United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

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MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Robert I. Cusick
Director

SUBJECT: Summary of the Provisions of the "Honest Leadership and Open Government Act" (S. 1) that Affect the Executive Branch Ethics Program

Last week, Congress passed by a substantial majority, S. 1, a bill to significantly revise both chambers' ethics rules and lobbying restrictions. The bill is enrolled and is awaiting the President's signature. While primarily focused on amending congressional requirements, the bill also includes provisions that affect the executive branch ethics program. A brief summary of the provisions relevant to the executive branch is provided for your information.

The bill extends the cooling off period for very senior executive branch employees from one year to two

Section 101 of the bill extends from one year to two the "cooling off period" during which a former very senior employee is prohibited from representing anyone other than the United States before any department or agency in which he served and before certain high-level executive branch officials. The bill amends 18 U.S.C. § 207(d)(1). Very senior employees include Cabinet Secretaries, the Vice President and very high-level White House staff. The bill provides for a similar two-year bar for former Senators who seek to make representations back to the Senate. House members are subject to a one-year post-employment restriction under the bill.

Section 105 of the bill provides that the effective date of this provision is either the date of final adjournment of the current session of the 110th Congress or December 31, 2007, whichever is earlier.

The bill adds a criminal penalty, and increases the civil penalty, for knowing and willful falsification or failure to report required information on the filer's financial disclosure form.

Section 702 of the bill amends Section 104(a) of the Ethics in Government Act to increase the civil penalty and create a new criminal penalty for a public filer's knowing and willful falsification or failure to file or report any required information on his financial disclosure form. The bill increases the civil penalty for such a violation from $10,000 to $50,000 and adds a criminal penalty of up to one year in prison. Violators may be fined, imprisoned, or both under the revised penalties.

The bill makes technical changes to an existing exception from certain representational prohibitions for current and former officers and employees assigned to work on behalf of Indian tribes.

Section 104 of the bill makes technical amendments to existing exceptions to the representational restrictions of 18 U.S.C. §§ 205 and 207 for current and former Federal officers and employees assigned to work on behalf of a tribal or intertribal organization. The bill adds language to 18 U.S.C. § 207(j) noting the existing exception to the otherwise applicable post-employment restrictions and cross-referencing the related portions of the Indian Self-Determination Act (25 U.S.C. § 450i). The bill also makes technical changes to provisions of the Indian Self-Determination Act.

Section 105 of the bill provides that these changes are effective as of the date of enactment of the bill, except for the provisions affecting former employees assigned to work on behalf of a tribal or inter-tribal organization. Those provisions only apply to those individuals who leave Government service 60 or more days after the bill is enacted.

The bill includes a non-binding "Sense of the Congress" that any applicable restrictions on congressional officers and employees should apply to the executive and judicial branches

Section 701 of the bill states that the revised ethics and lobbying requirements that apply to congressional officers should apply uniformly to employees of all three branches of the Federal Government. The bill does not include any provisions binding on the executive branch to effectuate this sense of the Congress beyond the provisions already discussed.