Amendment 51 -- Prohibits Senators from requesting earmarks that may financially benefit the Senator, an immediate family member, or family members of the Senator's staff.

This amendment prohibits Senators from requesting or assisting with the passage of a congressional earmark that financially benefits the Senator, the Senator's spouse, any immediate family member of the Senator, any employee of the Senator, or any immediate family member of an employee of the Senator.

This amendment would not prevent family members of Senators or their staff from receiving other federal assistance, such as contracts or grants that are awarded on a competitive basis. It would merely prohibit Senators, their staff, or family members from financially benefiting from earmarks, which are awarded by members of Congress without any transparency or accountability.

Most of the focus of lobbying reform has been on the behavior of lobbyists rather than on the behavior of members of Congress.

If the Senate prohibits lobbyists from buying lunch or gifts costing less than $50 for Congressional staffers and Senators, surely it should also ban Senators from providing million dollar gifts to lobbyists in the form of earmarks that financially benefit them or their families at the expense of the taxpayers.

Family members of elected officials and their staff should not be barred from lobbying, but Senators and staff should not be permitted to use their positions to provide financial rewards to family members—or themselves-- from the U.S. federal treasury.

Many legislators and their staffs have children or spouses who are or have been employed as lobbyists including many of the most powerful members and leaders of the Senate. Yet, no rules or laws currently prevent lawmakers or their staffs from being lobbied by relatives. Neither lawmakers nor lobbyists must report if they are related to each other. [1]

Currently, the only official pronouncement on the issue of family ties is an opinion by the Senate Ethics Committee. The committee recommended that a lobbyist related to a Senator's chief of staff should not be allowed to lobby anyone in that Senator's office. The opinion has never been adopted as a rule and it has no bearing in the House.[2]

In the past several years, the media and federal investigators have examined numerous incidents of recipients of federal funds whose lobbyists have personal ties the Member or to the Member's staff.[3] In some cases this incestuous allocation of federal funds has led or contributed to investigations, the resignation or electoral defeat of members of Congress,[4] and even criminal convictions of staff. [5]

Even in cases when nothing illegal occurred, ethical lines were crossed and the reputation of the entire Congress tarnished.

Yet, many of these earmarks continue to go relatively unnoticed.

A recent investigation conducted by *USA Today* found that this past year "lobbying groups employed 30 family members to influence spending bills that their relatives with ties to the House and Senate appropriations committees oversaw or helped write."[6] Combined,

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[1]"Harry Reid and Ethics Rules," Fox News, Friday , December 15, 2006, http://www.foxnews.com/printer_friendly_story/0,3566,236757,00.html

[2] "Relatives have 'inside track' in lobbying for tax dollars," USA Today - October 16, 2006 http://www.usatoday.com/news/washington/2006-10-16-lobbyist-family-cover_x.htm

[3] "Senate aide's spouse gets a windfall," USA TODAY, February 16,2006, http://www.usatoday.com/news/washington/2006-02-15-specter-earmarks_x.htm, "Weldon earmark is study in the ways of the Hill," The Philadelphia Inquirer, October 31, 2006, http://www.philly.com/mld/inquirer/news/local/states/pennsylvania/15889319.htm

[4] "Lobbying Probe Looks at Payments To DeLay's Wife," Wall Street Journal, September 6, 2006, http://online.wsj.com/article/SB115751113432354767-search.html?KEYWORDS=delay&COLLECTION=wsjie/6month
"Weldon earmark is study in the ways of the Hill," The Philadelphia Inquirer, October 31, 2006, http://www.philly.com/mld/inquirer/news/local/states/pennsylvania/15889319.htm

[5] "Lobbying Probe Looks at Payments To DeLay's Wife," Wall Street Journal, September 6, 2006, http://online.wsj.com/article/SB115751113432354767-search.html?KEYWORDS=delay&COLLECTION=wsjie/6month

[6] "Relatives have 'inside track' in lobbying for tax dollars," USA Today - October 16, 2006 http://www.usatoday.com/news/washington/2006-10-16-lobbyist-family-cover_x.htm

they generated millions of dollars in fees for themselves and their firms.

According to *USA Today*, the connections are so pervasive that, in 2005 alone, appropriations bills contained $750 million for projects championed by lobbyists whose relatives were involved in writing the spending bills.

Of the 53 relatives or former top aides to lawmakers on the powerful appropriations committees working at lobbying firms last year, 30 lobbied the legislator or the legislator's staff for appropriations that the Member oversaw. Of those 30, 22 succeeded in their quest to insert specific earmarks in appropriations bills. That is an incredible rate of success – nearly 75 percent!

This explains why those with personal ties to members of Congress are in high demand as lobbyists by special interests.

Unlike Congress, the Judicial and Executive branches have strict guidelines on nepotism and contacts with lobbyists and business interests.

Laws bar executive branch employees from taking action affecting the financial interests of their spouses or minor children.

Federal judges are required to remove themselves from cases affecting the financial interests of their spouses or minor children, or when lawyers or parties to the case are related to the judge.[7]

Members of Congress should not capitalize on their positions of power to enrich themselves or their family members, nor should such behavior be permitted or ignored by Senate rules.

Current Senate ethics rules prohibit Senators and their staffers from using their positions to direct money to themselves, but, for the most part, do not limit the potential for family members to reap personal

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[7] "Relatives have 'inside track' in lobbying for tax dollars," USA Today - October 16, 2006 http://www.usatoday.com/news/washington/2006-10-16-lobbyist-family-cover_x.htm

financial rewards from their relationships with Senators or Senate staff.

While some members of Congress have office policies banning lobbying by staffers' relatives,[8] this does not actually prevent official actions to financially benefit those relatives.

None of the proposals being considered by either chamber of Congress adequately address this issue of earmarking for personal or family financial gain.

House Resolution 6, recently approved by the House of Representatives, requires that "a Member, Delegate, or Resident Commissioner who requests a congressional earmark, a limited tax benefit, or a limited tariff benefit in any bill or joint resolution (or an accompanying report) or in any conference report on a bill or joint resolution (or an accompanying joint statement of managers) shall provide a written statement to the chairman and ranking minority member of the committee of jurisdiction, including … a certification that the Member, Delegate, or Resident Commissioner or spouse has no financial interest in such congressional earmark or limited tax or tariff benefit."

The House bill, however, does not address the potential conflict of interest that could arise from relatives other than a Member's spouse gaining financially from Congressional earmarks.

S. 1, the Legislative Transparency and Accountability Act of 2007, includes a provision (Section 110) prohibiting "all staff employed by that Member (including staff in personal, committee and leadership offices) from having any official contact with the Member's spouse or immediate family member" if the family member is a lobbyist, but ignores financial gains a Senator or a Senator's spouse or other family member could benefit from as a result of earmarks.

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[8] **"**Specter helped win OK for $200,000 grant for client of staffer's son," USA TODAY, April 25, 2006, http://www.usatoday.com/news/washington/2006-04-24-specter-probe_x.htm
"Relatives have 'inside track' in lobbying for tax dollars," USA Today - October 16, 2006
http://www.usatoday.com/news/washington/2006-10-16-lobbyist-family-cover_x.htm
"Harry Reid and Ethics Rules," Fox News, Friday , December 15, 2006,
http://www.foxnews.com/printer_friendly_story/0,3566,236757,00.html

This approach does not address the real problem, which is the potential of Senators to abuse the power of earmarking to financially benefit themselves or family members. There is absolutely no reason why such behavior should be permitted or why such a rule change should be omitted from any meaningful lobbying reform package.

If this is truly going to be the most ethical Congress in history, it must prohibit even the appearance of members of Congress using their offices for financial gain.

As Harvard ethics instructor Dennis Thompson notes, "even when there is nothing improper about the actual earmark, it's very difficult for citizens and even other members to be sure."[9]

Given the recent scandals that have plagued members of both parties in both chambers, Congress can only return integrity by ensuring that official actions are taken to advance the best interests of the nation and taxpayers rather than the best interests of members and their families or the lobbyists and special interests who employ them.

This amendment is supported by Public Citizen, the U.S. Public Interest Research Group, Citizens Against Government Waste, Democracy 21, the Campaign Legal Center, Common Cause and Americans for Prosperity.

[9] "Senate aide's spouse gets a windfall," USA Today, February 16, 2006, http://www.usatoday.com/news/washington/2006-02-15-specter-earmarks_x.htm