of the trip; and

20           “(ii) a determination that the trip—

21           “(I) is primarily educational (either  
22 for the invited person or for the organiza-  
23 tion sponsoring the trip);

24           “(II) is consistent with the official du-  
25 ties of the Member, officer, or employee;

1           (1) RULES.—Paragraph 2 of rule XXXV of the  
2 Standing Rules of the Senate, as amended by sub-  
3 section (a), is amended by adding at the end the fol-  
4 lowing:

5           “(g) A Member, officer, or employee of the Senate  
6 shall—

7           “(1) disclose a flight on an aircraft that is not  
8 licensed by the Federal Aviation Administration to  
9 operate for compensation or hire, excluding a flight  
10 on an aircraft owned, operated, or leased by a gov-  
11 ernmental entity, taken in connection with the duties  
12 of the Member, officer, or employee as an office-  
13 holder or Senate officer or employee; and

14           “(2) with respect to the flight, file a report with  
15 the Secretary of the Senate, including the date, des-  
16 tination, and owner or lessee of the aircraft, the pur-  
17 pose of the trip, and the persons on the trip, except  
18 for any person flying the aircraft.”.

19           (2) FECA.—Section 304(b) of the Federal  
20 Election Campaign Act of 1971 (42 U.S.C. 434(b))  
21 is amended—

22           (A) by striking “and” at the end of para-  
23 graph (7);

24           (B) by striking the period at the end of  
25 paragraph (8) and inserting “; and”; and

1 (C) by adding at the end the following new  
2 paragraph:

3 “(9) in the case of a principal campaign com-  
4 mittee of a candidate (other than a candidate for  
5 election to the office of President or Vice President),  
6 any flight taken by the candidate (other than a  
7 flight designated to transport the President, Vice  
8 President, or a candidate for election to the office of  
9 President or Vice President) during the reporting  
10 period on an aircraft that is not licensed by the Fed-  
11 eral Aviation Administration to operate for com-  
12 pensation or hire, together with the following infor-  
13 mation:

14 “(A) The date of the flight.

15 “(B) The destination of the flight.

16 “(C) The owner or lessee of the aircraft.

17 “(D) The purpose of the flight.

18 “(E) The persons on the flight, except for  
19 any person flying the aircraft.”.

20 (c) PUBLIC AVAILABILITY.—Paragraph 2(e) of rule  
21 XXXV of the Standing Rules of the Senate is amended  
22 to read as follows:

23 “(e) The Secretary of the Senate shall make available  
24 to the public all disclosures filed pursuant to subpara-  
25 graphs (f) and (g) as soon as possible after they are re-

1 ceived and such matters shall be posted on the Member's  
2 official website but no later than 30 days after the trip  
3 or flight.”.

4 **SEC. 8. POST EMPLOYMENT RESTRICTIONS.**

5 (a) IN GENERAL.—Paragraph 9 of rule XXXVII of  
6 the Standing Rules of the Senate is amended by—

7 (1) designating the first sentence as subpara-  
8 graph (a);

9 (2) designating the second sentence as subpara-  
10 graph (b); and

11 (3) adding at the end the following:

12 “(c) If an employee on the staff of a Member or on  
13 the staff of a committee whose rate of pay is 75 percent  
14 of the rate of pay of a Member and employed at such rate  
15 for more than 60 days in a calendar year, upon leaving  
16 that position, becomes a registered lobbyist under the Fed-  
17 eral Regulation of Lobbying Act of 1946 or any successor  
18 statute, or is employed or retained by such a registered  
19 lobbyist for the purpose of influencing legislation, such  
20 employee may not lobby any Member, officer, or employee  
21 of the Senate for a period of 1 year after leaving that  
22 position.”.

23 (b) EFFECTIVE DATE.—This section shall take effect  
24 60 days after the date of enactment of this Act.

1 **SEC. 9. REPORTING OF CONTRIBUTIONS BY INDIAN**  
2 **TRIBES.**

3 (a) IN GENERAL.—Title III of the Federal Election  
4 Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended  
5 by inserting after section 304 the following new section:

6 “REPORTS BY INDIAN TRIBES

7 “SEC. 304A. (a)(1) IN GENERAL.—Each Indian tribe  
8 shall file reports of contributions made to a candidate, a  
9 political committee, or a Federal account of a State, dis-  
10 trict, or local committee of a political party in accordance  
11 with the provisions of this subsection.

12 “(2) REPORTS.—

13 “(A) ELECTION YEAR.—

14 “(i) IN GENERAL.—In any calendar year  
15 during which there is a regularly scheduled  
16 election, an Indian tribe shall file a report—

17 “(I) for the first calendar quarter in  
18 which contributions are made that aggregate  
19 in excess of \$1,000 for the calendar  
20 year; and

21 “(II) for any calendar quarter after  
22 the quarter described in subclause (I) in  
23 which additional contributions are made.

24 “(ii) TIMING OF REPORTS.—A report re-  
25 quired under clause (i) shall be filed no later  
26 than the 15th day after the last day of the cal-

1           endar quarter, and shall be complete as of the  
2           last day of the calendar quarter: except that the  
3           report for the quarter ending on December 31  
4           shall be filed no later than January 31 of the  
5           following calendar year.

6           “(iii) INITIAL REPORT.—The report re-  
7           quired under clause (i)(I) shall include informa-  
8           tion with respect to contributions made during  
9           all preceding quarters during the calendar year.

10          “(B) OTHER YEARS.—

11           “(i) IN GENERAL.—In any other calendar  
12          year, an Indian tribe shall file a report—

13           “(I) for the first reporting period de-  
14           scribed in clause (ii) in which contributions  
15           are made that aggregate in excess of  
16           \$1,000 in the calendar year; and

17           “(II) for any reporting period after  
18           the period described in subclause (I) in  
19           which additional contributions are made.

20          “(ii) REPORTING PERIODS DESCRIBED.—  
21          The reporting periods described in this clause  
22          are—

23           “(I) the period beginning January 1  
24           and ending June 30 of such calendar year;  
25           and

1                   “(II) the period beginning July 1 and  
2                   ending December 31 of such calendar year.

3                   “(iii) TIMING OF REPORT.—The reports  
4                   required under clause (i) shall be filed—

5                   “(I) in the case of the reporting pe-  
6                   riod described in clause (ii)(I), no later  
7                   than July 31; and

8                   “(II) in the case of the reporting pe-  
9                   riod described in clause (ii)(II), no later  
10                  than January 31 of the following calendar  
11                  year.

12                  “(iv) INITIAL REPORT.—The report re-  
13                  quired under clause (i)(I) shall include informa-  
14                  tion with respect to contributions made during  
15                  any preceding reporting period during the cal-  
16                  endar year.

17                  “(b) CONTENTS OF REPORT.—Each report under  
18                  this section shall disclose—

19                  “(1) the total amount of contributions made by  
20                  the Indian tribe to candidates, political committees,  
21                  and Federal accounts of State, district, and local  
22                  committees of political parties during the reporting  
23                  period;

24                  “(2) the name and address of each such can-  
25                  didate, political committee, and Federal account to

1       which the Indian tribe made a contribution during  
2       the reporting period, with respect to which the con-  
3       tribution or contributions have an aggregate amount  
4       or value in excess of \$200 within the calendar year  
5       (or election cycle, in the case of an authorized com-  
6       mittee of a candidate for Federal office), together  
7       with the date and amount of any such contribution;

8               “(3) the name and address of the Indian tribe  
9       and the unique identifier assigned to the Indian  
10       tribe under subsection (c); and

11               “(4) the name, address, and position of the cus-  
12       todian of the books and accounts of the Indian tribe.

13       “(c) UNIQUE IDENTIFIER.—The Commission, in con-  
14       sultation with the Secretary of the Interior, shall assign  
15       a unique identifier to each Indian tribe for the purpose  
16       of filing reports under this section.”.

17       (b) DEFINITION OF INDIAN TRIBE.—Section 301 of  
18       such Act (2 U.S.C. 431) is amended by adding at the end  
19       the following new paragraph:

20               “(27) INDIAN TRIBE.—The term ‘Indian tribe’  
21       means any Indian tribe, band, nation, or other orga-  
22       nized group or community, including any Alaska Na-  
23       tive village or regional or village corporation (as de-  
24       fined in or established pursuant to the Alaska Na-  
25       tive Claims Settlement Act (43 U.S.C. 1601 et

1       seq.)), which is recognized as eligible for the special  
2       programs and services provided by the United States  
3       to Indians because of their status as Indians.”.

4       **SEC. 10. EFFECTIVE DATE.**

5       Except as otherwise provided in this Act, this Act  
6       shall take effect on the date of enactment of this Act.

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To strike the provision relating to reporting of contributions by Indian tribes.

**IN THE SENATE OF THE UNITED STATES—109th Cong., 2d Sess.**

**S.** \_\_\_\_\_

To provide greater transparency in the legislative process.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. INOUE

Viz:

1 Strike section 9.

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To amend the Federal Election Campaign Act of 1971 to provide for the treatment of contributions by unincorporated associations.

**IN THE SENATE OF THE UNITED STATES—109th Cong., 2d Sess.**

**S.** \_\_\_\_\_

To provide greater transparency in the legislative process.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. INOUE

Viz:

- 1 Strike section 9 and insert the following:
- 2 **SEC. 9. TREATMENT OF CONTRIBUTIONS BY UNINCOR-**
- 3 **PORATED ASSOCIATIONS.**
- 4 (a) IN GENERAL.—Title III of the Federal Election
- 5 Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended
- 6 by adding at the end the following new section:
- 7 **“SEC. 325. CONTRIBUTIONS OF UNINCORPORATED ASSO-**
- 8 **CIATIONS.**
- 9 “(a) IN GENERAL.—An unincorporated association
- 10 shall not make a contribution to a candidate, a political

1 committee, or the Federal account of a State, district, or  
2 local committee of a political party unless such unincor-  
3 porated association—

4 “(1) has been assigned a unique identification  
5 number by the Commission; and

6 “(2) discloses such unique identification num-  
7 ber at the time the contribution is made.

8 “(b) ASSIGNMENT OF UNIQUE IDENTIFICATION  
9 NUMBERS.—The Commission shall assign a unique identi-  
10 fication number to each unincorporated association that  
11 submits a written request for such a number.

12 “(c) IDENTIFICATION INCLUDES UNIQUE IDENTI-  
13 FICATION NUMBER.—For purposes of this Act, the identi-  
14 fication of a person which is an unincorporated association  
15 includes the unique identification number assigned to such  
16 person under subsection (b).

17 “(d) UNINCORPORATED ASSOCIATION.—For pur-  
18 poses of this section, the term ‘unincorporated association’  
19 includes Indian tribes.”

20 (b) REPORTING OF UNIQUE IDENTIFYING NUMBER  
21 BY POLITICAL COMMITTEES.—

22 (1) IN GENERAL.—Section 304(b)(5) of the  
23 Federal Election Campaign Act of 1971 (2 U.S.C.  
24 434(b)(5)) is amended by striking “the name and  
25 address” and inserting “the name, address, and (in

1 the case of an unincorporated association) the  
2 unique identification number”.

3 (2) AUTHORIZED AND OTHER POLITICAL COM-  
4 MITTEES.—Section 304(b)(6) of the Federal Elec-  
5 tion Campaign Act of 1971 (2 U.S.C. 434(b)(6)) is  
6 amended—

7 (A) by striking “the name and address” in  
8 subparagraph (A) and inserting “the name, ad-  
9 dress, and (in the case of an unincorporated as-  
10 sociation) the unique identification number”;  
11 and

12 (B) by striking “the name and address” in  
13 subparagraph (B) and inserting “the name, ad-  
14 dress, and (in the case of an unincorporated as-  
15 sociation) the unique identification number”.

TALKING POINTS ON  
AMENDMENT NO. MAL06067  
FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS  
PERTAINING TO INDIANS

- ▶ Campaign finance reform should be kept separate from lobbying reform.
- ▶ The provisions dealing with Indian tribes in Chairman Lott's bill have not been vetted through the Rules Committee nor the Indian Affairs Committee.
- ▶ Despite a government to government relationship with Indian tribes, they were not consulted about the language in the draft.
- ▶ Data indicates that tribal contributions during the 2004 election cycle totaled less than ½ of 1 percent of all contributions.
- ▶ The Federal Election Commission testified that tribes have not violated the Federal Election Campaign law.
- ▶ Indian tribes are being blamed for the actions of a non-Indian and are being unfairly singled out.
- ▶ The provisions in Chairman Lott's bill impose reporting burdens on Indian tribes that other unincorporated associations will not be required to perform.
- ▶ This provision will effectively ensure that Indian tribes will be shut out of the electoral process.
- ▶ Indian tribes are unique, sovereign entities and to respect this status, Chairman Lott's provision Indian tribes must be stricken.

TALKING POINTS  
ON AMENDMENT NO. MGC06315  
TO THE FEDERAL ELECTION CAMPAIGN ACT

- ▶ According to testimony at the Indian Affairs hearing, the confusion surrounding contributions to candidates, political action committees and political parties applies to all contributions, including individuals and unincorporated entities.
- ▶ The confusion results because each recipient reports the name of the contributor differently. For instance, a contribution from John Allen Doe may be reported as that or it may be reported as J.A. Doe; J. Doe; J. Allen Doe; or John Doe.
- ▶ My amendment would eliminate some of the confusion by requiring all unincorporated associations and Indian tribes to obtain a unique identifier from the Federal Election Commission.
- ▶ Unincorporated associations and Indian tribes must include the unique identifier on all contributions.
- ▶ The recipient of the contributions must report the unique identifier when reporting their receipts and expenditures as required by the Federal Election Campaign Act.
- ▶ My amendment addresses the issues raised during the Indian Affairs Committee hearing while respecting tribal sovereignty and without singling out tribes or imposing burdensome requirements on tribes.

## MEMORANDUM

**TO: SENATOR INOUYE**  
**FROM: JANET ERICKSON**  
**RE: NCAI RESPONSE TO CAMPAIGN FINANCE PROPOSALS**  
**DATE: FEBRUARY 21, 2006**

---

Below is a summary of the National Congress of American Indians' (NCAI) responses to the 3 proposals that were put forth during the recent Indian Affairs Committee hearing on tribal treatment under the Federal Election Campaign Act (FECA). A copy of the responses is attached.

Tribes should be required to form PACs. Under current law, corporations and labor unions wanting to make campaign contributions must do so through a political action committee (PAC). Requiring tribes to form PACs will be equating tribes to corporations, something that tribes repeatedly fight against. Corporations are for-profit entities while tribes are governments whose purpose is to provide for its members. They believe this will set a dangerous precedent for other federal legislation.

In addition, tribes believe that a requirement to form a PAC will effectively prohibit the vast majority of tribes from participating in the campaign finance process because only tribal members would be authorized to contribute to the PAC. The average income of reservation Indians is approximately \$8,000 per year.

Tribes should be required to form PACs with unique requirements. This proposal would require tribes to form PACs with similar reporting requirements as other PACs but somehow take into account the unique tribal status. In addition to the arguments specified above, the "unique" requirements would require tribes forming a committee to make decisions about campaign contributions and identifying a person to report donations to the FEC. These functions already exist within tribal governments so this proposal would only duplicate existing tribal efforts.

Increased reporting requirements. This proposal suggests requiring tribes to report campaign contributions to increase transparency, without forcing tribes to form a PAC. NCAI points out that any transparency issues are not limited to tribal contributions. Therefore, NCAI suggests that any proposal to increase reporting for transparency purposes apply to all entities that are not currently subject to reporting requirements.



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #EWS-06-002

**TITLE: Urging Congress to Protect the Fundamental Right of Tribes to Participate Equally in the Political Process in all of the Ways that are Available to Them.**

### EXECUTIVE COMMITTEE

#### PRESIDENT

**Joe A. Garcia**  
*Ohkay Owingeh*  
*(Pueblo of San Juan)*

#### FIRST VICE-PRESIDENT

**Jefferson Keel**  
*Chickasaw Nation*

#### RECORDING SECRETARY

**Juana Majel**  
*Pauma-Yuima Band of Mission Indians*

#### TREASURER

**W. Ron Allen**  
*Jamestown S'Kallam Tribe*

### REGIONAL VICE-PRESIDENTS

#### ALASKA

**Mike Williams**  
*Yupik*

#### EASTERN OKLAHOMA

**Joe Grayson, Jr.**  
*Cherokee Nation*

#### CENTRAL PLAINS

**W. Ron Allen**  
*Flandreau Santee Sioux*

#### MIDWEST

**Robert Chicks**  
*Stockbridge-Munsee*

#### NORTHEAST

**Randy Noka**  
*Narragansett*

#### NORTHWEST

**Ernie Stensgar**  
*Coeur d'Alene Tribe*

#### PACIFIC

**Cheryl Seidner**  
*Wiyot*

#### ROCKY MOUNTAIN

**Raymond Parker**  
*Chippewa-Cree Business Committee*

#### SOUTHEAST

**Leon Jacobs**  
*Lumbee Tribe*

#### SOUTHERN PLAINS

**Steve Johnson**  
*Absentee Shawnee*

#### SOUTHWEST

**Manuel Heart**  
*Ute Mountain Ute Tribe*

#### WESTERN

**Kathleen Kitcheyan**  
*San Carlos Apache*

### EXECUTIVE DIRECTOR

**Jacqueline Johnson**  
*Tlingit*

### HEADQUARTERS

Connecticut Avenue, NW  
Suite 200  
Washington, DC 20036  
202.466.7767  
202.466.7797 fax  
www.ncai.org

**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, American Indian and Alaska Native people were the last group of people to secure the right to vote in the United States; and

**WHEREAS**, while the Indian Citizenship Act made American Indians and Alaska Natives eligible to vote in 1924, state law determined who could actually vote, which effectively excluded many American Indians and Alaska Natives from political participation for decades; and

**WHEREAS**, disenfranchisement has real consequences and prior to receiving the right to vote tribes were subjected to the federal policies of Removal, Allotment and Assimilation, and Termination, which resulted in the taking of hundreds of millions of acres of our homelands, the massacre of millions of our ancestors, and the destruction of Indian culture and tribal economies; and

**WHEREAS**, since NCAI was founded, we have fought to secure the rights of Indian tribes and Indian people to participate fully in the political system, beginning with helping American Indians in Arizona secure the right to vote in 1948; and

**WHEREAS**, the Supreme Court has held that the First Amendment protects the fundamental right of freedom of association, which includes the right to support the candidate of one's choice through campaign contributions; and

**WHEREAS**, in light of the plenary power of Congress over Indian affairs, Tribal members have a particularly strong interest in participating in the democratic process and supporting candidates who they believe respect the relationship of tribes to the federal government; and

**WHEREAS**, so long as the system continues to include financial support of the candidate of one's choice as a legitimate form of political expression, it is vital that Indian tribes have the option of participating on an equal footing; and

**WHEREAS**, as a result of a lobbying scandal where a felon defrauded several tribal clients, some Members of Congress are calling for a change in campaign finance laws that does not relate to the lobbying abuses, but does relate to how tribes will be permitted to participate in the electoral process, or whether we will in effect be disenfranchised again;

**NOW, THEREFORE BE IT RESOLVED**, as sovereign governments that have a unique status in the federal system, American Indian and Alaska Native tribes should not be treated as corporations under the campaign finance system; and

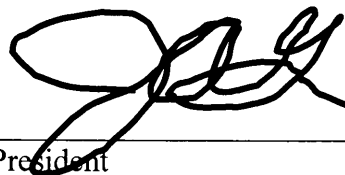
**THEREFORE BE IT FURTHER RESOLVED**, Congress should not treat tribes differently from other unincorporated associations for federal election law purposes; and

**THEREFORE BE IT FURTHER RESOLVED**, NCAI recognizes the importance of transparency and will not oppose proposals to increase the integrity of the system so long as those proposals apply equally to tribes and other unincorporated associations that are not currently subject to a disclosure requirement under the federal election laws; and

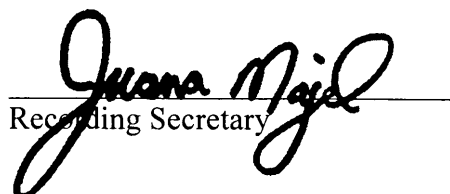
**THEREFORE BE IT FINALLY RESOLVED**, any Congressional reform proposals that amend the federal election laws should respect the right of tribes to participate in the political process and should not unfairly single out tribes.

#### CERTIFICATION

The foregoing resolution was adopted at the Winter Session of the National Congress of American Indians, held at the Wyndham Washington, D.C. on February 27, 2006 with a quorum present.

  
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
Recording Secretary

## MEMORANDUM

**TO: SENATOR INOUYE**  
**FROM: JANET ERICKSON**  
**RE: UPDATE ON CAMPAIGN FINANCE REFORM**  
**DATE: FEBRUARY 17, 2006**

---

The National Congress of American Indians (NCAI) is requesting that you talk to Senator McCain to determine what his proposals are for treating tribes in any campaign finance reform.

My understanding from discussions with Senator McCain's staff is that the Indian Affairs Committee will not take any action on this issue. Instead, any proposals will be forwarded to the Homeland Security/Government Affairs Committee and/or the Rules Committee.

According to NCAI, Senator McCain's staff has indicated that they are drafting language that will include, at a minimum, reporting requirements for tribes. The proposal would only apply to Indian tribes, not other unincorporated entities. In addition, NCAI was told that Senator McCain is working with Senator Lott to include the proposal through the Rules Committee. The Rules Committee has a business meeting scheduled for Tuesday, February 28<sup>th</sup> on a bill to make the legislative process more transparent.

NCAI staff have indicated that tribes are amenable to reporting requirements provided it applies to all unincorporated entities and allows for de minimus contributions before reporting is required. Broad application of reporting requirements would probably receive substantial opposition from other unincorporated entities. Publicly, tribes are trying to keep a low profile but they will respond to the proposals raised at the hearing a few weeks ago.

Given that Senator McCain's staff expect the legislative language this week and his staff seems willing to share the concept with NCAI and other staff, it probably is not necessary to personally discuss the matter with Senator McCain at this time.

Will you talk to Senator McCain about his proposals?

Yes \_\_\_\_ No \_\_\_\_

HOME / PRESS OFFICE



Federal Election Commission

February 2 , 2006

ATTENTION WIRE SERVICES, DAYBOOK EDITORS:

### **ADVISORY ON INDIAN TRIBES**

There have been recent stories and queries by the media concerning contributions by Indian tribes. Some of these stories have contained important errors in describing the law that regulates the political activity of Indian tribes. The following is offered as guidance.

An Indian tribe is subject to the contribution limitations and prohibitions in the federal campaign finance law. An Indian tribe may contribute up to \$2,100 per election to federal candidates, \$5,000 per year to PACs, \$10,000 per year to the federal account of state parties and \$26,700 to national parties. This is true unless the tribe is prohibited from making contributions because it is a corporation or a federal government contractor, in which case, the tribe would be subject to the same prohibitions on contributions as other corporations and federal government contractors. Additionally, political committees, including candidate and party committees, must report contributions from Indian tribes on their regularly filed disclosure reports.

The Federal Election Campaign Act establishes an additional \$101,400 biennial contribution limit that applies *only* to "individuals" (human beings). Thus, individuals face both a per candidate contribution limit of \$2,100 per election and an aggregate limit of \$101,400 in a two-year period. This biennial limit runs for a two-year period beginning January 1 of the odd-numbered year to December 31 of the next even-numbered year. This limit only applies to "individuals" and not to other entities such as political committees.

These rules have been in place for many years. In Advisory Opinion 1978-51, the FEC concluded that Indian tribes were "persons" covered by the contribution limits. In Advisory Opinion 2000-5, the FEC concluded that the overall biennial contribution limit does not apply to an Indian tribe because the tribe is an organization rather than an individual human being. The FEC's conclusion was necessitated by the Federal Election Campaign Act, which applies the limit only to individuals. Indian tribes are treated in the same way as a number of other types of organizations, such as partnerships or certain limited liability companies, both of which are also not subject to the \$101,400 limit imposed on individuals.

Should you desire guidance on Indian tribes or other issues involving the FEC, please contact:

FEC Press Office, 999 E Street, NW, Washington, DC 20463, phone 202 694-1220. The FEC website is <http://www.fec.gov>.

###

## POSSIBLE AMENDMENTS

### PLEASE INDICATE HOW YOU VOTE ON EACH AMENDMENT FOR PREPARATION OF THE PROXY

**Dodd Substitute:** Although no consensus has emerged, Senator Dodd will offer a comprehensive substitute. He will strike the last four provisions and insert portions of Senator Reid's bill which are within the jurisdiction of the Rules Committee, except any provisions that amend FECA. This amendment would strike the Indian provisions in the underlying Lott bill. The additions would ban all gifts from lobbyists and require the Rules Committee to provide recommendations on eliminating the exceptions to the gift ban that are not absolutely necessary. This substitute would also prohibit privately funded travel, prohibit lobbyist organization and participation in Congressional travel, increase the ban on post-employment lobbying of Members and highly-compensated staff to two years, Disclosure would be required by Members and senior congressional staff of employment negotiations and recusal by that Member or staffer for any matter in which there is a conflict of interest. The Ethics Committee would be required to develop guidelines on recusal. The provision to eliminate the K Street Project is included. This would prohibit influencing the employment decisions or practices of any private entity. The Rules Committee would be required to review the allowable Per Diem expenses for Congressional Travel and recommend changes with 90 days. All Senate employees would be required to certify each year that an ethics training class was attended. With respect to Conference Committee meetings, the Standing Rules of the Senate would be amended to provide an opportunity at an open meeting for Members to vote on the full text of the Conference Report. In addition, there is a Sense of the Senate provision which on Conference Committee protocols recommending that regular, formal public meetings be held, that all conferees be afforded an opportunity to participate and debate in all matters before the Conference Committee, that all matters be resolved by a public vote, and that existing rules be enforced and new rules adopted in the Senate to "shine light on the special interest legislation that is enacted in the dead of night." This last part is a bit dramatic for me, but nonetheless is intended to increase transparency in the legislative process.

**Inouye Amendments:** Two amendments have been prepared for your consideration. One would strike the Indian provisions entirely and the other would modify it to include other unincorporated associations in the reporting requirement being created for tribes. A separate section is provided with draft language and talking points.

**Feinstein Lobbyist Fundraising:** Senator Feinstein plans to offer an amendment to prohibit registered lobbyists from directing or overseeing a Member's reelection Committee or fundraising operation or from being affiliated with a leadership Political Action Committee (PAC). This amendment is intended to eliminate the perception that Members are beholden to lobbyists are responsible for raising hundreds of thousands to millions of dollars. In 2004, 74 Members had campaign committees and PACs run by lobbyists. You are one of those who has a registered lobbyist running your finance committee, so you would be directly affected.

**Feinstein Point of Order Waiver:** This amendment would replace the requirement that a simple majority be sufficient to waive the point of order against a Conference Report provision that is outside the scope of the Conference. This was the procedural requirement in the Lott-Feinstein bill, but the Chairman changed it in the Committee bill. Senator Byrd supports this amendment as it preserves the original Rule 28 intent of requiring 60 votes to overcome a point of order.

**Dayton Reverse Revolving Door:** Senator Dayton intends to offer an amendment that would enforce restrictions on private-sector to public sector employment transitions that would prohibit Members, officers, and senior staff from working on matters on which they worked in private employment. This is in response to actions of Senator Thune who last year in the Transportation Authorization bill provided a large benefit to the railroad for whom he worked before being elected to the Senate.

**Dayton Votes for Earmarks:** This amendment would prohibit the conditioning of earmarks or favorable consideration of legislative priorities on the votes cast. This is to address the instance where a House roll call vote was held open for more than three hours while the leadership twisted arms to get the necessary votes to pass Medicare reform legislation. It is unclear whether this amendment can be written in such a way to protect the normal "horse-trading" such as the offering of an amendment and withdrawing it upon a promise that the issue will be taken up at a later date.

**Ben Nelson Reform Commission Creation:** Senator Ben Nelson intends to offer an amendment to create a Commission to study changes to be made to improve transparency and the practice of lobbying. The Rules Committee majority staff argued that this amendment would be out of order because the Committee cannot establish Commissions, but the bill upon which this amendment was based was referred to the Rules Committee, therefore it should be in order. As an aside, Senator Nelson is frustrated by this entire bill. He does not think any of these measures would have prevented the Abramoff scandal and that the Senate should be focusing on enforcement of existing rules.

**Ben Nelson Sense of the Senate on Application of Laws to Entire Federal Government:** This Sense of the Senate would express that whatever version of the bill is passed out of the Committee, and ultimately enacted, should apply to all branches of the Federal Government. He is concerned that the lobbying ban would unfairly limit the post-Senate-employment opportunities of Senate staff compared to other public employees.

**Cochran Electronic Filing of Campaign Finance Reports:** This amendment would require Senatorial Candidates to file their election disclosure information electronically with the Secretary of the Senate. This is intended to provide greater access to campaign financing information in a searchable manner.

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To restore the supermajority for waiver of out of scope provisions.

**IN THE SENATE OF THE UNITED STATES—109th Cong., 2d Sess.**

**S.** \_\_\_\_\_

(title)

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by \_\_\_\_\_

Viz:

- 1 Strike subsection (c) of section 2 and insert the fol-
- 2 lowing:
- 3 (c) SUPERMAJORITY WAIVER AND APPEAL.—This
- 4 section may be waived or suspended in the Senate only
- 5 by an affirmative vote of  $\frac{3}{5}$  of the Members, duly chosen
- 6 and sworn. An affirmative vote of  $\frac{3}{5}$  of the Members of
- 7 the Senate, duly chosen and sworn, shall be required in
- 8 the Senate to sustain an appeal of the ruling of the Chair
- 9 on a point of order raised under this section.

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To amend the Federal Election Campaign Act of 1971 to prohibit registered lobbyists from serving on authorized committees and leadership PACs.

**IN THE SENATE OF THE UNITED STATES—109th Cong., 2d Sess.**

(no.)

(title)

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mrs. FEINSTEIN

Viz:

1 At the appropriate place, insert the following:  
2 **SEC. \_\_\_\_\_. REGISTERED LOBBYISTS PROHIBITED FROM**  
3 **SERVING ON AUTHORIZED COMMITTEES AND**  
4 **LEADERSHIP PACS.**

5 The Federal Election Campaign Act of 1971 (2  
6 U.S.C. 431 et seq.) is amended by inserting after section  
7 324 the following new section:

1 "PROHIBITION ON REGISTERED LOBBYISTS SERVING ON  
2 CERTAIN POLITICAL COMMITTEES

3 "SEC. 325. It shall be unlawful for any person reg-  
4 istered as a lobbyist under section 4 of the Lobbying Dis-  
5 closure Act of 1995—

6 "(1) to serve as an officer or other member of  
7 any authorized committee of a candidate or any  
8 other political committee established, maintained, or  
9 controlled by a candidate or person who holds a  
10 Federal office,

11 "(2) to solicit, receive, or direct to another per-  
12 son, a contribution for any such committee, or

13 "(3) to direct or authorize any expenditure of  
14 such a committee."

**Full Bill Text for the 109th Congress****S.1508 (Introduced in Senate)**

1 of 1

[Search Results](#) > [S.1508 \(Introduced in Senate\)](#)[New Search](#)[Help](#) | [Contact Us](#)This Bill: [Bill Summary & Status](#)Printer Friendly: [HTML](#) | [PDF](#)**S.1508****Senate Campaign Disclosure Parity Act (Introduced in Senate)**

S 1508 IS

109th CONGRESS

1st Session

**S. 1508**

To require Senate candidates to file designations, statements, and reports in electronic form.

**IN THE SENATE OF THE UNITED STATES****July 27, 2005**

Mr. FEINGOLD (for himself, Mr. MCCAIN, and Mr. COCHRAN) introduced the following bill;  
which was read twice and referred to the Committee on Rules and Administration

---

**A BILL**

To require Senate candidates to file designations, statements, and reports in electronic form.

*Be it enacted by the Senate and House of Representatives of the United States of America in  
Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Senate Campaign Disclosure Parity Act'.

**SEC. 2. SENATE CANDIDATES REQUIRED TO FILE ELECTION REPORTS  
IN ELECTRONIC FORM.**

(a) In General- Section 304(a)(11)(D) of the Federal Election Campaign Act of 1971 (2 U.S.C.  
434(a)(11)(D)) is amended to read as follows:

(D) As used in this paragraph, the terms 'designation', 'statement', or 'report' mean

a designation, statement or report, respectively, which--

`(i) is required by this Act to be filed with the Commission, or

`(ii) is required under section 302(g) to be filed with the Secretary of the Senate and forwarded by the Secretary to the Commission.'.

(b) Conforming Amendments-

(1) Section 302(g)(2) of such Act (2 U.S.C. 432(g)(2)) is amended by inserting `or 1 working day in the case of a designation, statement, or report filed electronically' after `2 working days'.

(2) Section 304(a)(11)(B) of such Act (2 U.S.C. 434(a)(11)(B)) is amended by inserting `or filed with the Secretary of the Senate under section 302(g)(1) and forwarded to the Commission' after `Act'.

(c) Effective Date- The amendments made by this section shall apply to any designation, statement, or report required to be filed after the date of enactment of this Act.

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**1 of 1**

**COMPARISON BETWEEN DEMOCRATIC AMENDMENT (BASED ON S. 2180, THE HONEST LEADERSHIP ACT) AND THE RULES COMMITTEE MARK**

Please note: The provisions of S. 2180, the Honest Leadership Act, that fall within Government Affairs Committee jurisdiction are outside the scope of the Rules Committee process and so are not included in the Democratic amendment.

<b>Provision</b>	<b>Rules Mark</b>	<b>Democratic Amendment</b>
<b>Revolving Door</b>	<i>Members:</i> Does not change current law.  <i>Senior Staff:</i> Extends chamber-wide ban for Members in current law to senior staff.	<i>Members:</i> Doubles cooling off period to two years.  <i>All Staff:</i> Doubles cooling off period to two years.
<b>Outside Job Negotiations</b>	No provision to address conflicts of interest that arise when Members and senior staff negotiate for employment with the very industries they regulate.	Requires Members and senior staff to notify the Ethics committee of outside job negotiations; requires recusal from working on matters when conflicts of interest exist.
<b>K Street Project</b>	No provision to end pay-to-play scheme where access and official actions are traded for lucrative position for partisan allies.	Shuts down K Street Project once and for all by making clear that it is a violation of Senate rules to take or withhold official action in an attempt to influence private employment decisions on the basis of partisan political affiliation.
<b>Lobbyist Gifts</b>	Bans gifts from lobbyists, with exception of meals and existing exceptions apply.	Prohibits all gifts from lobbyists that do not fit into the current narrow exceptions. Instructs Rules to recommend ways to narrow the exceptions.
<b>Lobbyist Travel</b>	Essentially re-states current rules by requiring entities that provide travel to certify that lobbyists did not pay for the travel. Lobbyists allowed to invite staff, plan, and participate in travel. Added disclosure. Requires Ethics Committee approval of travel.	Dramatically change current rules by prohibiting all privately-funded travel unless paid for by a 501(c)(3) organization not affiliated with an organization that lobbies. Prohibits lobbyist inviting staff, planning, and participating in privately-funded travel. Added disclosure.
<b>Mandatory Ethics Training</b>	No provision.	Requires congressional staff to attend annual ethics training and to certify that they have completed the training and understand the rules.
<b>Per Diem Rates</b>	No provision.	Requires Rules Committee to develop and publish <i>per diem</i> guidelines for travel, food, and lodging expenses for Congressional travel.
<b>Actual Voting in Conference</b>	No provision	Requires that each conference Member be afforded an opportunity at an open meeting of the conference to vote on the full text of the proposed report of the conference.

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## Senate Draft on Lobbying Clamps Down on Earmarks

Rules Panel Would Target Narrow Spending and Require Prompt Disclosure of Meals Received

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The Senate Rules Committee plans today to draft legislation that would make it harder for lawmakers to win narrowly focused appropriations and tax breaks called earmarks and to compel lawmakers to quickly disclose any meals they accept from lobbyists.

The plan, which was still being worked on yesterday, will probably form the basis of the first of a series of bills in Congress this year designed to curtail lobbying after the Jack Abramoff political corruption scandal.

Separately, Republican leaders in the House neared an agreement to temporarily ban privately funded travel for House members. A senior House aide said the ban would be in place until an effective process for preapproving trips could be established.

The Rules Committee measure would allow the Senate to strip individual earmarks from conference reports, which are bills in their final stage before they are sent for the president's signature. Currently, lawmakers are often powerless to remove the provisions when legislation is so far advanced.

The proposal would also require that the lawmakers who wrote the earmarks be identified and that each earmark carry an explanation of its "essential governmental purpose." In the past, much of the earmarking of legislation was done in secret. In addition, conference reports, now sometimes rushed through Congress at the eleventh hour, would have to be available on the Internet 24 hours before they are voted on.

The proposed bill would also prevent former senators who are registered lobbyists or agents of foreign entities to walk onto the Senate floor, a privilege they now have.

Under the legislation, lawmakers and their staffs would have to list on the lawmakers' official Web sites the value of any meal or refreshments they accept from lobbyists. They would have to make the posting no later than 15 days after the meals are received.

The bill would also mandate that lawmakers get approval in advance from the Senate's Select Committee on Ethics for any privately financed travel they accept. The trips and their main details would have to be disclosed rapidly, including the names of the people who came along on private aircraft.

In addition, the measure would increase the amount of disclosure that Indian tribes must make for their contributions to federal candidates. Several of Abramoff's clients were Indian tribes.

Sen. Trent Lott (R-Miss.), chairman of the Rules Committee, continued to work on the proposal last evening, according to an aide. The draft bill was obtained by The Washington Post yesterday after it was distributed to some panel members.

The House voted Feb. 1 to deny its former members access to the House floor and to its gymnasium. Its Republican leaders are still negotiating legislation that would further restrict contact between lawmakers and lobbyists.

The Lott proposal would be the first lobbying and ethics bill to be considered in committee on the topic this year. The Senate Committee on Homeland Security and Governmental Affairs is expected to draft its own measure Thursday, with votes on both bills scheduled for next week.

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## Lobbyist Turns Senator but Twists Same Arms

By SHERYL GAY STOLBERG

WASHINGTON, Feb. 27 — It might be said that Senator John Thune went through the revolving door — backward.

As a lobbyist in 2003 and 2004, Mr. Thune earned \$220,000 from the Dakota, Minnesota & Eastern Railroad, a small but ambitious company in South Dakota. The railroad hopes to rebuild and rehabilitate 1,300 miles of track, the nation's largest proposed railroad expansion in more than a century.

Now, as a junior senator from South Dakota, Mr. Thune is working to make that happen, raising questions about whether there should be curbs on lobbyists-turned-lawmakers in the same way that there are on those who take the more traditional route of leaving Capitol Hill for K Street.

Last year, his first in the Senate, Mr. Thune wrote language into a transportation bill expanding the pot of federal loan money for small railroads, enabling his former client to apply for \$2.5 billion in government financing for its project. The loan has yet to be approved; Mr. Thune said he was trying to promote economic development in his home state.

"I don't apologize, and never will," said Mr. Thune, a Republican, "for working for South Dakota companies that are creating South Dakota jobs."

There are no legal restrictions on the legislative activities of former lobbyists who get elected to Congress. But in the wake of the Jack Abramoff lobbying scandal and the subsequent focus on ethics, Mr. Thune's experience has put a spotlight on what some experts call "the reverse revolving door."

The issue is among those likely to be debated on Tuesday, when the Senate Committee on Rules and Administration meets to draft changes to the lobbying law. Senator Mark Dayton, Democrat of Minnesota and a member of the rules committee, is furious with Mr. Thune over the rail project, and intends to propose language imposing a two-year ban on lawmakers' getting "personally and substantially" involved in matters affecting former clients.

"This makes some of the Jack Abramoff deals look like penny ante," said Mr. Dayton, who has a prominent constituent, the Mayo Clinic in Rochester, Minn., that is fighting the rail expansion. "It's the most despicable special-interest deal I've ever seen in all my 30 years in government."

Independent experts do not go that far, and Mr. Thune, a former House member and former South Dakota state railroad director, has a long history with railroad issues. Yet some outside experts agree with Mr. Dayton that a cooling-off period for former lobbyists is necessary.

Currently, lawmakers and Congressional aides are barred from lobbying former colleagues on Capitol Hill for one year after leaving public office. On Tuesday, Senator Trent Lott, Republican of Mississippi and the chairman of the rules committee, is expected to propose legislation that would go further, rescinding House and Senate floor privileges for former lawmakers who become registered lobbyists.

Mr. Lott's bill does not address the issue of lobbyists who get elected to Congress. But Keith Ashdown, vice president of Taxpayers for Common Sense, a government watchdog group, said lobbyists-turned-lawmakers should step aside from legislation involving former clients.

And James Thurber, an expert in money and politics at American University in Washington who has testified before the rules panel, said candidates should not lobby for a year before Election Day.

"If they're going to be running for the Senate or the House they should not be lobbying right up to the election," Professor Thurber said, adding: "The conflict of interest is too serious. In a representative democracy, you have to be very careful about cutting off the linkages to specialized interests while you're in office, as well as just before you get in office and after you leave."

According to public records and a list compiled by Professor Thurber, at least eight current members of Congress worked as lobbyists before being elected. Some, like Mr. Thune and Representative Dan Lungren, Republican of California, became lobbyists during a hiatus in public service.

Mr. Lungren, a former House member and California attorney general, worked as a lobbyist from the late 1990's until he returned to the House in 2005. Mr. Thune, who retired from the House in 2002, began lobbying after he lost his bid for a Senate seat that year. He continued through 2004, when he ran again and won.

His one-man company, the Thune Group, which he operated out of his Sioux Falls home, had just four clients, all with South Dakota connections; they included a boneless-beef manufacturer, a company that builds ethanol plants and a major hospital in Sioux Falls. He was also affiliated with a Washington-based law firm, Arent Fox, representing a recycling facility and the National Milk Producers Federation.

Others have had far more extensive client lists. Representative Doris Matsui, Democrat of California, represented dozens of clients — including agricultural associations, a pharmaceutical business and Verizon, the telephone company — while her late husband, Robert, was serving in Congress. She was elected to fill his seat when he died.

Still others, like Senators Lamar Alexander, Republican of Tennessee, and Robert F. Bennett, Republican of Utah, have not lobbied for years. Mr. Bennett opened the Washington office of the J.C. Penney Company in the 1960's, he said, back in the days "when lobbyists didn't earn as much as members."

Mr. Bennett said he saw nothing wrong with Mr. Thune's work; he said lobbyists often had expertise that could translate into good public policy.

"I left Penney's in 1969 to join the Nixon administration and I didn't come to the Senate until 1992, but I brought with me a residual understanding of retailing and retailing issues," Mr. Bennett said. "That expertise was helpful, and I did some things, frankly, that were helpful to the J.C. Penney Company. If it's good public policy, the fact that I brought that experience and expertise with me probably contributed to it."

That is precisely Mr. Thune's argument.

As the railroad's lobbyist, he helped Dakota, Minnesota & Eastern obtain a \$230 million loan from the Federal Railroad Administration. The company president, Kevin V. Schieffer — a former chief of staff

to a previous South Dakota senator, Larry Pressler — said that Mr. Thune had "real bona fide rail industry experience," and that he did not see any conflict.

"He got his last check from us a long time ago," Mr. Schieffer said.

Mr. Thune said the work convinced him that the same loan program could finance the big rail expansion, intended to transport so-called "clean-burning coal" from the Powder River Basin in Wyoming to the East Coast. Mr. Thune said the project was in keeping with President Bush's energy policy and would also create thousands of jobs in South Dakota.

The trouble was, the loan program was too small — just \$3.5 billion all told, with \$1 billion for smaller railroads like the Dakota, Minnesota & Eastern. So Mr. Thune, drawing on existing legislation that was stalled, proposed increasing it to \$35 billion, with \$7 billion for small railroads. Although the Senate initially passed a lesser amount, Mr. Thune persuaded colleagues to include the full \$35 billion when the transportation bill went to conference with the House.

Mr. Dayton, who once co-sponsored a similar bill but now says that doing so was a mistake, calls the loan provision a "totally irresponsible boondoggle." Mr. Thune says that everything was done in the open, and that his constituents elected him knowing exactly whom he had worked for, and how much he was paid.

"If you start banning elected officials from using their working knowledge on behalf of constituents," he said, "I think it would greatly erode our representative form of government."