

Statement of the
U.S. Public Interest Research Group

By
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on the
Need for Independent Ethics Enforcement

Before the
United States House of Representative's
Special Task Force on Ethics Enforcement

The Honorable Michael Capuano, Chair

Congressional scandals last year have revealed a number of cases of overt corruption. Former Representatives Duke Cunningham (CA) and Robert Ney (OH) were caught trading votes for campaign contributions and other bribes. Disgraced lobbyist Jack Abramoff landed in jail for masterminding efforts to use campaign contributions to steer public funds to his pet projects. The investigation into the activities of Rep William Jefferson (LA) continues following the FBI's discovery of \$90,000 in cash in his freezer. And yesterday, Representative John Doolittle's home was raided by the FBI in connection with allegations stemming from his involvement with former lobbyist Jack Abramoff. Several top legislative and White House aides have already pled guilty to corruption charges and this may be only the tip of the iceberg.

Scrutiny by the press and others has shown grossly inadequate rules and lax enforcement of the rules covering ethics and lobbying practices in Congress.

While Congress operated in a state of denial, voters were clear about how they felt. Election Day exit polls cited corruption as the top issue motivating voters. Polls throughout the year (USA Today, Gallup, CNN) showed corruption in Congress tied as a top tier concern among voters.

Congress answers skeptics; takes first important steps on ethics changes

After two years of foot-dragging, excuses and even refusals to acknowledge the problems, in its opening session the new Congress took its first critical steps toward changing the way business is done in Washington. The overwhelming support for new restrictions on lobbyist-funded trips and gifts (House vote: 430 to 1; Senate vote: 96 to 2) sends a powerful message that the new Congress is taking the need for reform seriously. This is a sea change from the ill-conceived and ineffectual bill considered and passed by the House during the scandal-plagued session last year.

However, there is more to be done and topping the list is the establishment of an independent enforcement entity

Enforcement is the key to meaningful ethics reform

Jack Abramoff's downfall was not the result of an aggressive House or Senate ethics enforcement process. He was turned in to the Justice Department by a competitor turned whistle-blower. After the initial details of the case came out, the House and Senate Ethics Committees sat on their hands. They initiated no probe nor asked any questions nor made any attempt to see if members had violated the rules and the public trust. The House Ethics Committee was so paralyzed they failed to convene a meeting for most of the 109th Congress.

The current system is broken. Overseeing one's own colleagues is difficult under any circumstances, but oversight in a charged partisan environment like the U.S. Congress is impossible. This is not to say that members of Congress are any less capable than others of self-policing-- no one self-polices well. In the Executive Branch there is an Office of Government Ethics. Businesses have outside auditors. Congress needs independent and professional oversight and enforcement of the rules.

The task force would do well to review existing models. Twenty-three states have created independent enforcement entities for their legislatures. I have attached a copy of our report detailing state models. Several proposals, such as the Office of Public Integrity proposed in the House by Reps. Shays (CT) and Meehan (MA) or an independent ethics commission as detailed in a bill by Reps. Castle (DE) and Platts (PA) create workable models of how such entities would

operate. Regardless of the specific model, there are a number of important principles that U.S. PIRG and other reform groups have developed to ensure a fair professional process.

- The enforcement office should have the authority to receive and investigate outside complaints and to initiate and conduct investigations on its own authority, where the office determines that a matter requires investigation. The office should have the powers necessary to conduct investigations, including the authority to administer oaths, and to issue and enforce subpoenas. The subject of any investigation should have the opportunity to present information to the Office to show that no violation has occurred. The office should have the authority to dismiss frivolous complaints expeditiously and to impose sanctions for filing such complaints.
- The office should be headed by a Director or by a three-member panel, should have a professional, impartial staff and should have the resources necessary to carry out the office's responsibilities.
- If the office is headed by a Director, the Director should be chosen jointly by the Speaker and Minority Leader. If the Office is headed by a panel, the panel should consist of three members, with one member chosen by the Speaker, one member chosen by the Minority Leader and the third member chosen by the other two members.
- The Director or panel members should be individuals of distinction with experience as judges, ethics officials or in law enforcement, should not be Members of Congress or former Members, should have term appointments and should be subject to removal only for cause by joint agreement of the Speaker and Minority Leader.
- The office should have the authority to present a case to the House Ethics Committee for its decision, based on the same standard that is currently used to determine when a case should be presented to the Committee. The Ethics Committee would be responsible for determining if ethics rules have been violated and what, if any, sanctions should be imposed or recommended to the House. A public report should be issued on the disposition of a case by the Ethics Committee. The office should have the authority to recommend sanctions to the Committee, if the Committee determines an ethics violation had occurred.
- The office should receive, monitor and oversee financial disclosure, travel and other reports filed by Members and staff, to ensure that reports are properly filed and to make the reports public in a timely and easily accessible manner. The office should have the same authority for lobbying reports filed under the Lobbying Disclosure Act.

Beyond the highly touted "first 100 hours," the 110th Congress must move to create outside, professional oversight to ensure the new rules will not be paper tigers and assure the American people that the new Congress will differ from the last.