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S. CON. RES. 82

To establish a procedure for the appointment of independent Congressional Ethics Office to investigate ethics violations in the Senate and the House of Representatives.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2006

Mr. KERRY submitted the following concurrent resolution; which was referred to the Committee on Homeland Security and Governmental Affairs

CONCURRENT RESOLUTION

To establish a procedure for the appointment of independent Congressional Ethics Office to investigate ethics violations in the Senate and the House of Representatives.

1 *Resolved by the Senate (the House of Representatives*
2 *concurring),*

3 **SECTION 1. CONGRESSIONAL ETHICS OFFICER.**

4 (a) ESTABLISHMENT.—There is established in the
5 legislative branch an independent authority to be known
6 as the Congressional Ethics Office to be headed by a Con-
7 gressional Ethics Officer.

8 (b) MEMBERSHIP.—

1 (1) IN GENERAL.—The Congressional Ethics
2 Officer shall be appointed in accordance with para-
3 graph (2).

4 (2) APPOINTMENT.—The majority leader of the
5 Senate, the minority leader of the Senate, the
6 Speaker of the House of Representatives, the minor-
7 ity leader of the House of Representatives, the chair-
8 man and ranking member of the Committee on
9 Standards of Official Conduct of the House of Rep-
10 resentatives, and the chairman and the ranking
11 member of the Select Committee on Ethics of the
12 Senate shall nominate the Congressional Ethics Offi-
13 cer at the beginning of a Congress. The Congres-
14 sional Ethics Officer shall be confirmed by both the
15 Senate and the House of Representatives.

16 (c) TERMS.—

17 (1) IN GENERAL.—The Congressional Ethics
18 Officer shall serve a term of 2 years and may be re-
19 appointed for 2 additional terms.

20 (2) DEATH OR RESIGNATION.—In the case of
21 the death or resignation of the Congressional Ethics
22 Officer a successor shall be appointed in the same
23 manner to serve the remaining term of that Con-
24 gressional Ethics Officer.

1 (d) REMOVAL.—The Congressional Ethics Officer
2 may be removed only by resolution of the Senate or the
3 House of Representatives.

4 (e) DUTIES.—It shall be the duty of the Congres-
5 sional Ethics Officer to—

6 (1) receive requests for review of an allegation
7 described in section 2(b);

8 (2) make such informal preliminary inquiries in
9 response to such a request as the Congressional Eth-
10 ics Officer deems to be appropriate;

11 (3) if, as a result of those inquiries, the Con-
12 gressional Ethics Officer determines that a full in-
13 vestigation is not warranted, submit a report pursu-
14 ant to section 2(f); and

15 (4) if, as a result of those inquiries, the Con-
16 gressional Ethics Officer determines that there is
17 probable cause, the Congressional Ethics Officer—

18 (A) may determine a full investigation is
19 warranted and conduct such investigation; and

20 (B) shall provide a full report of the inves-
21 tigation which shall be available for public in-
22 spection to either the Select Committee on Eth-
23 ics of the Senate or the Committee on Stand-
24 ards of Official Conduct of the House of Rep-
25 resentatives.

1 (f) COMPENSATION OF CONGRESSIONAL ETHICS OF-
 2 FICER.—

3 (1) IN GENERAL.—The Congressional Ethics
 4 Officer shall be compensated at a rate equal to the
 5 daily equivalent of the annual rate of basic pay pre-
 6 scribed for level IV of the Executive Schedule under
 7 section 5315 of title 5, United States Code, for each
 8 day (including travel time) during which he or she
 9 is engaged in the performance of the duties of the
 10 Congressional Ethics Officer.

11 (2) TRAVEL EXPENSES.—The Congressional
 12 Ethics Officer and members of the Congressional
 13 Ethics Officer staff shall be allowed travel expenses,
 14 including per diem in lieu of subsistence, at rates
 15 authorized for employees of agencies under sub-
 16 chapter I of chapter 57 of title 5, United States
 17 Code, while away from their homes or regular places
 18 of business in the performance of services for the
 19 Congressional Ethics Officer.

20 (g) STAFF.—

21 (1) IN GENERAL.—The Congressional Ethics
 22 Officer may, without regard to the civil service laws
 23 and regulations, appoint, and terminate an executive
 24 director and such other additional personnel as are
 25 necessary to enable the Congressional Ethics Officer

1 to perform his or her duties. The staff of the Con-
2 gressional Ethics Office shall be nonpartisan.

3 (2) STAFF COMPENSATION.—The Congressional
4 Ethics Officer may fix the compensation of the execu-
5 tive director and other personnel without regard to
6 the provisions of chapter 51 and subchapter III of
7 chapter 53 of title 5, United States Code, relating
8 to classification of positions and General Schedule
9 pay rates, except that the rate of pay for the execu-
10 tive director and other personnel may not exceed the
11 rate payable for level V of the Executive Schedule
12 under section 5316 of that title.

13 (3) DETAILEES.—Any Federal Government em-
14 ployee may be detailed to the Congressional Ethics
15 Officer without reimbursement, and such detail shall
16 be without interruption or loss of civil service status
17 or privilege.

18 (4) TEMPORARY SERVICES.—The Congressional
19 Ethics Officer may procure temporary and intermit-
20 tent services under section 3109(b) of title 5, United
21 States Code, at rates for individuals that do not ex-
22 ceed the daily equivalent of the annual rate of basic
23 pay prescribed for level V of the Executive Schedule
24 under section 5316 of that title.

1 (5) STAFFING.—Except at a time when addi-
 2 tional personnel are needed to assist the Congres-
 3 sional Ethics Officer in his or her review of a par-
 4 ticular request for review under section 2, the total
 5 number of staff personnel employed by or detailed to
 6 the Congressional Ethics Officer under this sub-
 7 section shall not exceed 50.

8 (h) INAPPLICABILITY OF THE FEDERAL ADVISORY
 9 COMMITTEE ACT.—The Federal Advisory Committee Act
 10 (5 U.S.C. App.) shall not apply to the Commission.

11 **SEC. 2. REVIEW OF ALLEGATIONS OF MISCONDUCT AND**
 12 **VIOLATIONS OF ETHICS LAWS.**

13 (a) DEFINITIONS.—As used in this section, the term
 14 “officer or employee of Congress” means—

15 (1) an elected officer of the Senate or the
 16 House of Representatives who is not a member of
 17 the Senate or the House of Representatives;

18 (2) an employee of the Senate or the House of
 19 Representatives, any committee or subcommittee of
 20 the Senate or the House of Representatives, or any
 21 member of the Senate or the House of Representa-
 22 tives;

23 (3) an employee of the Vice President if such
 24 employee’s compensation is disbursed by the Sec-
 25 retary of the Senate; and

1 (4) an employee of a joint committee of Con-
2 gress.

3 (b) REQUEST FOR REVIEW.—Any person, including
4 a person who is not an officer or employee of Congress,
5 may present to the Congressional Ethics Officer a request
6 to review and investigate an allegation of—

7 (1) improper conduct that may reflect upon the
8 Senate or the House of Representatives;

9 (2) a significant violation of law;

10 (3) a violation of the Senate Code of Official
11 Conduct (rules XXXIV, XXXV, XXXVII, XXXVIII,
12 XXXIX, XL, XLI, and XLII of the Standing Rules
13 of the Senate) or the ethics rules of the House of
14 Representatives; or

15 (4) a significant violation of a rule or regulation
16 of the Senate or the House of Representatives, relat-
17 ing to the conduct of a person in the performance
18 of his or her duties as a member, officer, or em-
19 ployee of the Senate or the House of Representa-
20 tives.

21 (c) SWORN STATEMENT.—

22 (1) IN GENERAL.—A request for review under
23 subsection (b) shall be accompanied by a sworn
24 statement, made under penalty of perjury under the
25 laws of the United States, of facts within the per-

sonal knowledge of the person making the statement alleging improper conduct or a violation described in subsection (b).

(2) FALSE STATEMENT.—If the Congressional Ethics Officer determines that any part of a sworn statement presented under paragraph (1) may have been a false statement made knowingly and willfully, the Congressional Ethics Officer may refer the matter to the Attorney General for prosecution.

(d) PROTECTION FROM FRIVOLOUS CHARGES.—

(1) IN GENERAL.—Any person who—

(A) knowingly files with the Congressional Ethics Office a false complaint of misconduct on the part of any legislator or any other person shall be subject to a \$10,000 fine or the cost of the preliminary review, whichever is greater, and up to 1 year in prison; or

(B) encourages another person to file a false complaint of misconduct on the part of any legislator or other person shall be subject to a \$10,000 fine or the cost of the preliminary review, whichever is greater, and up to 1 year in prison.

(2) SUBSEQUENT COMPLAINTS.—Any person subject to either of the penalties in paragraph (1)

1 may not file a complaint with the Congressional
2 Ethics Office again.

3 (3) BAN ON FILINGS PRIOR TO ELECTION.—

4 The Congressional Ethics Office may not accept
5 charges filed in the—

6 (A) 30 days prior to a primary election for
7 which the Member in question is a candidate;
8 and

9 (B) 60 days prior to a general election for
10 which the Member in question is a candidate.

11 (e) SUBPOENA.—The Congressional Ethics officer
12 may bring a civil action to enforce a subpoena only when
13 directed to do so by the adoption of a resolution by the
14 Senate or the House of Representatives, as appropriate.

15 (f) REFERRAL OF REPORTS TO THE SELECT COM-
16 MITTEE ON ETHICS OF THE SENATE, THE COMMITTEE
17 ON STANDARDS OF OFFICIAL CONDUCT OF THE HOUSE
18 OF REPRESENTATIVES OR THE DEPARTMENT OF JUS-
19 TICE.—

20 (1) IN GENERAL.—If, after making preliminary
21 inquiries, the Congressional Ethics Officer finds
22 probable cause that a violation of the ethics rules
23 has occurred, the Congressional Ethics Officer shall
24 submit to the members of the Senate, members of

1 the House of Representatives, and the Department
2 of Justice a report that—

3 (A) states findings of fact made as a result
4 of the inquiries;

5 (B) states any conclusions that may be
6 drawn with respect to whether there is substan-
7 tial credible evidence that improper conduct or
8 a violation of law may have occurred; and

9 (C) states its reasons for concluding that
10 further investigation is not warranted.

11 (2) NO ACTION.—After submission of a report
12 under paragraph (1), no action may be taken in the
13 Senate or the House of Representatives to impose a
14 sanction on a person who was the subject of the
15 Congressional Ethics Officer’s inquiries on the basis
16 of any conduct that was alleged in the request for
17 review and sworn statement.

18 **SEC. 3. ADDITIONAL RESPONSIBILITIES.**

19 The Congressional Ethics Officer shall—

20 (1) periodically report to Congress any changes
21 to the ethics law and regulations governing Congress
22 that the Congressional Ethics Officer determines
23 would improve the investigation and enforcement of
24 such laws and regulations; and

1 (2) provide an annual report to Congress on the
2 number of ethics complaints and a description of the
3 ethics investigations undertaken during the prior
4 year.

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