



H.Res. 895 - Establishing within the House of Representatives an Office of Congressional Ethics, and for other purposes

EXECUTIVE SUMMARY

H.Res. 895 was introduced by Representative Michael Capuano (D-MA) on December 19, 2007. It was referred to the House Committee on Administration and the House Committee on Rules, but never considered. The resolution has been scheduled for consideration each of the last two weeks, but each time it was removed from the calendar. It is expected to be considered on the floor under a self-enacting rule on March 11, 2008.

The bill would establish an independent Office of Congressional Ethics, which would be overseen by a 6-member board. Board members will be appointed jointly by the Speaker of the House and the House Minority Leader to serve 4 year terms.

House Republicans offered an alternative proposal on February 27, 2008. This proposal focuses on reforming the existing House Ethics Committee by 1) requiring the Ethics Committee to refer any investigation to the FBI and the Department of Justice if it has been delayed by partisan gridlock for more than 90 days; 2) mandating the Ethics Committee provide a monthly public report on its investigative activities; and 3) allowing the House Inspector General to receive allegations from outside sources and pass them along to the Ethics Committee. House Republican Leader John Boehner (R-OH) raised concerns with the Democrat proposal, arguing that it simply creates another layer of bureaucracy without solving the problems with the broken ethics process.

FLOOR SITUATION

H.Res. 895 is being considered on the floor under a self-enacting rule. The rule:

- Provides that H.Res. 895, amended by the amendment printed in the Rules Committee report accompanying the resolution, is hereby adopted.

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SUMMARY

Office of Congressional Ethics: The resolution establishes the Office of Congressional Ethics (OCE), which will be overseen by a 6-member board. Board members will be appointed jointly by the Speaker of the House and the House Minority Leader to serve 4 year terms. Board members are paid on a per diem basis at the minimum basic pay rate for federal employees at the GS-15 level.



Congressional Members, federal employees, and lobbyists are prohibited from serving on the board. Board members can be removed by a joint agreement of the Speaker and Minority Leader. The Speaker appoints the Chairman of the Board.

The OCE is not granted subpoena authority; instead, it recommends appropriate subpoenas to the House Ethics Committee.

Investigative Process: The resolution requires a bipartisan request by at least 2 board members in order to initiate an inquiry. The OCE must complete a preliminary review of the inquiry within 30 calendar days or 5 legislative days. In order to stop an inquiry, the resolution requires at least 4 members to be in opposition, which means that investigations can proceed on a partisan basis with the support of only the three board members nominated by a single political party. Following the preliminary review, the OCE must complete a second-phase review within 45-60 days. It is required to submit a report to the House Ethics Committee upon completion.

The House Ethics Committee is granted the authority to stop any inquiry by the OCE. The resolution gives the individual under investigation the right to submit a statement to the board prior to the conclusion of the investigation.

Public Disclosure: While the OCE is prohibited from publicly disclosing any information or testimony it receives there are many instances where the publication of the information is required. If the House Ethics Committee does not act within a year of receiving a report from the OCE, the report and the finding of the board must be made public. Furthermore, in some instances, even if the House Ethics Committee dismisses the case, the report and findings are made public.

BACKGROUND

The Special Task Force on Ethics Enforcement was created in January 2007 to review Congress' ability to effectively enforce its ethics rules. The task force consists of 8 members (4 from each party) appointed by the Speaker and Minority Leader. Both Republicans and Democrats have expressed concerns that the current House ethics process is dysfunctional.

The task force released its report in December 2007. Republicans on the task force, however, declined to endorse its recommendations, arguing that it fails to reform the House Ethics Committee, is undemocratic, and invites partisanship. House Democrat leadership initially planned to bring the Democrat proposal to the floor on February 28, 2008. Bipartisan concerns forced the Democrat leadership to postpone consideration of their proposal. Rep. Capuano distributed a [Dear Colleague](#) detailing modifications that would be made to the bill to assuage Members' concerns.

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The House Committee on Standards of Official Conduct was first established in 1967. The House committee consists of 10 members, 5 from each party. The committee follows a two-step process when considering an ethics complaint. First, an investigative subcommittee reviews alleged violations. If



formal charges are issued by the investigative subcommittee, the members of the committee, along with the Chairman and Ranking Member, judge the evidence and determine the penalty, if warranted.

ADDITIONAL VIEWS

Republican Leader John Boehner (R-OH): "The Democratic leadership's proposal simply adds a new layer of bureaucracy between the existing Ethics Committee and federal law enforcement agencies such as the FBI that exist to fight corruption at the highest levels. In short, it provides a new way for Congress to do what it historically has always done, which is sweep the mess under the rug." ([Press Release, 2/27/2008](#))

Republican Members of the Special Task Force no Ethics Enforcement (Ranking Republican Lamar Smith (R-TX); Rep. Todd Tiahrt (R-KA); Rep. David Hobson (R-OH); Rep. Dave Camp (R-MI)): "We need a unified package that directly reforms the House Ethics Committee. The Republican alternative to fix the Ethics Committee reflects the democratic principles that all Americans cherish and recognize as right and fair: more bipartisanship and more transparency in the current system. The Democrats' proposal adds an additional layer of bureaucracy and results in less democracy. I remain hopeful that we can reach a bipartisan consensus on improvements to the congressional ethics process that protects the integrity of the House and increases public confidence in congressional ethics enforcement." ([Op-Ed in Roll Call, 3/3/2008](#))

STAFF CONTACT

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