

109TH CONGRESS
1ST SESSION

S. 1358

To protect scientific integrity in Federal research and policymaking.

IN THE SENATE OF THE UNITED STATES

JUNE 30, 2005

Mr. DURBIN (for himself and Mr. LAUTENBERG) introduced the following bill;
which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To protect scientific integrity in Federal research and
policymaking.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Restore Scientific Integrity to Federal Research and Pol-
6 icymaking Act”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purpose.

Sec. 3. Prohibition of political interference with science.

Sec. 4. Whistleblower extension for disclosures relating to interference with
science.

- Sec. 5. Requirements relating to Federal scientific advisory committees.
Sec. 6. Peer review.
Sec. 7. State of scientific integrity report.
Sec. 8. Definitions.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) America has for its history served as a
4 world leader of scientific innovation and research.

5 (2) Multiple policy and legislative decisions af-
6 fecting the health and safety of the American public
7 and the state of the environment depend upon com-
8 prehensive, accurate scientific information.

9 (3) The Federal Government plays a key role in
10 fostering and supporting scientific research.

11 (4) The conduct of such research depends on
12 free investigation and open exchange of ideas.

13 (5) Scientific advisory committees must be com-
14 prised of individuals with the appropriate expertise
15 regardless of political affiliation.

16 (6) Over the past four years, leading scientific
17 associations and scientific journals, Inspectors Gen-
18 eral, senior scientists within the Federal Govern-
19 ment, former scientific officials from both Repub-
20 lican and Democratic administrations, and 48 Nobel
21 Laureates have raised concerns about political inter-
22 ference with science in the executive branch of the
23 Federal Government.

1 (b) PROHIBITED PERSONNEL PRACTICE.—Section
2 2302(b) of title 5, United States Code, is amended—

3 (1) in paragraph (11), by striking “or” at the
4 end;

5 (2) in paragraph (12), by striking the period
6 and inserting “; or”; and

7 (3) by inserting after paragraph (12) the fol-
8 lowing:

9 “(13) take or fail to take, or threaten to take
10 or fail to take, a personnel action with respect to
11 any employee because of the development or dissemi-
12 nation, within the scope of employment, of scientific
13 research or analysis that the employee reasonably
14 believes to be accurate and valid.”.

15 (c) CLERICAL AMENDMENT.—The table of sections
16 for chapter 73 of title 5, is amended by inserting after
17 the item relating to section 7353 the following:

“7354. Interference with science.”.

18 **SEC. 4. WHISTLEBLOWER EXTENSION FOR DISCLOSURES**
19 **RELATING TO INTERFERENCE WITH**
20 **SCIENCE.**

21 (a) IN GENERAL.—Subparagraphs (A)(ii) and (B)(ii)
22 of section 2302(b)(8) of title 5, United States Code, are
23 amended by inserting after “authority,” the following: “in-
24 cluding but not limited to tampering with the conduct of
25 federally funded scientific research or analysis, censoring

1 the findings of federally funded scientific research or anal-
2 ysis, or directing the dissemination of scientific informa-
3 tion known by the directing employee to be false or mis-
4 leading.”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 1212(a)(3) of title 5, United States
7 Code, is amended by inserting after “authority,” the
8 following: “including but not limited to tampering
9 with the conduct of federally funded scientific re-
10 search or analysis, censoring the findings of feder-
11 ally funded scientific research or analysis, or direct-
12 ing the dissemination of scientific information known
13 by the directing employee to be false or mis-
14 leading.”.

15 (2) Section 1213(a) of such title is amended—

16 (A) in paragraph (1)(B), by inserting after
17 “authority,” the following: “including but not
18 limited to tampering with the conduct of feder-
19 ally funded scientific research or analysis, cen-
20 soring the findings of federally funded scientific
21 research or analysis, or directing the dissemina-
22 tion of scientific information known by the di-
23 recting employee to be false or misleading.”;
24 and

1 (B) in paragraph (2)(B), by inserting after
2 “authority,” the following: “including but not
3 limited to tampering with the conduct of feder-
4 ally funded scientific research or analysis, cen-
5 soring the findings of federally funded scientific
6 research or analysis, or directing the dissemina-
7 tion of scientific information known by the di-
8 recting employee to be false or misleading,”.

9 **SEC. 5. REQUIREMENTS RELATING TO FEDERAL SCI-**
10 **ENTIFIC ADVISORY COMMITTEES.**

11 (a) **BAR ON LITMUS TESTS.**—All appointments to
12 Federal scientific advisory committees shall be made with-
13 out regard to political affiliation, unless required by Fed-
14 eral statute.

15 (b) **DESIGNATION OF MEMBERS AS SPECIAL GOV-**
16 **ERNMENT EMPLOYEES OR REPRESENTATIVES.**—

17 (1) An individual appointed to a Federal sci-
18 entific advisory committee who is not a full-time or
19 permanent part-time officer or employee of the Fed-
20 eral Government shall be designated, by the agency
21 to which the committee reports, as either—

22 (A) a special Government employee, if the
23 individual is providing advice based on the indi-
24 vidual’s expertise or experience; or

1 (B) a representative, if the individual is
2 representing the views of individuals or entities
3 outside the Federal Government.

4 (2) An agency shall review the members of each
5 Federal scientific advisory committee that reports to
6 the agency to determine whether each member's des-
7 ignation is appropriate, and to redesignate members
8 if appropriate. Such review shall be made when the
9 committee's charter expires or, in the case of a com-
10 mittee with an indefinite charter, every 2 years.

11 (c) ENSURING INDEPENDENT ADVICE AND EXPER-
12 TISE.—

13 (1) Each agency shall, to the extent permitted
14 by law, appoint individuals to Federal scientific advi-
15 sory committees as special government employees.

16 (2) Each agency shall make its best efforts to
17 ensure that—

18 (A) no individual appointed to serve on a
19 Federal scientific advisory committee has a con-
20 flict of interest that is relevant to the functions
21 to be performed, unless such conflict is prompt-
22 ly and publicly disclosed and the agency deter-
23 mines that the conflict is unavoidable; and

24 (B) each report of the advisory committee
25 will be the result of the advisory committee's

1 independent judgment and include a statement
2 indicating the process used by the advisory
3 committee in formulating the recommendations
4 or conclusions contained in the report.

5 (3) Each agency shall require that individuals
6 that the agency appoints or intends to appoint to
7 serve on a Federal scientific advisory committee in-
8 form the agency of the individual's conflicts of inter-
9 est that are relevant to the functions to be per-
10 formed.

11 (4) If an agency determines that representative
12 members are required on a Federal scientific advi-
13 sory committee, the Advisory Committee Manage-
14 ment Officer of the agency shall consult with the
15 designated agency ethics official to ensure that the
16 designation is appropriate and necessary to fulfilling
17 the committee's purpose.

18 (5) The designated agency ethics official of
19 each agency shall issue guidance to ensure that Fed-
20 eral scientific advisory committees are providing suf-
21 ficiently independent advice and expertise.

22 (6) The Administrator for General Services
23 shall conduct an annual review of compliance by
24 agencies with this subsection and shall submit to the
25 Committee on Government Reform of the House of

1 Representatives and the Committee on Govern-
2 mental Affairs and Homeland Security of the Senate
3 a report on the results of the review.

4 (d) DISCLOSURE OF INFORMATION.—

5 (1) ITEMS REQUIRED TO BE DISCLOSED.—With
6 respect to each Federal scientific advisory committee
7 established before, on, or after the date of the enact-
8 ment of this Act, the agency to which the committee
9 reports shall make available as described in para-
10 graph (2) the following information, at a minimum:

11 (A) The charter of the committee.

12 (B) A description of the committee forma-
13 tion process, including at least—

14 (i) the process for identifying prospec-
15 tive members;

16 (ii) the process of selecting members
17 for balance of viewpoints or expertise; and

18 (iii) a justification of the need for rep-
19 resentative members, if any.

20 (C) A list of all current members, includ-
21 ing, for each member, the following:

22 (i) The name of any person or entity
23 that nominated the member.

1 (ii) Whether the member is designated
2 as a special Government employee or a
3 representative.

4 (iii) In the case of a representative,
5 the individuals or entity whose viewpoint
6 the member represents.

7 (D) A list of all special Government em-
8 ployees who have received conflict of interest
9 waivers under section 208(b) of title 18, United
10 States Code, under regulations issued by the
11 Office of Government Ethics, a summary de-
12 scription of the conflict necessitating the waiv-
13 er, and the reason for granting the waiver.

14 (E) A summary of the process used by the
15 committee for making decisions.

16 (F) Transcripts of all meetings of the com-
17 mittee.

18 (G) Notices of future meetings of the com-
19 mittee.

20 (2) METHODS OF DISCLOSURE.—

21 (A)(i) Except as provided in clause (ii), the
22 information required to be disclosed by an
23 agency under this subsection shall be available
24 electronically, including on the official public
25 Internet site of the agency, at least 7 calendar

1 days before each meeting of a Federal scientific
2 advisory committee.

3 (ii) In the case of a transcript of a meeting
4 of a Federal scientific advisory committee, the
5 transcript shall be disclosed by an agency under
6 this subsection not later than 7 calendar days
7 after the meeting.

8 (B) The Administrator of General Services
9 shall provide, on the official public Internet site
10 of the General Services Administration, elec-
11 tronic access to the information made available
12 by each agency under subparagraph (A).

13 **SEC. 6. PEER REVIEW.**

14 (a) AGENCY-DIRECTED PEER REVIEW.—Each agen-
15 cy shall determine a peer review process appropriate for
16 the agency's functions and needs.

17 (b) INEFFECTIVENESS OF INFORMATION QUALITY
18 BULLETIN FOR PEER REVIEW.—The Information Quality
19 Bulletin for Peer Review, issued in final form by the Office
20 of Management and Budget on December 16, 2004 (70
21 Fed. Reg. 2664; January 14, 2005), shall not apply to
22 any agency that has established its own peer review proc-
23 ess. The Office of Management and Budget shall not take
24 any action to discourage an agency from determining and

1 establishing a peer-review process appropriate for its
2 needs.

3 **SEC. 7. STATE OF SCIENTIFIC INTEGRITY REPORT.**

4 By January 15 of each year, beginning with January
5 15, 2006, the Director of the Office of Science and Tech-
6 nology Policy shall provide to Congress a report address-
7 ing—

8 (1) major controversies regarding scientific in-
9 tegrity that arose during the year, and the current
10 status of such controversies, including controversies
11 brought to the attention of the Director by members
12 of Congress;

13 (2) by agency and with respect to the period
14 covered by the report—

15 (A) the number of instances in which the
16 amendments made by sections 3(a), 3(b), and
17 4(a), respectively, were violated; and

18 (B) a brief description of the violations to
19 which the information under subparagraph (A)
20 relates, excluding any information that identi-
21 fies or makes possible the identification of any
22 individual;

23 (3) Federal policy changes during the year re-
24 lated to scientific integrity, including changes that
25 affect the right to publish, the use of data, commu-

1 nications with the public, participation in profes-
2 sional scientific activities, and Federal advisory com-
3 mittee membership; and

4 (4) administration efforts specifically designed
5 to further scientific integrity.

6 **SEC. 8. DEFINITIONS.**

7 In this Act:

8 (1) FEDERAL SCIENTIFIC ADVISORY COM-
9 MITTEE.—The term “Federal scientific advisory
10 committee” means any advisory committee estab-
11 lished in whole or in part to provide expert scientific
12 advice, or to provide policy advice based in whole or
13 in part on an assessment of scientific information.

14 (2) ADVISORY COMMITTEE.—The term “advi-
15 sory committee” has the meaning provided in section
16 3(2) of the Federal Advisory Committee Act (5
17 U.S.C. App.).

18 (3) AGENCY.—The term “agency” has the same
19 meaning as in section 551(1) of title 5, United
20 States Code.

21 (4) SCIENTIFIC.—The term “scientific” means
22 relating to the natural, medical, or social sciences or
23 engineering, encompassing, but not limited to, the
24 fields considered related to science and engineering
25 by the National Science Foundation.

1 (5) TAMPERING.—The term “tampering”
2 means improperly altering or obstructing so as to
3 substantially distort, or directing others to do so.

4 (6) CENSORSHIP.—The term “censorship”
5 means improper prevention of the dissemination of
6 valid and nonclassified scientific findings.

7 (7) SPECIAL GOVERNMENT EMPLOYEE.—The
8 term “special Government employee” has the same
9 meaning as in section 202(a) of title 18, United
10 States Code.

11 (8) ADVISORY COMMITTEE MANAGEMENT OFFI-
12 CER.—The term “Advisory Committee Management
13 Officer” means the officer designated under section
14 8(b) of the Federal Advisory Committee Act (5
15 U.S.C. App.).

16 (9) DESIGNATED AGENCY ETHICS OFFICIAL.—
17 The term “designated agency ethics official” has the
18 same meaning as in section 109(3) of the Ethics in
19 Government Act of 1978 (5 U.S.C. App.).

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