November 14, 2025

Chairman James Lankford
Vice Chairman Christopher A. Coons
U.S. Senate Select Committee on Ethics
220 Hart Building
Washington, D.C. 20510

Sent via email (mailbox_office@ethics.senate.gov)

Dear Chairman Lankford and Co-Chairman Coons:

Campaign Legal Center ("CLC") respectfully requests that the U.S. Senate Select Committee on Ethics ("Ethics Committee") investigate whether certain Senators used their legislative power to advance their personal financial interests in violation of Senate rules. Specifically, the Senate passed legislation that immediately allows eight Senators to sue the government for prior seizure of their phone records with mandatory minimum damage awards of $500,000 per violation.[1]

Senate ethics rules prohibit Senators from introducing or aiding the progress or passage of legislation where the legislation's principal purpose is to further the pecuniary interest of themselves or a limited class of persons of which the Senator is a member.[2] An Ethics Committee investigation is necessary to determine whether the limited class of Senators benefiting from this legislation were involved in drafting, introducing, or promoting its passage in violation of Senate rules.

Senators are expected to use their power to support legislation that serves the public, not their own personal financial interests. When Senators use an emergency funding bill ending the longest government shutdown in U.S. history to unexpectedly create a personal benefit potentially worth millions of dollars for a

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[1] Devlin Barrett, *Spending Bill Would Pave Way for Senators to Sue Over Phone Searches*, N.Y. Times (Nov. 10, 2025), https://www.nytimes.com/2025/11/10/us/politics/senators-shutdown-smith-phone-searches.html.
[2] U.S. Senate Committee on Rules and Administration, 113th Cong., Standing Rules of the Senate, Senate Rule 37 para. 4.

limited group of Senators, they enrich themselves and damage the public's trust. The Senate Ethics Committee must determine whether the Senators who created and aided the passage of these provisions violated Senate rules.

Senate Rules Prohibit Senators From Using Their Official Position to Aid Legislation That Has A Principal Purpose of Furthering the Senator's Pecuniary Interest

Paragraph 4 of Rule 37 prohibits Senators from using legislative power to advance their personal financial interests:

> No Member, officer, or employee shall knowingly use his official position to introduce or aid the progress or passage of legislation, **a principal purpose of which is to further** only his pecuniary interest, only the pecuniary interest of his immediate family, or **only the pecuniary interest of a limited class of persons** or enterprises, when he, or his immediate family, or enterprises controlled by them, are members of the affected class.[3]

Legislation will have a principal purpose to further only the pecuniary interest of a limited class of persons when legislation has a significant impact on the finances of a narrow class of persons, "which resembles much more closely the class of people affected by a private bill."[4]

When "legislation may benefit a Senator significantly," the legal question is whether the legislation "also has a broad, general impact on his state or the nation."[5] If the legislation benefiting the Senator does not have a broad impact, the Senator is prohibited from being involved. For example, "if a dairy farmer represented a dairy farming state in the Senate, and introduced, worked for, and voted for legislation to raise or maintain price supports for dairy producers, he would not fall under the strictures of [Rule 37]."[6] However, the rule does apply to legislation introduced that only benefits the property of the Senator and the Senator's neighbors.[7]

The Ethics Committee advises that "[i]f the legislation does meet the 'principal purpose' (and 'limited class') standards as necessary . . . the disqualification from involvement with the legislation should be total."[8]

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[3] *Id.* (emphasis added)
[4] U.S. Senate Select Committee on Ethics, 108th Cong., 1st Sess., Senate Ethics Manual, 69 (2003).
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] *Id.*

Senators Passed a Private Cause of Action Provision for a Limited Class of Senators

On or about October 6, 2025, it became public that the FBI subpoenaed and analyzed the phone records of eight Senators and one Member of Congress as part of an investigation in 2023.[9]

On November 10, 2025, the Senate passed urgent legislation to reopen the federal government, which included a provision creating a private cause of action for Senators who had their data subpoenaed by any Federal department or agency without notice.[10] Two days later, the President signed the bill into law.[11]

Section 213 of the bill amends the Legislative Branch Appropriations Act of 2005 by requiring a Senate office to be notified of any legal process seeking a disclosure of the Senate office or Senator's data. The law creates the following private cause of action:

> Any Senator whose Senate data, or the Senate data of whose Senate office, has been acquired, subpoenaed, searched, accessed, or disclosed in violation of this section may bring a civil action against the United States if the violation was committed by an officer, employee, or agent of the United States or of any Federal department or agency.[12]

If the Senator prevails in the cause of action, "the court shall award . . . for each instance of a violation of this section, the greater of statutory damages of $500,000 or the amount of actual damages."[13] The are also entitled to attorney's fees, costs of litigation, and any other injunctive or declaratory relief.

Section 213 is retroactive. The private right of action is available to Senators who had their data acquired, subpoenaed, searched, accessed or disclosed, and were

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[9] CQ Roll Call Staff, *Jan. 6 probe analyzed GOP lawmakers' phone records, senators say*, Roll Call (Oct. 6, 2025), https://rollcall.com/2025/10/06/jan-6-probe-analyzed-gop-lawmakers-phone-records-senators-say/.

[10] Sahil Kapur, Frank Thorp V, Melanie Zanona & Julie Tsirkin, *Senate passes bill to reopen the government as 8 Democrats join with Republicans to send it to the House*, NBC News (Nov. 10, 2025), https://www.nbcnews.com/politics/congress/senate-passes-bill-reopen-government-sends-to-house-rcna243120.

[11] Jennifer Scholtes, *Trump signs bill ending longest government shutdown in US history*, Politico (Nov. 12, 2025), https://www.politico.com/live-updates/2025/11/12/congress/trump-signs-bill-ending-longest-government-shutdown-in-us-history-00650189.

[12] *Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act*, H.R. 5371, 119th Cong. § 213 (2025), https://www.congress.gov/bill/119th-congress/house-bill/5371/text.

[13] *Id.*

not notified of the acquisition, subpoena, search, accessing, or disclosure, if either the action or the failure to disclose occurred on or after January 1, 2022.[14]

The Legislation Has the Primary Purpose of Furthering the Pecuniary Interests of a Limited Class of Senators

While the private cause of action legislation is, on its face, available to all Senators, in application the law only allows for a financial windfall for a limited class of eight Senators. Because Section 213's principal purpose is to secure a pecuniary benefit for a limited class, any Senator affected by this legislation should not have participated to aid its progress or passage.

Careful legislative drafting cannot hide the intent and purpose of legislation designed to impact the pecuniary interest of these Senators. Section 213 is so incredibly narrow that there can be little doubt about its application and who it benefits. In order for a Senator to be eligible to sue the government and get an award of at least $500,000, two specific factors must be met. First, their data must have been seized for some other reason than as part of a criminal investigation of which they are a target. Second, they must not have been notified of the seizure. The retroactivity provision means there is already a self-selected group of Senators who can seek this award: eight Senators[15] who had their records seized without their knowledge in a prior high-profile investigation by the Department of Justice special counsel.[16]

While the legislation effectively applies to all Senators moving forward, the Senate rules require an assessment of the principal purpose of the legislation. The hyper-specific conditions for the private cause of action and the retroactivity allowing a limited number of sitting Senators to take advantage of the new provision suggest the primary purpose here was to allow compensation for a limited class Senators who were the subject of a DOJ investigation.

Indeed, it seems likely that the financial windfall to the limited class of Senators will actually materialize. At least one affected Senator said they would definitely sue under the new law, and would not stop at $1 million, saying, "I want to make it so painful no one ever does this again."[17] If any Senator who is part of

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[14] *Id.*
[15] The Senators whose phone records were subpoenaed as part of the investigation were: Lindsey Graham of South Carolina, Marsha Blackburn and Bill Hagerty of Tennessee, Josh Hawley of Missouri, Dan Sullivan of Alaska, Tommy Tuberville of Alabama, Ron Johnson of Wisconsin and Cynthia Lummis of Wyoming.
[16] Barrett, *supra* note 1.
[17] Theodoric Meyer, Marianna Sotomayor & Riley Beggin*, Lawmakers outraged by provision allowing senators to sue over Jan. 6 records*, Wash. Post (Nov. 12, 2025), https://www.washingtonpost.com/politics/2025/11/12/capitol-attack-fbi-investigation/.

that class of persons and aided in inserting the language into the legislation or helped it get passed, they may have violated Senate Rules.

Conclusion

The specificity of Section 213 combined with the retroactivity provision means that this legislation was drafted with a primary purpose of furthering the pecuniary interests of a limited class of eight Senators. CLC respectfully requests that the Ethics Committee open an investigation to determine whether the drafting and introduction of this legislation violated Senate rules.

We acknowledge that 18 U.S.C. § 1001 applies to the information provided.

Respectfully submitted,

___________/s/________________
Kedric L. Payne
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