

# Calendar No. 367

109TH CONGRESS  
2D SESSION

# S. 2349

To provide greater transparency in the legislative process.

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IN THE SENATE OF THE UNITED STATES

MARCH 1, 2006

Mr. LOTT 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) SUPERMAJORITY WAIVER AND APPEAL.—This  
 2 section may be waived or suspended in the Senate only  
 3 by an affirmative vote of  $\frac{3}{5}$  of the Members, duly chosen  
 4 and sworn. An affirmative vote of  $\frac{3}{5}$  of the Members of  
 5 the Senate, duly chosen and sworn, shall be required in  
 6 the Senate to sustain an appeal of the ruling of the Chair  
 7 on a point of order raised under this section.

8 **SEC. 3. EARMARKS.**

9 The Standing Rules of the Senate are amended by  
 10 adding at the end the following:

11 “RULE XLIV

12 “EARMARKS

13 “1. In this rule—

14 “(1) the term ‘earmark’ means a provision that  
 15 specifies the identity of a non-Federal entity to re-  
 16 ceive assistance and the amount of the assistance;  
 17 and

18 “(2) the term ‘assistance’ means budget author-  
 19 ity, contract authority, loan authority, and other ex-  
 20 penditures, and tax expenditures or other revenue  
 21 items.

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

26 “(1) all earmarks in such measure;

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

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

5 is available along with any joint statement of managers  
6 associated with the measure to all Members and made  
7 available on the Internet to the general public for at least  
8 24 hours before its consideration.”.

9 **SEC. 4. AVAILABILITY OF CONFERENCE REPORTS ON THE**  
10 **INTERNET.**

11           (a) IN GENERAL.—

12           (1) AMENDMENT.—Rule XXVIII of all the  
13           Standing Rules of the Senate is amended by adding  
14           at the end the following:

15           “7. It shall not be in order to consider a conference  
16           report unless such report is available to all Members and  
17           made available to the general public by means of the Inter-  
18           net for at least 24 hours before its consideration.”.

19           (2) EFFECTIVE DATE.—This subsection shall  
20           take effect 60 days after the date of enactment of  
21           this Act.

22           (b) IMPLEMENTATION.—Not later than 60 days after  
23           the date of enactment of this Act, the Secretary of the  
24           Senate, in consultation with the Enrolling Clerks of the  
25           Senate and House of Representatives, the Government

1 Printing Office, and the Committee on Rules and Admin-  
 2 istration, shall develop and establish a website capable of  
 3 complying with the requirements of paragraph 7 of rule  
 4 XXVIII of the Standing Rules of the Senate, as added  
 5 by subsection (a).

6 **SEC. 5. ELIMINATION OF FLOOR PRIVILEGES FOR FORMER**  
 7 **MEMBERS, SENATE OFFICERS, AND SPEAK-**  
 8 **ERS OF THE HOUSE WHO ARE LOBBYISTS OR**  
 9 **SEEK FINANCIAL GAIN.**

10 Rule XXIII of the Standing Rules of the Senate is  
 11 amended by—

12 (1) inserting “1.” before “Other”;

13 (2) inserting after “Ex-Senators and Senators  
 14 elect” the following: “, except as provided in para-  
 15 graph 2”;

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

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

22 (5) adding at the end the following:

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

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

3           “(2) is in the employ of or represents any party  
4           or organization for the purpose of influencing, di-  
5           rectly, or indirectly, the passage, defeat, or amend-  
6           ment of any legislative proposal.

7           “(b) The Committee on Rules and Administration  
8           may promulgate regulations to allow individuals covered  
9           by this paragraph floor privileges for ceremonial functions  
10          and events designated by the Majority Leader and the Mi-  
11          nority Leader.”.

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

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

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

16                 (2) adding at the end the following:

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

19                 “(ii) Notwithstanding division (i), a Member, officer,  
20                 or employee may accept a meal or refreshment from a reg-  
21                 istered lobbyist or an agent of a foreign principal subject  
22                 to the monetary limits in this clause. A Member shall list  
23                 on the Member’s official website the value of any meals  
24                 or refreshments permitted by this division to the Member  
25                 or employee of the Member and the name of the person

1 who paid for such items not later than 15 days after such  
2 meals or refreshments are received.”.

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

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

7 “(f)(1) Before a Member, officer, or employee may  
8 accept transportation or lodging otherwise permissible  
9 under this paragraph from any person, other than a gov-  
10 ernmental entity, such Member, officer, or employee  
11 shall—

12 “(A) obtain a written certification from such  
13 person (and provide a copy of such certification to  
14 the Select Committee on Ethics) that—

15 “(i) the trip was not financed in whole, or  
16 in part, by a registered lobbyist or foreign  
17 agent; and

18 “(ii) the person did not accept, directly or  
19 indirectly, funds from a registered lobbyist or  
20 foreign agent specifically earmarked for the  
21 purpose of financing the travel expenses;

22 “(B) provide the Select Committee on Ethics  
23 (in the case of an employee, from the supervising  
24 Member or officer), in writing—

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

1                   “(ii) a determination that the trip—

2                           “(I) is primarily educational (either  
3                   for the invited person or for the organiza-  
4                   tion sponsoring the trip);

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

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

9                           “(iii) has a minimal or no recreational  
10                   component; and

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

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



1 except when disclosure of such information is deemed by  
2 the Member to jeopardize the safety of an individual or  
3 adversely affect national security.”.

4 (b) DISCLOSURE OF NONCOMMERCIAL AIR TRAV-  
5 EL.—

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

10 “(g) A Member, officer, or employee of the Senate  
11 shall—

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

19 “(2) with respect to the flight, file a report with  
20 the Secretary of the Senate, including the date, des-  
21 tination, and owner or lessee of the aircraft, the pur-  
22 pose of the trip, and the persons on the trip, except  
23 for any person flying the aircraft.”.

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

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

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

8           (C) by adding at the end the following:

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

20           “(A) The date of the flight.

21           “(B) The destination of the flight.

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

23           “(D) The purpose of the flight.

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

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

4 “(e) The Secretary of the Senate shall make available  
5 to the public all disclosures filed pursuant to subpara-  
6 graphs (f) and (g) as soon as possible after they are re-  
7 ceived and such matters shall be posted on the Member’s  
8 official website but no later than 30 days after the trip  
9 or flight.”.

10 **SEC. 8. POST EMPLOYMENT RESTRICTIONS.**

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

13 (1) designating the first sentence as subpara-  
14 graph (a);

15 (2) designating the second sentence as subpara-  
16 graph (b); and

17 (3) adding at the end the following:

18 “(c) If an employee on the staff of a Member or on  
19 the staff of a committee whose rate of pay is equal to or  
20 greater than 75 percent of the rate of pay of a Member  
21 and employed at such rate for more than 60 days in a  
22 calendar year, upon leaving that position, becomes a reg-  
23 istered lobbyist under the Federal Regulation of Lobbying  
24 Act of 1946 or any successor statute, or is employed or  
25 retained by such a registered lobbyist for the purpose of

1 influencing legislation, such employee may not lobby any  
 2 Member, officer, or employee of the Senate for a period  
 3 of 1 year after leaving that position.”.

4 (b) EFFECTIVE DATE.—This section shall take effect  
 5 60 days after the date of enactment of this Act.

6 **SEC. 9. PUBLIC DISCLOSURE BY MEMBERS OF CONGRESS**  
 7 **OF EMPLOYMENT NEGOTIATIONS.**

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

10 “14. A Member shall not directly negotiate or have  
 11 any arrangement concerning prospective private employ-  
 12 ment until after the election for his or her successor has  
 13 been held, unless such Member files a statement with the  
 14 Secretary of the Senate, for public disclosure, regarding  
 15 such negotiations or arrangements within 3 business days  
 16 after the commencement of such negotiation or arrange-  
 17 ment, including the name of the private entity or entities  
 18 involved in such negotiations or arrangements, the date  
 19 such negotiations or arrangements commenced, and must  
 20 be signed by the Member.”.

21 **SEC. 10. PROHIBIT OFFICIAL CONTACT WITH SPOUSE OR**  
 22 **IMMEDIATE FAMILY MEMBER OF MEMBER**  
 23 **WHO IS A REGISTERED LOBBYIST.**

24 Rule XXXVII of the Standing Rules of the Senate  
 25 is amended by—

1           (1) redesignating paragraphs 10 through 12 as  
2 paragraphs 11 through 13, respectively; and

3           (2) inserting after paragraph 9, the following:

4           “10. (a) If a Member’s spouse or immediate family  
5 member is a registered lobbyist under the Lobbying Dis-  
6 closure Act of 1995, or is employed or retained by such  
7 a registered lobbyist for the purpose of influencing legisla-  
8 tion, the Member shall prohibit all staff employed by that  
9 Member (including staff in personal, committee and lead-  
10 ership offices) from having any official contact with the  
11 Member’s spouse or immediate family member.

12           “(b) In this paragraph, the term ‘immediate family  
13 member’ means the son, daughter, stepson, stepdaughter,  
14 son-in-law, daughter-in-law, mother, father, stepmother,  
15 stepfather, mother-in-law, father-in-law, brother, sister,  
16 stepbrother, or stepsister of the Member.”.

17 **SEC. 11. INFLUENCING HIRING DECISIONS.**

18           Rule XLIII of the Standing Rules of the Senate is  
19 amended by adding at the end the following:

20           “6. No Member shall, with the intent to influence on  
21 the basis of partisan political affiliation an employment  
22 decision or employment practice of any private entity—

23           “(1) take or withhold, or offer or threaten to  
24 take or withhold, an official act; or

1           “(2) influence, or offer or threaten to influence  
2           the official act of another.”.

3 **SEC. 12. SENSE OF THE SENATE THAT ANY APPLICABLE RE-**  
4                           **STRICTIONS ON CONGRESSIONAL BRANCH**  
5                           **EMPLOYEES SHOULD APPLY TO THE EXECU-**  
6                           **TIVE AND JUDICIAL BRANCHES.**

7           It is the sense of the Senate that any applicable re-  
8           strictions on Congressional branch employees in this Act  
9           should apply to the Executive and Judicial branches.

10 **SEC. 13. EFFECTIVE DATE.**

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



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