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Report RL30650

*The Senate Select Committee on Ethics: A Brief History of
Its Evolution and Jurisdiction*

Mildred Amer, Government and Finance Division

March 26, 2008

Abstract. This report provides a history of the creation, evolution, membership, and activities of the Senate Select Committee on Ethics.

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CRS Report for Congress

Senate Select Committee on Ethics: A Brief History of Its Evolution and Jurisdiction

Updated March 26, 2008

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Prepared for Members and
Committees of Congress

Senate Select Committee on Ethics: A Brief History of Its Evolution and Jurisdiction

Summary

This report provides a brief history of the creation, evolution, activities, and membership of the Senate Select Committee on Ethics. First established in 1964 as the Select Committee on Standards and Conduct, it was renamed the Select Committee on Ethics in 1977 when its jurisdiction and procedures were expanded to help implement revisions to the Senate Code of Official Conduct.

This six-member, bipartisan committee investigates complaints and allegations of improper conduct and violations of the Senate Code of Official Conduct, and recommends, when appropriate, disciplinary action against Senators and staff. It also suggests rules or regulations and renders advisory opinions to insure appropriate Senate standards and conduct; and regulates the use of the franking privilege in the Senate, investigates unauthorized disclosures of intelligence information, administers the Senate financial disclosure requirements of the Ethics in Government Act, and regulates the disposition of gifts from foreign governments received by Members, officers, and employees of the Senate.

Since 1964, committee public statements and official documents, as well as information released by Senators who were the subject of committee action, indicate that the committee has considered allegations involving at least 38 Senators, all but three investigations occurring after 1977. Two Senators resigned before expected expulsion (one for a bribery conviction and the other because of charges of sexual misconduct and alterations to subpoenaed documents); one Senator was censured; and two were denounced (a form of censure) by the full Senate for financial misconduct. One Senator was “severely admonished” by the committee for the acceptance of and failure to disclose prohibited gifts; one was rebuked by the committee for improper acceptance of gifts; and one involved in the “Keating Five” case was reprimanded by the committee. The other four Senators in the latter case were criticized in written statements by the committee for showing poor judgement and giving the appearance of acting improperly. In some of the 38 cases, complaints were dismissed or no disciplinary or official action was reported to be taken by the committee.

This report will be updated as necessary. For additional information, please see CRS Report RL30764, *Enforcement of the Congressional Rules of Conduct: An Historical Overview*, by Mildred Amer.

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Senate Select Committee on Ethics: A Brief History of Its Evolution and Jurisdiction

Introduction

The U.S. Senate first established an ethics committee on July 24, 1964.¹ Initially known as the Select Committee on Standards and Conduct, it was renamed the Select Committee on Ethics in February 1977 following Senate-wide committee reorganization.² Senate rules delegate to the committee the authority to investigate allegations of wrongdoing by Senators and staff, adjudicate evidence of misconduct and recommend penalties when appropriate, and provide advice on actions permissible under the Senate rules of conduct.³

Article I, Section 5, Clause 2 of the Constitution, states in part, “Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two-thirds, expel a Member.”

The Senate Ethics Committee is authorized to “(1) receive complaints and investigate allegations of improper conduct which may reflect upon the Senate, violations of law, violations of the Senate Code of Official Conduct, and violations of rules and regulations of the Senate, relating to the conduct of individuals in the performance of their duties as Members of the Senate, or as officers or employees of the Senate, and to make appropriate findings of fact and conclusions with respect thereto; (2) recommend, when appropriate, disciplinary action against Members and staff; (3) recommend rules or regulations necessary to insure appropriate Senate standards and conduct; (4) report violations of any law to the proper Federal and State authorities; (5) regulate the use of the franking privilege in the Senate; (6) investigate unauthorized disclosures of intelligence information; (7) implement the Senate public financial disclosure requirements of the Ethics in Government Act; (8) regulate the receipt and disposition of gifts from foreign governments received by Members, officers, and employees of the Senate; (9) render advisory opinions on the application of Senate rules and laws to Members, officers, and employees; (10) for complaints filed under the Government Employee Rights Act of 1991 respecting

¹ “Proposed Amendment of Rule XXV of the Standing Rules of the Senate Relative to the Jurisdiction of the Committee on Rules and Administration,” *Congressional Record*, vol. 10, July 24, 1964, pp. 16929-16940.

² “Committee System Reorganization,” *Congressional Record*, vol. 123, Feb. 4, 1977, pp. 660-3699.

³ U.S. Congress, Senate, *Senate Manual Containing the Standing Rules, Orders, Laws, and Resolutions Affecting the Business of the United States Senate*, 107th Cong., 1st sess., S. Doc. 107-1 (Washington, GPO, 2002), pp. 108-118 (Standing Order 80).

conduct occurring prior to January 23, 1996, review, upon request, any decision of the Senate Office of Fair Employment Practices;”⁴ (11) “develop and implement programs for Members, officers, and employees to educate them about standards of conduct applicable in the performance of their official duties;”⁵ (12) “conduct ongoing ethics training and awareness programs for Members of the Senate and Senate staff;”⁶ and (13) issue an annual report on the number of alleged violations of Senate rules received from any source, including the number raised by a Senator or staff of the committee, and including the number of allegations dismissed or on which the committee took the specific actions.⁷

Much of the business of the ethics committee is advisory, helping Senators and staff abide by the Senate Code of Official Conduct.⁸ The majority of the committee’s work is not publicized because of its desire to grant “due process” to individuals subject to allegations.

The committee may investigate allegations brought by Senators and Senate staff as well as those brought against a Senator or Senate staff member by an individual or group, or it may initiate an inquiry on its own. It has formal procedures for the filing of complaints and does not publicize allegations that, in its judgment, do not merit full review. After an investigative process, the committee may recommend to the Senate appropriate sanctions against a Senator, including censure, expulsion, party discipline, and financial restitution. In addition, effective in 1999, the committee may issue a reprimand or assess financial reimbursement without full Senate approval.⁹ In the case of an officer or employee, the committee may recommend dismissal, suspension, and payment of restitution.

Since its creation in 1964, the Senate Select Committee on Ethics has considered allegations involving approximately 38 Senators.¹⁰ All but three of the

⁴ U.S. Congress, Senate Select Committee on Ethics, *Senate Ethics Manual*, 108th Cong., 1st sess., S.Pub. 108-1 (Washington: GPO, 2003), p. 4.

⁵ Ibid, p. 358, and “Official Conduct Amendments of 1977,” (S.Res. 338, 88th Congress as amended by S.Res. 110, 95th Congress), *Congressional Record*, vol. 123, Apr. 1, 1977, pp. 10044-10068. See also various editions of the *Congressional Record* for Mar. 17-31, 1977, for the entire debate on the provisions of S.Res. 110.

⁶ P.L. 110-81,121 Stat. 773, The Honest Leadership and Open Government Act of 2007.

⁷ P.L. 110-81,121 Stat. 773-7744, The Honest Leadership and Open Government Act of 2007.

⁸ Useful information about the committee’s activities, the Senate Code of Conduct, and interpretative rulings can be found on the committee’s website at [<http://ethics.senate.gov>].

⁹ “Senate Ethics Procedure Reform Resolution of 1999,” *Congressional Record*, vol. 145, Nov. 5, 1999, pp. 28834-28843.

¹⁰ This number is derived from those Senators formally disciplined by the full Senate or by the committee only; from information released by the committee through press releases and committee documents; or from information released by those Senators who were under investigation but not subject to a committee or Senate punishment. There is not a single source for documenting all of the cases considered by the Senate Select Committee on
(continued...)

committee's actions occurred after 1977.¹¹ As a result of committee investigations, two Senators resigned before expected expulsion (one for a bribery conviction and the other because of charges of sexual misconduct and altering documents subpoenaed by the committee); one Senator was "censured"; and two were "denounced" by the Senate (a form of censure) for financial misconduct. One Senator was "rebuked" by the committee for improper acceptance of gifts; one Senator was "severely admonished" by the committee for the acceptance of and failure to disclose prohibited gifts; and one Senator was "admonished" by the committee for "conduct reflecting discreditably on the Senate," including using campaign funds for legal expenses without the required prior approval of the Senate Select Committee on Ethics.¹² One Senator, involved in the case known as the "Keating Five," was "reprimanded" by the committee. The other four Senators in the latter case were criticized in written statements from the committee for showing poor judgement and giving the appearance of acting improperly.¹³ In some of the 38 cases, complaints were dismissed for lack of merit or with no disciplinary action reported to be taken by the committee after an investigation.¹⁴

Wide-ranging inquiries and investigations involving more than one Senator and announced by the Ethics Committee dealt with special car-leasing arrangements for Senators, the introduction of legislation favorable to Chinese seamen, alleged illegal campaign contributions from the Gulf Oil Company, alleged Korean influence peddling, the unauthorized disclosure of classified information about the Senate's

¹⁰ (...continued)

Ethics. Good resources include Stephen C. Rodberds, "Do Congressional Ethics Committees Matter? U.S. Senate Ethics Cases, 1789-2000," in *Public Integrity*, vol. 6, Winter 2003-04, pp. 25-38; "Congressional Ethics Cases, 1976-1980," in *Congressional Ethics*, 2nd ed. (Washington: Congressional Quarterly, 1980), pp. 21-35; "Seating and Disciplining Members," in *Guide to Congress*, 5th ed., vol. II (Washington: Congressional Quarterly, 2000), pp. 915-988, supplemented by various editions of *Congress and the Nation*, published annually by Congressional Quarterly Inc.; Mary Ann Noyer, *Catalogue of Congressional Ethics Cases, 1796-1992* (Washington: The Brookings Institution, 1995); and U.S. Senate, *Senate, Election, Expulsion and Censure Cases, 1793-1990*, prepared by Anne Butler and Wendy Wolff, 103rd Cong., 1st sess, S. Doc. 103-33 (Washington: GPO, 1995), pp. 409-442 [http://senate.gov/reference/reference_item/election_book.htm].

¹¹ The committee sometimes acts on complaints that do not reach a formal investigation stage. The committee usually does not acknowledge such cases even if they are reported in the press. Therefore, it is difficult to obtain a precise number of "cases" considered by the committee. U.S. Senate, Select Committee on Ethics, "Statement By Senators Boxer and Cornyn, the Chair and Vice Chair of the Senate Ethics Committee," press release, Mar. 5, 2007, [<http://ethics.senate.gov/downloads/pdffiles/pr030507.pdf>].

¹² See, for example, U.S. Senate, Select Committee on Ethics, "Public Letter of Admonition," press release, Feb. 13, 2008, [<http://ethics.senate.gov/>].

¹³ This case (1989-1991) involved the actions of the five Senators suspected of doing favors for the owner of the Lincoln Savings and Loan Association, who was a campaign contributor.

¹⁴ As mentioned earlier, the committee sometimes has disciplined Senators directly without recommending that the Senate take official action. The committee "punishments" have included a "reprimand," an "admonishment," and a "rebuke."

consideration of the Panama Canal Treaty, and several discrimination issues.¹⁵ No disciplinary action was taken in any of those cases.

Committee Evolution and Background

Creation of the Select Committee on Standards and Conduct. Prior to 1964, there were no congressional ethics committees or formal rules governing the conduct of Members, officers, and employees of either house of Congress; nor was there a consistent approach to the investigation of alleged misconduct. When allegations were investigated, the investigation was usually done by a special or select committee created for that purpose. Sometimes, however, allegations were considered by the House or Senate without prior committee action.

Traditionally, the Senate and the House of Representatives have exercised their powers of self discipline with caution. According to Senate Historian Richard Baker, “For nearly two centuries, a simple and informal code of behavior existed. Prevailing norms of general decency served as the chief determinants of proper legislative conduct.”¹⁶ Baker further noted that for most of its history, “Congress has chosen to deal, on a case-by-case basis, only with the most obvious acts of wrongdoing, those clearly ‘inconsistent with the trust and duty of a member.’”¹⁷

Increasing attention to congressional ethics began in the 1940s, when concern was first expressed about the lack of financial disclosure requirements for the three branches of government. There was also public criticism about Members of Congress supplementing their salaries with income from speeches and other outside activities. Senator Wayne Morse, the first Member to introduce public financial disclosure legislation, defended Members’ right to earn outside income, but believed that the American people were entitled to know about their sources of income.¹⁸ Senator Morse’s 1946 resolution (S.Res. 306) would have required Senators to file annual public financial disclosure reports. It was predicated “upon the very sound philosophical principle enunciated by Plutarch that [Members of Congress just as] Caesar’s wife must be above suspicion.”¹⁹

Senator Morse continued to introduce his measure through the 1960s, ultimately expanding it to include all three branches of government, and gaining support from

¹⁵ See, for example, “Congressional Ethics Cases, 1976-1980,” in *Congressional Ethics*, 2nd ed. (Washington: Congressional Quarterly, 1980), pp. 21-47.

¹⁶ Richard Baker, “The History of Congressional Ethics,” in Bruce Jennings and Daniel Callahan, eds., *Representation and Responsibility: Exploring Legislative Ethics* (New York: Plenum Press, 1985), p. 4. (Hereafter cited as Baker, “The History of Congressional Ethics.”)

¹⁷ *Ibid.*, p. 3.

¹⁸ Senator Wayne Morse, “Reports by Senators on Sources of Outside Income,” remarks in the Senate, *Congressional Record*, vol. 92, July 23, 1946, p. 9741.

¹⁹ *Ibid.*

Senators Paul Douglas and Clifford Case.²⁰ During the 1950s and early 1960s, there were various unsuccessful attempts to create joint or select congressional committees to adopt and monitor codes of official conduct for Members and employees of the Senate.

Momentum for reform grew after Robert G. (Bobby) Baker, Secretary to the Senate Democratic Majority, resigned from his job in October 1963, following allegations that he had misused his official position for personal financial gain.²¹ For the next year and a half, the Senate Rules and Administration Committee held hearings to investigate the business interests and activities of Senate officials and employees in order to ascertain what, if any, conflicts of interest or other improprieties existed and whether any additional laws or regulations were needed.²² The committee recognized that serious allegations had been made against a former employee, and that no specific rules or regulations governed the duties and scope of activities of Members, officers, or employees of the Senate.

In its first report, the Senate Rules Committee characterized many of Baker's outside activities as being in conflict with his official duties and made several recommendations, including adoption of public financial disclosure rules and other guidelines for Senate employees.²³

Subsequently, as part of its conclusion of the Baker case, the Rules Committee held additional hearings on proposals advocating a code of ethics in conjunction with a pending pay raise, the creation of a joint congressional ethics committee to write an ethics code, and the adoption of various rules requiring public disclosure of personal finances by Senators and staff and the disclosure of ex parte communications.²⁴ Additions to the Senate rules — calling for public financial disclosure reports and more controls on staff involvement in Senate campaign funds — were then introduced to implement the committee's recommendations.²⁵

²⁰ U.S. Congress, Senate Committee on Rules and Administration, *Financial or Business Interests of Officers or Employees of the Senate*, hearings pursuant to S.Res. 212, part 23, 88th Cong., 1st and 2nd sess., May 27, 1964 (Washington: GPO, 1964), pp. 2021-2027.

²¹ Jack Landau, "Baker Resigns Post As Probe Widens," *The Washington Post*, Oct. 8, 1963, pp. A1, A5.

²² U.S. Congress, Senate Committee on Rules and Administration, *Financial or Business Interests of Officers or Employees of the Senate*, hearings pursuant to S.Res. 212, parts 1-27, 88th Cong., 1st and 2nd sess., 1963-1964 (Washington: GPO, 1964); and U.S. Congress, Senate Committee on Rules and Administration, *Construction of the District of Columbia Stadium, and Matters Related Thereto*, hearings pursuant to S.Res. 212 and S.Res. 367, parts 1-13, 88th Cong., 2nd sess., and 89th Cong., 1st sess., 1964-1965 (Washington: GPO, 1964-1965).

²³ U.S. Congress, Senate Committee on Rules and Administration, *Financial or Business Interests of Officers and Employees of the Senate*, report pursuant to S.Res. 212, 88th Cong., 2nd sess., S.Rept. 88-1175 (Washington: GPO, 1964).

²⁴ *Ibid.*

²⁵ U.S. Congress, Senate Committee on Rules and Administration, *Proposed Rules XLI and* (continued...)

In the report on the proposed additions to Senate rules, Senator John Sherman Cooper, a member of the Rules Committee, discussed the committee's rejection of his proposal for the establishment of a select committee on standards and conduct.²⁶ The proposed committee would have been empowered to receive and investigate complaints of unethical activity, as well as to propose rules and make recommendations to the Senate on disciplinary action.

To implement the proposed new Senate rules, the Committee on Rules and Administration reported a measure granting itself authority to investigate infractions of all Senate rules and to recommend disciplinary action.²⁷ On July 24, 1964, during debate on the proposed new ethics rules (S.Res. 337), and a resolution (S.Res. 338) to give the Rules Committee additional authority, the Senate adopted a substitute proposal by Senator Cooper to establish a permanent, bipartisan Senate Select Committee on Standards and Conduct.²⁸ The Senate chose to create a bipartisan ethics committee instead of granting the Rules Committee disciplinary authority, in part, because of the difficulties in the Baker investigation.

The new select committee was similar to the one Senator Cooper had advocated during several stages of the Bobby Baker investigation. The Senator had declared that, "one of the greatest duties of such a committee would be to have the judgement to know what it should investigate and what it should not."²⁹ Moreover, with the creation of this committee, an internal disciplinary body was established in Congress for the first time on a continuing basis.

The six members of the new committee were not appointed until a year later, in July 1965, however, because of the Senate leadership's desire to wait until the Rules Committee had completed the Baker investigation.³⁰ In October 1965, the committee elected a chairman and vice chairman, appointed its first staff, and began developing standards of conduct for the Senate.³¹

²⁵ (...continued)

XLII to the Standing Rules of the Senate, report to accompany S.Res. 337, 88th Cong., 2nd sess., S.Rept. 88-1125 (Washington: GPO, 1964).

²⁶ *Ibid.*, p. 13.

²⁷ U.S. Congress, Senate Committee on Rules and Administration, *Amending Rule XXV of the Standing Rules of the Senate Relative to the Jurisdiction of the Committee on Rules and Administration*, report to accompany S.Res. 338, 88th Cong., 2nd sess., S.Rept. 88-1147 (Washington: GPO, 1964).

²⁸ "Proposed Amendment of Rule XXV of the Standing Rules of the Senate Relative to the Jurisdiction of the Committee on Rules and Administration," *Congressional Record*, vol. 110, July 24, 1964, pp. 16929-16940.

²⁹ *Ibid.*, p. 16933.

³⁰ "Announcement of the Appointment of the Select Committee on Standards and Conduct," *Congressional Record*, vol. 111, July 9, 1965, p. 16179.

³¹ Sen. John Stennis was elected chairman, and Sen. Wallace Bennett was elected vice chairman, positions they held for 10 years.

Creation of the Select Committee on Ethics. Although the Select Committee on Standards and Conduct undertook several investigations from 1969 to 1977, it was sometimes characterized as “antiquated,” “do-little,” or as a “watch-dog without teeth.”³² Moreover, the Senate ethics code, which the committee wrote in 1968, was often viewed as ineffective.³³

In 1976, a select committee, created to study the Senate committee system, recommended that the functions of the Select Committee on Standards and Conduct should be placed under the Senate Rules and Administration Committee.³⁴ The Rules Committee, however, rejected the idea and instead recommended establishment of a newly constituted bipartisan ethics committee to demonstrate to the public the “seriousness with which the Senate views congressional conduct.”³⁵ In response, the permanent Select Committee on Ethics was created in 1977 to replace the Select Committee on Standards and Conduct.³⁶ Initially, membership on the new select committee was limited to six years. Two years later, the six-year limitation was removed.³⁷

Jurisdiction

When the Select Committee on Standards and Conduct was created in 1964, it was given the authority to (1) investigate allegations of improper conduct which may reflect upon the Senate; (2) investigate violations of laws, rules, and regulations of the Senate relating to the conduct of Members, officers, and employees in their official duties; (3) recommend disciplinary action, when appropriate; and (4)

³² Quotes are found in Martha Angle, “Ethics Panel Called ‘Antiquated,’” *The Washington Star*, Dec. 18, 1976, p. A11; Robert Sherrill, “We Can’t Depend on Congress to Keep Congress Honest,” *The New York Times Magazine*, July 19, 1970, pp. 5-7, 13-14; and Jerry Landauer, “Senate Ethics: Hear No Evil, See No Evil,” *The Washington Star*, Sept. 19, 1976, p. E3.

³³ Jack Anderson, “The Embarrassment of Clean Government,” *The Washington Post*, June 8, 1975, p. C7; James Gannon and Jerry Landauer, “Despite Sex Scandals, Self-Serving Actions Are the Major Problem,” *Wall Street Journal*, June 15, 1976, pp. 1, 22; “A Congressional Scandal” (editorial), *The Washington Star*, Sept. 23, 1976, p. A12; “Same Old Club” (editorial), *Federal Times*, Oct. 4, 1976, p. 9; and Anthony Marro, “Congressional Ethics and the Need for Basic Reform,” *The New York Times*, Jan. 30, 1977, p. E3..

³⁴ U.S. Congress, Temporary Select Committee to Study the Senate Committee System, *First Report with Recommendations*, 94th Cong., 2nd sess., S.Rept. 94-1395 (Washington: GPO, 1976), pp. 95-96.

³⁵ U.S. Congress, Senate Rules and Administration Committee, *Committee System Reorganization Amendments of 1977*, report to accompany S.Res. 4, 95th Cong., 1st sess., S.Rept. 95-1 (Washington: GPO, 1977), pp. 4-5.

³⁶ “Senate Committee Reorganization,” *Congressional Record*, vol. 123, Feb. 1, 1977, p. 2886.

³⁷ “Elimination of Certain Requirements for Membership on the Select Committee on Ethics,” *Congressional Record*, vol. 125, Oct. 31, 1979, p. 30266.

recommend additional Senate rules to insure proper conduct.³⁸ The Select Committee on Ethics assumed this authority as well as responsibility for enforcing and interpreting the Senate Code of Official Conduct, which was adopted in 1968 and substantially amended in 1977.³⁹

In 1973, Congress had passed legislation (P.L. 93-191) clarifying the proper use of the franking privilege by Members of Congress and authorizing the Select Committee on Standards and Conduct to provide assistance and counsel to Senators and staff on the use of the frank.⁴⁰

Subsequently, when the Senate Select Committee on Intelligence was created in 1976, the ethics committee was given specific jurisdiction to investigate any unauthorized disclosure of intelligence information by a Member, officer, or employee of the Senate and to report to the Senate on any substantiated allegation.⁴¹

A year later, in August 1977, with the enactment of P.L. 95-105 (FY1978 Foreign Relations Authorization Act), which amended the Foreign Gifts and Decorations Act of 1966, the recently renamed Select Committee on Ethics was designated the “employing agency” for the Senate and authorized to issue regulations governing the acceptance by Senators and staff of gifts, trips, and decorations from foreign governments.⁴²

In August 1979, the Select Committee on Ethics was given responsibility for administering the Senate public financial disclosure requirements contained in the Ethics in Government Act of 1978, as amended by the Ethics Reform Act of 1989.⁴³

With the adoption of Title III (Government Employee Rights Act of 1991) of the Civil Rights Act of 1991, the Senate established the Office of Fair Employment Practices to adjudicate discrimination complaints and gave the Select Committee on Ethics jurisdiction to review, upon request, decisions of the office.⁴⁴ Subsequently, in 1995, Congress approved the Congressional Accountability Act (CAA), which

³⁸ S.Res. 338, adopted on July 24, 1964. See “Proposed Amendment of Rule XXV of the Standing Rules of the Senate Relative to the Jurisdiction of the Committee on Rules and Administration,” *Congressional Record*, vol. 110, July 24, 1964, pp. 16929-16940.

³⁹ U.S. Congress, Senate Rules and Administration Committee, *Committee System Reorganization Amendments of 1977*, report to accompany S.Res. 4, 95th Cong., 1st sess., S.Rept. 95-1 (Washington: GPO, 1977), pp. 4-5; “Official Conduct Amendments of 1977 (S.Res. 338, 88th Congress as amended by S.Res. 110),” *Congressional Record*, vol. 123, Apr. 1, 1977, pp. 10044-10068. See also various editions of the *Congressional Record* for Mar. 17- 31, 1977, for the entire debate on the provisions of S.Res. 110.

⁴⁰ P.L. 93-191; 87 Stat. 737.

⁴¹ “Proposed Standing Committee on Intelligence Activities,” *Congressional Record*, vol. 122, May 13, 1976, p. 13992.

⁴² P.L. 95-105; 91 Stat. 863.

⁴³ 5 U.S.C. app. Sec. 101-111.

⁴⁴ P.L. 102-166; 105 Stat. 1088-1090; and “Civil Rights Act of 1991,” *Congressional Record*, vol. 137, Oct. 30, 1991, pp. 29018-29020.

applied 12 civil rights, labor, and other workplace laws to the legislative branch.⁴⁵ The CAA superceded the Government Employee Rights Act of 1991, and established a procedure outside the Senate for considering violations of these statutes. Nevertheless, passage of the CAA did not affect the Senate Ethics Committee's separate and independent authority to discipline a Member, officer, or employee for violating the Senate's anti-discrimination rule (Senate Rule XLII) or any of the 12 statutes.⁴⁶

The Senate Code of Conduct

First Code of Official Conduct. When the members of the new Select Committee on Standards and Conduct initially met in October 1965, one of their first duties was to recommend rules of conduct for Members, officers, and employees of the Senate. This work, however, was interrupted by the committee's first disciplinary case, which ultimately resulted in the June 1967 censure of a Senator for the conversion of campaign funds to personal use.⁴⁷ The committee subsequently was occupied by allegations against another Senator, although it continued to work concurrently on a Senate code of conduct.⁴⁸

In March 1968, the Select Committee on Standards and Conduct reported a resolution making four additions to the Standing Rules of the Senate, which were adopted after several days of debate.⁴⁹ These were the first official Senate rules of conduct for Members, officers, and employees.⁵⁰ The four areas covered by the rules

⁴⁵ P.L. 104-1; 109 Stat. 3-44. P.L. 104-1 originally applied 11 laws. In 1998, the CAA was amended to include provisions of the Veterans Employment Opportunities Act. P.L. 105-339; 112 Stat. 3185-3186.

⁴⁶ U.S. Congress, Senate Select Committee on Ethics, *Senate Ethics Manual*, 108th Cong., 1st sess., S.Pub. 108-1 (Washington: GPO, 2003), p. 193.

⁴⁷ U.S. Congress, Senate Select Committee on Standards and Conduct, *Standards of Conduct for Members of the Senate, Officers and Employees of the Senate*, report to accompany S.Res. 266, 90th Cong., 2nd sess., S.Rept. 90-1015 (Washington: GPO, 1968), p. 3; and "Seating and Disciplining Members," in *Guide to Congress*, 5th ed., vol. II (Washington: Congressional Quarterly, 2000), pp. 930-931.

⁴⁸ U.S. Congress, Senate Select Committee on Standards and Conduct, *Standards of Conduct for Members of the Senate, Officers and Employees of the Senate*, report to accompany S.Res. 266, 90th Cong., 2nd sess., S.Rept. 90-1015 (Washington: GPO, 1968), p. 3; and "Senate Ethics Committee," in *Congressional Quarterly Almanac*, vol. XXIII, 1967 (Washington: Congressional Quarterly, 1968), pp. 582-584.

⁴⁹ U.S. Congress, Senate Select Committee on Standards and Conduct, *Standards of Conduct for Members of the Senate, Officers and Employees of the Senate*, report to accompany S.Res. 266, 90th Cong., 2nd sess., S.Rept. 90-1015 (Washington: GPO, 1968); and "Senate Standards of Conduct," *Congressional Record*, vol. 114, Mar. 19, 1968, pp. 6941-6943, 6948-6960; Mar. 20, 1968, pp. 7129-7134, 7137-7154; Mar. 21, 1968, pp. 7249-7279; and Mar. 22, 1968, pp. 7369-7383, 7388-7408.

⁵⁰ By the early 1960s, many Members of Congress had begun the practice of publishing in (continued...)

changes were (1) outside employment of officers and employees, (2) raising and permissible uses of campaign funds, (3) political fund-raising activities of Senate staff, and (4) annual financial disclosures by senatorial candidates as well as Members, officers, and designated employees of the Senate.⁵¹ With the exceptions of gifts in excess of \$50 and honoraria in excess of \$300, the information in the disclosure reports was to be kept confidential and not available to the public.

The preamble to the then-new rules, which is still in effect and appears in the nonstatutory Standing Orders of the Senate (*Senate Manual*, Standing Order No. 87), declared the following to be the policy of the Senate:

Resolved, It is the policy of the Senate that —

(a) The ideal concept of public trust, expressed by the words, ‘A public office is a public trust,’ signifies that the officer has been entrusted with public power by the people; that the officer holds this power in trust to be used only for their benefit and never for the benefit of himself or of a few; and that the officer must never conduct his own affairs so as to infringe on the public interest. All official conduct of Members of the Senate should be guided by this paramount concept of public office.

(b) These rules, as the written expression of certain standards of conduct, complement the body of unwritten but generally accepted standards that continue to apply to the Senate.

1977 Revisions. On April 1, 1977, the Senate Code of Official Conduct was revised and amended, and the procedures and duties of the Select Committee on Ethics were expanded.⁵² Adoption of S.Res. 110 followed efforts to restore loss of public confidence affecting the government at the time. Three months earlier, the Special Committee on Official Conduct had been established “to recommend a code of conduct for Members, officers, and employees of the Senate.”⁵³ The Watergate scandal and its repercussions had affected the entire government; a number of polls and studies at the time indicated that there had been a decline in public confidence

⁵⁰ (...continued)

the *Congressional Record* and other places disclosures about their personal finances. Former Sen. Stephen Young claimed that he was the first Member of Congress to disclose to the public his entire financial assets, holdings, and earnings (1959). He also established a rule fixing the valuation of \$5.00 as the maximum value for any gift he would receive. Former Sen. Paul Douglas had a rule for himself and his staff of returning any gift in excess of the figure of \$2.50. See Sen. Stephen Young, “Senatorial Standards of Conduct,” *Congressional Record*, vol. 114, Mar. 19, 1968, pp. 6941-6943.

⁵¹ This was the first time that Senators, Senate staff, and Senate candidates were required to file annual financial disclosures reports.

⁵² “Official Conduct Amendments of 1977 (S.Res. 110),” *Congressional Record*, vol. 123, Apr. 1, 1977, pp. 10044-10068. See also various editions of the *Congressional Record* for Mar. 17- 31, 1977, for the entire debate on the provisions of S.Res. 110.

⁵³ Robert C. Byrd, “Establishment of Special Committee to Propose a Code of Conduct,” *Congressional Record*, vol. 123, Jan. 18, 1977, pp. 1361-1363; and U.S. Congress, Senate Special Committee on Official Conduct, *Senate Code of Official Conduct*, report to accompany S.Res. 110, 95th Cong., 1st sess., S.Rept. 95-49 (Washington: GPO, 1977).

in all three branches of the government, particularly Congress. Several studies had recommended limitations on outside earned income, more explicit standards of senatorial conduct, and linking tougher standards to a proposed 1977 congressional pay raise.⁵⁴

Title I of S.Res. 110 contained amendments to the Senate Code of Official Conduct adopted in 1968. Title II amended S.Res. 338, the 1964 resolution that created the Select Committee on Standards and Conduct and constituted the basic charter of the newly created Select Committee on Ethics.

Included in Title I were the first *public* financial disclosure requirements for Members, officers, and employees of the Senate, as well as the first limits on gifts, outside earnings, the franking privilege, the use of the radio and television studios, unofficial office accounts, and lame-duck foreign travel. There was also a provision prohibiting discrimination in staff employment.

Title II provided the new Select Committee on Ethics with the authority to issue regulations to implement the revised Code of Official Conduct and to issue interpretative rulings to clarify its meaning and applicability. The committee was also mandated to compile advisory opinions and rulings and to make them available periodically to Senators and staff.⁵⁵ Title II of S.Res. 110 also:

- (1) preserved for the ethics committee the discretion to initiate investigations;
- (2) set forth the procedures for the receipt and processing of sworn complaints;
- (3) spelled out the requirement that an affirmative vote of four committee members was necessary for any report, recommendation, advisory opinion, or investigation;
- (4) required the committee to adopt written rules for investigations;
- (5) provided for the optional disqualification of committee members in any investigations;
- (6) stipulated that outside counsel must be hired for investigations unless the committee specifically decides not to use such counsel;
- (7) clarified that no investigation could be made of any alleged violation which was not considered a violation at the time it was alleged to have occurred; and
- (8) enumerated specific sanctions that the committee could recommend in calling upon the Senate to take disciplinary action.

1989 and 1991 Revisions. The Ethics Reform Act of 1989 and the FY1992 Legislative Branch Appropriations Act further amended the Senate Code of Official Conduct by changing the restrictions on the acceptance of gifts and travel by Members, officers, and employees of the Senate; banning honoraria; and limiting

⁵⁴ “House, Senate Adopt New Codes of Ethics,” in *Congressional Quarterly Almanac*, vol. XXXIII, 1977 (Washington: Congressional Quarterly, 1977), pp. 763-781.

⁵⁵ The committee has compiled its interpretative rulings in U.S. Congress, Senate Select Committee on Ethics, *Senate Ethics Manual*, 108th Cong., 1st sess., S.Pub. 108-1 (Washington: GPO, 2003), pp. 197-308. See also [<http://ethics.senate.gov/downloads/pdf/manual.pdf>]

other outside earned income of Senators, officers, and designated employees.⁵⁶ The Legislative Branch Appropriations Act also further restricted the source of funds for the conduct of officially connected duties.

1995 Revisions. On July 28, 1995, the Senate amended its gift rule (Rule XXXV) by adopting S.Res. 158, which placed stricter limits on the acceptance of gifts and travel by Senators and staff.⁵⁷ Rule XXXV, which is still applicable, banned gifts of \$50 or more and placed an annual \$100 limit on gifts from any one source. Gifts and meals valued at less than \$10 did not have to be aggregated toward the annual limit. Also, lobbyists were banned from contributing to legal defense funds established for Members and congressional staff, and from contributing to any charitable foundations they have established. Under Rule XXXV, lobbyists also could not provide “necessary expenses” for Members’ or officers’ travel in conjunction with an “officially connected” trip. Also banned was free travel to events that are substantially recreational.

2006 Action. During the 109th Congress, the Senate adopted S. 2349, the Legislative and Lobbying Transparency Accountability Act of 2006.⁵⁸ When the bill was taken up by the House, that chamber struck all but the enacting clause and inserted provisions of a related measure. The Senate requested a conference and appointed conferees, but the House took no additional action. The Senate-passed measure contained provisions (1) enhancing disclosures by lobbyists and adding more requirements for former Members and staff who become lobbyists, (2) banning most gifts to Senators and staff, (3) strengthening the rules for travel by Senators and staff, and (4) mandating ethics training for Senators and staff.

2007 Action. In the first session of the 110th Congress, Congress passed the Honest Leadership and Open Government Act of 2007.⁵⁹ This act requires annual activity reports from the Senate Select Committee on Ethics that show (1) the number of alleged violations of Senate rules received from any source, including the number

⁵⁶ P.L. 101-194; 103 Stat. 1760-1763, 1778-1783 (Nov. 30, 1989); and P.L. 102-90, 105 Stat. 469-470 (Aug. 14, 1991).

⁵⁷ “Congressional Gift Reform,” *Congressional Record*, vol. 141, July 28, 1995, pp. 20939-20952.

⁵⁸ “Legislative Transparency and Accountability Act,” *Congressional Record*, daily edition, vol. 152, Mar. 29, 2006, pp. S2490-S2511.

⁵⁹ P.L. 110-81; 121 Stat. 735-776, Sept. 14, 2007. For a complete discussion of this measure, see CRS Report RL34166, *Lobbying Law and Ethics Rules Changes in the 110th Congress*, by Jack Maskell. This measure was initially known as the Legislative Transparency and Accountability Act. See “Legislative Transparency and Accountability Act,” *Congressional Record*, daily edition, vol. 153, Jan. 18, 2007, pp. S737-S746. See also various editions of the *Congressional Record* for Jan. 9-12 and 16-17 for Senate debate on this measure. In addition refer to U.S. Congress, House Committee on Judiciary, *Honest Leadership and Open Government Act of 2007*, 110th Cong., 1st sess., H.Rept. 110-161, Part I (Washington: GPO, 2007); “Honest Leadership and Open Government Act of 2007,” *Congressional Record*, vol. 153, July 31, 2007, pp. H9192-H9210; and “Honest Leadership and Open Government Act of 2007,” *Congressional Record*, vol. 153, Aug. 2, 2007, pp. S10685-S10719 and S10723-S10724.

raised by a Senator or the staff of the committee; (2) a list by number and category of alleged violations that were dismissed; (3) the number of alleged violations for which the committee staff conducted a preliminary inquiry, that resulted in an adjudicatory review, or that were dismissed for lack of substantial merit; (4) the number of private or public letters of admonition issued; (5) the number of matters resulting in disciplinary sanctions; and (6) any other information deemed by the committee to be appropriate to describe the previous year's activities.⁶⁰ The first report required by the new law was released in January 2008.⁶¹

In addition, the Honest Leadership and Open Government Act (1) requires the Select Committee on Ethics to conduct mandatory ethics training for Senators and staff; (2) bans most gifts from lobbyists to Senators as well as to Senate officers and employees; (3) restricts the acceptance of expenses from entities that employ lobbyists for officially connected travel by Senators and Senate staff; (4) requires Senators and staff to get prior approval from the Senate Select Committee on Ethics for officially connected travel; (5) requires additional detail on officially connected travel in reports estimating expenses received; (6) extends to two years from one the lobbying ban on Senators who become lobbyists; (7) prohibits Senate staff who become lobbyists from lobbying anyone in the Senate for one year after leaving office; (8) eliminates Senate floor, parking, and gym privileges for Senators who become lobbyists; (9) establishes conditions related to negotiations for future private employment by Senators and senior staff; and (10) denies annuity payments for Senate service to Senators convicted of certain crimes.

Other provisions in the act include wide-ranging lobbying disclosure reforms, including quarterly, electronic filing by lobbyists with the Secretary of the Senate and the Clerk of the House, and so-called “earmark” reform. A number of provisions in the act apply to both the Senate and the House of Representatives.⁶²

Procedural Reform

1980 Actions/Senate Select Committee On Ethics Self Evaluation.

After the Senate adopted the Official Conduct Amendments of 1977 (its revised code of conduct), many Senators complained both publicly and privately that the new code was too restrictive and unrealistic.⁶³ During its first years, the newly created Select Committee on Ethics worked on interpreting the new rules for the Senate. On February 1, 1980, the Senate adopted S.Res. 109, which directed the Ethics Committee to undertake a “comprehensive review of the Senate Code of Official

⁶⁰ P.L. 110-81, Sec. 554, 121 Stat., 773-774 (Sept. 14, 2007).

⁶¹ Sen. Barbara Boxer, “Annual Report for 2007—Select Committee on Ethics,” *Congressional Record*, daily edition, vol. 154, Jan. 31, 2008, pp. S538-S539.

⁶² P.L. 110-81; 121 Stat. 735-776 (Sept. 14, 2007).

⁶³ Official Conduct Amendments of 1979,” *Congressional Record*, vol. 126, Feb. 1, 1980, pp. 1571-1579; and Lloyd Shearer, “The Ethics Code,” *Parade Magazine*, Oct. 2, 1977, p. 32.

Conduct and the provisions for its enforcement and implementation and for investigation of allegations of improper conduct by Senators” and staff.⁶⁴

During the course of its review, the committee held hearings in November 1980, where academicians, federal and state ethics officials, and Members testified.⁶⁵ The committee sent questionnaires to Senators, and consulted the Hastings Center Institute of Society, Ethics, and Life Sciences, which issued two reports on proposed changes in the Senate Code of Official Conduct and its enforcement.⁶⁶ The committee was granted several delays in making final recommendations, and it ultimately never issued a report to the Senate.⁶⁷

1993 Actions/Joint Committee on the Organization of Congress.

During the 103rd Congress (1993-1995), the Joint Committee on the Organization of Congress studied the congressional ethics process. Congressional and legal scholars and current and former Members of Congress testified during February 1993 hearings.⁶⁸ Suggestions encompassed revamping the entire ethics system, including separating into two subcommittees the investigative and adjudicatory functions of the committee during investigations (a process already in place in the House); using outside panels of retired Members, former jurists, or citizens to assist in disciplinary cases; developing a written ethics manual; increasing ethics training and education; and establishing a “statute of limitations” for Senate investigations similar to one already in place in the House.

In their December 1993 final report, the Senate members of the joint committee recommended that action on specific proposals for reforming the Senate ethics process be deferred until the then-new Senate Ethics Study Commission, established

⁶⁴ *Congressional Record*, vol. 126, Feb. 1, 1980, pp. 1571-1579.

⁶⁵ U.S. Congress, Senate Select Committee on Ethics, *Revising the Senate Code of Official Conduct Pursuant to Senate Resolution 109*, hearings, 96th Cong., 2nd sess., Nov. 18-19, 1980 (Washington: GPO, 1981).

⁶⁶ The Hastings Center, *Revising the United States Senate Code of Ethics* (Hastings-on-Hudson, NY: The Hastings Center, 1981); and The Hastings Center, *The Ethics of Legislative Life* (Hastings-on-Hudson, NY: The Hastings Center, 1985).

⁶⁷ Irwin B. Arieff, “Senate Ethics Committee Delays Code Revisions,” *Congressional Quarterly Weekly Report*, vol. 39, Apr. 4, 1981, pp. 604-605; and Irwin Arieff, “Code Action Delayed” *Congressional Quarterly Weekly Report*, vol. 39, May 9, 1981, p. 824.

⁶⁸ U.S. Congress, Joint Committee on the Organization of Congress, *Background Materials: Supplemental Information Provided to Members of the Joint Committee on the Organization of Congress*, S.Prt. 103-55, 103rd Cong., 1st sess. (Washington: GPO, 1993), pp. 115-165; U.S. Congress, Joint Committee on the Organization of Congress, *Ethics Process: Testimony of Former Senator Abraham Ribicoff and a Panel of Academic Experts*, hearings, 103rd Cong., 1st sess., Feb. 16, 1993 (Washington: GPO, 1993); and U.S. Congress, Joint Committee on the Organization of Congress, *Ethics Process: Testimony of Hon. Louis Stokes, Hon. James Hansen, and a Panel of Academic Experts*, hearings, 103rd Cong., 1st sess., Feb. 25, 1993 (Washington: GPO, 1993).

the previous May, completed its work and issued recommendations.⁶⁹ (The creation and recommendations of the commission are explained in the succeeding paragraphs.) The committee also recommended that the Senate consider the proposals of this Ethics Study Commission as soon as possible and adopt changes which would enhance public accountability, be fair to Senators and staff, and minimize the demands on the time of Senators serving on the Select Committee on Ethics.⁷⁰

1993-1994 Senate Ethics Study Commission. In 1993, the Senate established the bipartisan Senate Ethics Study Commission to study the Select Committee on Ethics and recommend changes.⁷¹ The mandate of the 10-member, bipartisan Senate Ethics Study Commission was (1) to study the rules and procedures used by the Select Committee on Ethics to investigate and resolve complaints and allegations against Members, officers, and employees of the Senate; and (2) to recommend improvements to enhance public confidence in the Senate's ability to fulfill fairly its constitutional duty of self-discipline. The "confusing and complex" procedures of the Select Committee in Ethics, which created the potential for unfairness and a lack of confidence in the process, was noted by many former committee members.⁷² The commission, comprising all six incumbent members of the Ethics Committee and four former members of the committee, held hearings during which testimony was heard from former chairs of the committee, attorneys who had practiced before or were on the staff of the committee, academicians, and representatives of public organizations with interests in legislative ethics.⁷³

In March 1994, the Senate Ethics Study Commission issued its final report and recommendations.⁷⁴ The Senate, however, took no immediate action.

⁶⁹ Helen Dewar, "Bipartisan Panel to Study Senate's Ethics Procedures," *The Washington Post*, Mar. 4, 1993, p. A8.

⁷⁰ U.S. Congress, Joint Committee on the Organization of Congress, *Organization of Congress, Final Report of the Senate Members of the Joint Committee on the Organization of Congress*, 103rd Cong., 1st sess., S.Rept. 103-215, vol. 1 (Washington: GPO, 1993), p. 21.

⁷¹ S.Res. 111, agreed to in the Senate May 21, 1993, "Authorizing the Senate Ethics Study Commission," *Congressional Record*, vol. 139, May 21, 1993, pp. 10787-10788. See also Helen Dewar, "Bipartisan Panel to Study Senate Ethics Procedures," *The Washington Post*, Mar. 4, 1993, p. A8.

⁷² Sen. Robert Smith, "Senate Ethics Procedure Reform Resolution of 1999," remarks in the Senate, *Congressional Record*, vol. 145, Nov. 5, 1999, p. 28841.

⁷³ U.S. Congress, Senate, Ethics Study Commission, *Recommending Revisions to the Procedures of the Senate Select Committee on Ethics*, hearings, 103rd Cong., 1st sess., May 20, 1993, and June 8, 17, 1993 (Washington, GPO, 1993).

⁷⁴ U.S. Congress, Senate Ethics Study Commission, *Recommending Revisions to the Procedures of the Senate Select Committee on Ethics*, report to the Senate Leadership Pursuant to S.Res. 111, 103rd Cong., 2nd sess., S.Prt. 103-71 (Washington: GPO, 1994); and Stephen Gettinger, "Senate Ethics Revision Process," *Congressional Quarterly Weekly Report*, vol. 54, Mar. 5, 1994, pp. 522-523.

1999 Senate Select Committee on Ethics Procedural Changes. On November 5, 1999, the Senate adopted most of the recommendations proposed by the Senate Ethics Study Commission five years earlier (S.Res. 222).⁷⁵

The principal changes made by the Senate in agreeing to S.Res. 222 included the following:⁷⁶

- Replacing the previous multi-stage process with a single phase “preliminary inquiry.” Now, if there is substantial evidence of a violation after the preliminary review, charges are issued and there may be “adjudicative review” of the evidence. Such a review can include a hearing. These changes did not affect the ability of outside groups to file allegations against a Member, officer, or employee of the Senate.
- Providing a uniform set of potential sanctions for rules violations to be used alone or in combination.⁷⁷ These are (1) financial restitution, (2) referral to a party conference (regarding seniority or positions of responsibility), (3) censure, and (4) expulsion. The committee retained the flexibility to propose other penalties and was authorized to issue a reprimand to an individual without his or her consent (as had been required previously) after the opportunity for a hearing and with the right of appeal to the Senate.
- Allowing public or private “Letters of Admonition” from the Ethics Committee. These letters, previously used by the committee, are not considered formal discipline, but are used to inform Senators about conduct the committee believes is questionable or inappropriate.
- Adding financial restitution to the possible sanctions (including suspension and dismissal) that might be placed on a Senate officer or employee.

⁷⁵ “Senate Ethics Procedure Reform Resolution of 1999,” *Congressional Record*, vol. 145, Nov. 5, 1999, pp. 28834-28843; Elizabeth Palmer, “Senate Votes to Revamp Its Ethics Investigations Process,” *Congressional Quarterly Weekly Report*, vol. 59, Nov. 20, 1999, p. 2772; and Damon Chappie, “Committee Streamlines Senate’s Ethics Procedures,” *Roll Call*, Nov. 15, 1999, p. 8.

⁷⁶ The changes adopted in 1999 are still in effect.

⁷⁷ These sanctions are similar to ones provided for in existing committee rules, but provided for the payment of restitution as a penalty and emphasized consistency in the wording in each type of punishment.

Proposed Changes to the Senate Select Committee on Ethics

During the past four-plus decades since the establishment of the Select Committee on Standards and Conduct in 1964, Senators and others have considered alternatives to the present system of enforcing the Senate rules of conduct.⁷⁸ These proposals have called for an Office of Public Integrity; independent ethics commissions, or offices, within the legislative branch, composed of incumbent or former Members of Congress, retired judges, or private citizens; or a variation of these ideas.⁷⁹

The most serious discussions in the past 10 years, however, began in the 109th Congress (2005-2007) with different bill introductions.⁸⁰ In March 2006, the Senate Committee on Homeland Security and Governmental Affairs debated and ultimately voted against a proposal to establish an independent office to enforce congressional ethics and lobbying laws. Subsequently, the Senate defeated a similar amendment to a pending gift and lobbying reform measure (S. 2349).⁸¹

After the convening of the 110th Congress (2007-2009), discussions continued about ethics reform and enforcement.⁸² On January 18, 2007, during consideration of the Legislative Transparency and Accountability Act of 2007, the Senate rejected an amendment to establish the Senate Office of Public Integrity.⁸³

⁷⁸ For additional information, refer to CRS Report RL30764, *Enforcement of Congressional Rules of Conduct: A Historical Overview*. For a pro-con discussion of creating independent ethics entities within the legislative branch, as well as the constitutional issues involved, refer to CRS Report RL33790, “*Independent Legislative Commission or Office for Ethics and/or Lobbying*,” by Jack Maskell and R. Eric Petersen.

⁷⁹ See for example, U.S. Congress, House, *Report of the Ethics Reform Task Force on H. Res. 168*, committee print, 105th Cong., 1st sess. (Washington: GPO, 1997) p. 6; Glenn Simpson, “Non-Senators Proposed to Be Ethics Panelists,” *Roll Call*, Oct. 8, 1991, pp. 1, 27; Dennis Thompson, “Why Congressional Ethics Committees Are Unethical,” *The Brookings Review*, vol. 13, no. 4, Fall 1995, pp. 44-48; Norman Ornstein, “Put Congressmen Emerti on Ethics Panels,” *Wall Street Journal*, May 28, 1991, p. A22; Norman Ornstein, “Use Former Members, Staff to Filter Ethics Complaints,” *Roll Call*, Feb 4, 2004, p. 6; and “Locking Up the Ghost of Congress Past” (editorial), *The New York Times*, Mar. 3, 2007, p. A26.

⁸⁰ See, for example, S.Con.Res. 82, and S. 2259, 109th Congress.

⁸¹ “Legislative Transparency and Accountability Act of 2006,” *Congressional Record*, daily ed., v. 152, Mar. 28, 2006, pp. S2440-S2254 and S2459; and Jeffrey Birnbaum, “Ethics Office for Hill Rejected,” *The Washington Post*, Mar. 3, 2006, pp. A1, A8.

⁸² “Most Ethical Congress” (editorial), *Roll Call*, Nov. 27, 2006, p. 4; Elana Schor “Ethics Reformers in House Push For Independent Panel,” *The Hill*, Dec. 6, 2006; Carl Hulse, “Democrats in Congress Consider Outside Ethics Panel,” *The New York Times*, Dec. 13, 2006, p. A19; and Sen. Barack Obama, “A Chance to Change the Game,” *The Washington Post*, Jan. 4, 2007, p. A17.

⁸³ “Legislative Transparency and Accountability Act of 2007,” *Congressional Record*, daily (continued...)

On January 31, 2007, the leadership in the House of Representatives established the Special Task Force on Ethics Enforcement to consider whether the House should create an “outside” congressional ethics enforcement entity.⁸⁴ The Senate, however, has thus far not created any similar study group during the 110th Congress.

On December 19, 2007, the House task force chair, Representative Michael Capuano, released a report on behalf of several task force members and introduced H.Res. 895 to amend House rules and create an independent Office of Congressional Ethics (OCE), composed of six private citizen/board members jointly appointed by House leaders.⁸⁵ The measure passed the House on March 11, 2008.⁸⁶

Under the provisions of H.Res. 895, current House Members, federal employees, and lobbyists would not be eligible to serve on the board, which could be composed of private citizens with a wide range of professional experience. Former Members of Congress and congressional staff as well as former state legislators and judges have been suggested as types of potential members of this board, whose responsibility would be to review allegations of misconduct by Members, officers, and employees of the House and then, if appropriate, to make recommendations to the Committee on Standards of Official Conduct for its consideration.⁸⁷ Any referrals received by the Standards of Official Conduct Committee would be acted on largely in accord with the committee’s current rules. However, the committee would be required to make a public announcement of its disposition of certain referrals within specific time frame.

The new OCE does not have subpoena power and is prohibited from referring any case to the House Committee on Standards of Official Conduct within 60 days of a primary or general election in which the subject of an investigation is a candidate.

⁸³ (...continued)

ed., v. 153, Jan. 18, 2007, pp. S743-S744.

⁸⁴ Rep. Michael E. Capuano, “Dear Colleague” letter, Dec. 19, 2007, [<http://www.house.gov/capuano/news/2007/121907ethics/Dear%20Colleague%20Letter.pdf>]; and Susan Davis, “Pelosi, Boehner Name Eight Members to Ethics Task Force,” *Roll Call*, Feb. 1, 2007, pp. 3, 22.

⁸⁵ U.S. House, Special Task Force on Ethics Enforcement [<http://www.house.gov/capuano/news/2007/121907ethics/Ethics%20Report.pdf>], unpublished report, Dec. 2007; and Drew Armstrong, “Ethics Task Force Recommendations Pose Challenge for House Leaders,” *CQ Today*, Jan. 22, 2008, pp. 5-6.

⁸⁶ “Providing for the Adoption of H.Res. 895, Congressional Record, daily ed., vol. 154, Mar. 11, 2008, pp. H1515-H1536.

⁸⁷ Former Members and staff of the House could not serve on the board sooner than one year after leaving office.

**Appendix A. Members of the Senate Select Committee
on Standards and Conduct, 89th-94th Congresses (1965-1977)**

Member	Party	State	Began Assignment	Ended Assignment
89th Congress (1965-1967)				
Stennis, John C.	D	MS	July 9, 1965	January 2, 1967
Monroney, A. S. Mike	D	OK	July 9, 1965	January 2, 1967
McCarthy, Eugene J.	DFL ^a	MN	July 9, 1965	January 2, 1967
Bennett, Wallace F.	R	UT	July 9, 1965	January 2, 1967
Cooper, John Sherman	R	KY	July 9, 1965	January 2, 1967
Pearson, James B.	R	KS	July 9, 1965	January 2, 1967
90th Congress (1967-1969)				
Stennis, John C.	D	MS	July 9, 1965	January 2, 1969
Monroney, A. S. Mike	D	OK	July 9, 1965	January 2, 1969
McCarthy, Eugene J.	DFL ^a	MN	July 9, 1965	January 2, 1969
Bennett, Wallace F.	R	UT	July 9, 1965	January 2, 1969
Cooper, John Sherman	R	KY	July 9, 1965	January 2, 1969
Pearson, James B.	R	KS	July 9, 1965	January 2, 1969
91st Congress (1969-1971)				
Stennis, John C.	D	MS	July 9, 1965	January 2, 1971
McCarthy, Eugene J.	DFL ^a	MN	July 9, 1965	January 2, 1971
Talmadge, Herman E.	D	GA	February 23, 1970	January 2, 1971
Bennett, Wallace F.	R	UT	July 9, 1965	January 2, 1971
Cooper, John Sherman	R	KY	July 9, 1965	January 2, 1971
Pearson, James B.	R	KS	July 9, 1965	October 29, 1969
Jordan, Len B.	R	ID	October 29, 1969	January 2, 1971
92nd Congress (1971-1973)				
Stennis, John C.	D	MS	July 9, 1965	January 2, 1973
Talmadge, Herman E.	D	GA	February 23, 1970	January 2, 1973
Spong, William B., Jr.	D	VA	July 14 1971	January 2, 1973
Bennett, Wallace F.	R	UT	July 9, 1965	January 2, 1973

Member	Party	State	Began Assignment	Ended Assignment
Cooper, John Sherman	R	KY	July 9, 1965	January 2, 1973
Jordan, Leonard B.	R	ID	October 29, 1969	January 2, 1973
93rd Congress (1973-1975)				
Stennis, John C.	D	MS	July 9, 1965	January 2, 1975
Talmadge, Herman E.	D	GA	February 23, 1970	January 2, 1975
Cannon, Howard W.	D	NV	April 18, 1973	January 2, 1975
Bennett, Wallace F.	R	UT	July 9, 1965	December 20, 1974
Curtis, Carl T.	R	NE	February 23, 1973	January 2, 1975
Brooke, Edward W.	R	MA	February 23, 1973	January 2, 1975
94th Congress (1975-1977)				
Cannon, Howard W.	D	NV	April 18, 1973	February 11, 1977
Stennis, John C.	D	MS	July 9, 1965	February 11, 1975
Talmadge, Herman E.	D	GA	February 23, 1970	February 11, 1977
Curtis, Carl T.	R	NE	January 11, 1973	February 11, 1977
Brooke, Edward W.	R	MA	February 23, 1973	February 11, 1977
Young, Milton R.	R	ND	February 7, 1975	February 11, 1977

Source: Garrison Nelson, *Committees in the U.S. Congress 1947-1992* (Washington: Congressional Quarterly, Inc., 1994).

a. Democratic Farmer-Labor Party

**Appendix B. Members of the Senate Select Committee
On Ethics, 95th -110th Congresses (1977-2008)**

Member	Party	State	Began Assignment	Ended Assignment
95th Congress (1977-1979)				
Stevenson, Adlai E. III	D	IL	February 11, 1977	April 10, 1979
Ribicoff, Abraham A.	D	CT	February 11, 1977	April 10, 1979
Morgan, Robert B.	D	NC	February 11, 1977	April 10, 1979
Schmitt, Harrison H.	R	NM	February 24, 1977	April 10, 1979
Tower, John G.	R	TX	February 24, 1977	April 10, 1979
Weicker, Lowell P., Jr.	R	CT	February 24, 1977	April 13, 1978
Pearson, James B.	R	KS	February 28, 1978	March 2, 1978
Mathias, Charles McC., Jr.	R	MD	April 13, 1978	April 10, 1979
96th Congress (1979-1981)				
Stevenson, Adlai E. III	D	IL	April 10, 1979	October 31, 1979
Morgan, Robert B.	D	NC	April 10, 1979	January 2, 1981
Burdick, Quentin N.	D	ND	April 10, 1979	January 25, 1980
Schmitt, Harrison H.	R	NM	April 10, 1979	October 31, 1979
Hatfield, Mark O.	R	OR	April 10, 1979	January 28, 1980
Helms, Jesse A.	R	NC	April 10, 1979	January 6, 1981
Heflin, Howell T.	D	AL	October 31, 1979	January 2, 1981
Pryor, David H.	D	AR	January 25, 1980	January 2, 1981
Wallop, Malcolm	R	WY	October 31, 1979	January 2, 1981
Cochran, Thad	R	MS	January 28, 1980	January 2, 1981
97th Congress (1981-1983)				
Wallop, Malcolm	R	WY	January 6, 1981	January 3, 1983
Cochran, Thad	R	MS	January 6, 1981	January 21, 1981
Mattingly, Mack	R	GA	January 6, 1981	January 3, 1983
Heflin, Howell T.	D	AL	January 6, 1981	January 3, 1983
Pryor, David H.	D	AR	January 6, 1981	January 3, 1983
Eagleton, Thomas F.	D	MO	January 6, 1981	January 3, 1983

Member	Party	State	Began Assignment	Ended Assignment
Helms, Jesse A.	R	NC	January 21, 1981	January 3, 1983
98th Congress (1983-1985)				
Stevens, Theodore F.	R	AK	January 3, 1983	March 5, 1985
Helms, Jesse A.	R	NC	January 3, 1983	March 5, 1985
Durenberger, David F.	R	MN	January 3, 1983	March 5, 1985
Heflin, Howell T.	D	AL	January 3, 1983	March 5, 1985
Pryor, David H.	D	AR	January 3, 1983	March 5, 1985
Eagleton, Thomas F.	D	MO	January 3, 1983	March 5, 1985
99th Congress (1985-1987)				
Rudman, Warren B.	R	NH	March 5, 1985	January 6, 1987
Helms, Jesse A.	R	NC	March 5, 1985	January 6, 1987
Kassebaum, Nancy Landon	R	KA	March 5, 1985	January 6, 1987
Heflin, Howell T.	D	AL	March 5, 1985	January 6, 1987
Pryor, David H.	D	AR	March 5, 1985	January 6, 1987
Eagleton, Thomas F.	D	MO	March 5, 1985	January 2, 1987
100th Congress (1987-1989)				
Heflin, Howell T.	D	AL	January 6, 1987	January 2, 1989
Pryor, David H.	D	AR	January 6, 1987	January 2, 1989
Sanford, Terry	D	NC	January 6, 1987	January 2, 1989
Rudman, Warren B.	R	NH	January 6, 1987	January 2, 1989
Helms, Jesse A.	R	NC	January 6, 1987	January 2, 1989
Kassebaum, Nancy Landon	R	KA	January 6, 1987	January 2, 1989
101st Congress (1989-1991)				
Heflin, Howell T.	D	AL	February 2, 1989	January 2, 1991
Pryor, David H.	D	AR	February 2, 1989	January 2, 1991
Sanford, Terry	D	NC	February 2, 1989	January 2, 1991
Rudman, Warren B.	R	NH	February 2, 1989	January 2, 1991
Helms, Jesse A.	R	NC	February 2, 1989	January 2, 1991
Lott, Trent	R	MS	February 2, 1989	January 2, 1991

Member	Party	State	Began Assignment	Ended Assignment
102nd Congress (1991-1993)				
Heflin, Howell T.	D	AL	March 19, 1991	November 20, 1991
Pryor, David H. ^a	D	AR	March 19, 1991	May 22, 1991
Sanford, Terry ^b	D	NC	March 19, 1991	January 2, 1993
Rudman, Warren B.	R	NH	March 19, 1991	January 2, 1993
Lott, Trent	R	MS	March 19, 1991	January 2, 1993
Gorton, Slade	R	WA	March 19, 1991	January 2, 1993
Bingaman, Jeff ^c	D	NM	May 22, 1991	January 2, 1993
Helms, Jesse ^d	R	NC	August 2, 1991	November 20, 1991
Bryan, Richard ^e	D	NV	August 2, 1991	January 2, 1993
103rd Congress (1993-1995)				
Bryan, Richard	D	NV	January 26, 1993	January 2, 1995
Mikulski, Barbara	D	MD	January 26, 1993	January 2, 1995
Thomas, Daschle	D	SD	January 26, 1993	January 2, 1995
McConnell, Mitch	R	KY	January 26, 1993	January 2, 1995
Stevens, Ted	R	AK	January 26, 1993	May 19, 1993
Smith, Robert	R	NH	January 26, 1993	January 2, 1995
Craig, Larry	R	ID	May 19, 1993	January 2, 1995
104th Congress (1995-1997)				
McConnell, Mitch	R	KY	January 11, 1995	January 2, 1997
Smith, Robert	R	NH	January 11, 1995	January 2, 1997
Craig, Larry	R	ID	January 11, 1995	January 2, 1997
Bryan, Richard	D	NV	January 11, 1995	January 23, 1996
Mikulski, Barbara	D	MD	January 11, 1995	January 23, 1996
Dorgan, Byron	D	ND	January 11, 1995	January 2, 1997
Reid, Harry	D	NV	January 23, 1996	January 2, 1997
Murray, Patty	D	WA	January 23, 1996	January 2, 1997

Member	Party	State	Began Assignment	Ended Assignment
105th Congress (1997-1999)				
Smith, Robert	R	NH	January 9, 1997	January 2, 1999
Roberts, Pat	R	KS	January 9, 1997	January 2, 1999
Sessions, Jeff	R	AL	January 9, 1997	January 2, 1999
Reid, Harry	D	NV	January 9, 1997	January 2, 1999
Murray, Patty	D	WA	January 9, 1997	January 2, 1999
Conrad, Kent	D	SND	January 9, 1997	January 2, 1999
106th Congress (1999-2001)				
Smith, Robert ^f	R	NH	January 7, 1999	January 2, 2001
Roberts, Pat	R	KS	January 7, 1999	January 2, 2001
Voinovich, George	R	OH	January 7, 1999	January 2, 2001
Reid, Harry	D	NV	January 7, 1999	January 2, 2001
Conrad, Kent	D	ND	January 7, 1999	January 2, 2001
Durbin, Richard	D	IL	January 7, 1999	January 2, 2001
107th Congress (2001-2003)				
Roberts, Pat	R	KS	January 25, 2001	January 2, 2003
Voinovich, George	R	OH	January 25, 2001	January 2, 2003
Thomas, Craig	R	WY	January 25, 2001	January 2, 2003
Reid, Harry ^g	D	NV	January 25, 2001	January 2, 2003
Akaka, Daniel	D	HI	January 25, 2001	January 2, 2003
Lincoln, Blanche	D	AR	January 25, 2001	January 2, 2003
Inouye, Daniel ^h	D	HI	February 4, 2002	July 30, 2002
Reed, Jack ^h	D	RI	February 4, 2002	July 30, 2002
108th Congress (2003-2005)				
Voinovich, George	R	OH	January 15, 2003	January 2, 2005
Roberts, Pat	R	KS	January 15, 2003	January 2, 2005
Thomas, Craig	R	WY	January 15, 2003	January 2, 2005
Reid, Harry	D	NV	January 15, 2003	January 2, 2005

Member	Party	State	Began Assignment	Ended Assignment
Akaka, Daniel	D	HI	January 15, 2003	January 2, 2005
Lincoln, Blanche	D	AR	January 15, 2003	January 2, 2005
109th Congress (2005-2007)				
Voinovich, George	R	OH	January 6, 2005	January 2, 2007
Roberts, Pat	R	KS	January 6, 2005	January 2, 2007
Thomas, Craig	R	WY	January 6, 2005	January 2, 2007
Johnson, Tim	D	SD	January 6, 2005	January 2, 2007
Akaka, Daniel	D	HI	January 6, 2005	January 18, 2006
Pryor, Mark	D	AR	January 6, 2005	January 2, 2007
Salazar, Ken	D	CO	January 18, 2006	January 2, 2007
110th Congress (2007-2009)				
Johnson, Tim ⁱ	D	SD	January 12, 2007	-
Boxer, Barbara [†]	D	CA	January 12, 2007	-
Pryor, Mark	D	AR	January 12, 2007	-
Salazar, Ken	D	CO	January 12, 2007	-
Brown, Sherrod ^j	D	OH	April 17, 2007	-
Cornyn, John	R	TX	January 12, 2007	-
Roberts, Pat	R	KS	January 12, 2007	-
Thomas, Craig	R	WY	January 12, 2007	June 4, 2007 ^k
Johnny Isakson ^k	R	GA	June 13, 2007	-

Source: Garrison Nelson, *Committees in the U.S. Congress 1947-1992* (Washington: Congressional Quarterly, Inc., 1994). Information for the 101st -110th Congresses was obtained from various issues of the *Congressional Record*.

- a. Sen. Pryor left the committee in May 1991, but returned on September 10, 1991, in place of Senator Bingaman, to serve during the completion of the “Keating Five” investigation. That investigation ended on November 20, 1991.
- b. On August 2, 1991, Sen. Sanford was named chairman of the committee for all matters except the “Keating Five” investigation.
- c. Sen. Bingaman was appointed to serve in place of Sen. Pryor. However, he later declined to participate in the “Keating Five” investigation, and Sen. Pryor was reappointed for that purpose. On August 2, 1991, Sen. Bingaman was reappointed to serve for all committee matters except the “Keating Five” investigation.
- d. Sen. Helms was reappointed to serve during the 102nd Congress for the remainder of the “Keating Five” investigation.
- e. Sen. Bryan was appointed to serve for all matters except the “Keating Five” investigation.

- f. Sen. Smith became chairman of the Senate Environment and Public Works Committee on Nov. 9, 1999, and Sen. Roberts was appointed chairman of the Select Committee on Ethics the same day.
- g. On June 6, 2000, when the Democrats took control of the Senate, Sen. Reid became chairman of committee.
- h. On Feb. 4, 2002, Sen. Inouye was appointed to chair the committee in matters regarding the investigation of Sen. Robert Torricelli, and Sen. Reed was appointed to serve in place of Sen. Akaka for this investigation. All other committee business for the 107th Congress was handled by the six members originally appointed.
- i. On Jan. 12, 2007, Sen. Boxer was named chairman of the Senate Select Committee on Ethics in Sen. Johnson's absence because of illness.
- j. On Apr. 17, 2007, Sen. Brown was appointed to serve in place of Sen. Salazar only for matters related to the committee's preliminary inquiry arising in connection with the firing of a U.S. attorney in New Mexico.
- k. Sen. Thomas died in office on June 4, 2007, and was replaced by Sen. Isakson on June 13, 2007.