



HR1191

LRB097 22318 JWD 71073 r

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HOUSE RESOLUTION

2           WHEREAS, Illinois State Representative Derrick Smith,  
3 representing the 10th Representative District in the State of  
4 Illinois, was arrested on March 13, 2012, by federal agents on  
5 the charge of violating 18 U.S.C. § 666(a)(1)(B), namely that  
6 Representative Smith accepted a cash bribe in exchange for  
7 recommending an Early Childhood Construction Grant (ECC Grant)  
8 to the Capital Development Board, an Illinois State agency; and

9           WHEREAS, On March 12, 2012, a Criminal Complaint was filed  
10 in the United States District Court for the Northern District  
11 of Illinois, Eastern Division, against Representative Smith  
12 alleging that Representative Smith violated 18 U.S.C. §  
13 666(a)(1)(B) by accepting a cash bribe in exchange for  
14 recommending an ECC Grant to the Capital Development Board; and

15           WHEREAS, Attached to the Criminal Complaint was an  
16 Affidavit sworn to and signed by Special Agent Bryan M. Butler  
17 of the Federal Bureau of Investigation (Butler Affidavit), that  
18 contained numerous factual allegations supporting the ultimate  
19 allegation that Representative Smith violated 18 U.S. C. §  
20 666(a)(1)(B) by accepting a cash bribe in exchange for  
21 recommending an ECC Grant to the Capital Development Board; and

22           WHEREAS, The Butler Affidavit alleges that Representative

1 Smith was covertly recorded engaging in several discussions  
2 with an individual cooperating with the federal government,  
3 known as the "Cooperating Source," between December, 2011 and  
4 March, 2012; and

5 WHEREAS, The Butler Affidavit alleges that Representative  
6 Smith and the Cooperating Source were covertly recorded on  
7 several occasions in which Representative Smith indicated  
8 that, in exchange for a cash bribe, Representative Smith would  
9 be willing to write a letter on behalf of a daycare center in  
10 support of an ECC Grant from the Capital Development Board; and

11 WHEREAS, The Butler Affidavit alleges that Representative  
12 Smith and the Cooperating Source were covertly recorded  
13 discussing on several occasions that the cash bribe  
14 Representative Smith would accept in exchange for writing that  
15 letter of support would be in the amount of \$7,000; and

16 WHEREAS, The Butler Affidavit alleges that Representative  
17 Smith did in fact sign a letter of support for an ECC Grant for  
18 the above-mentioned daycare center, and that he did so on  
19 official state letterhead; and

20 WHEREAS, The Butler Affidavit alleges that, in exchange for  
21 writing this letter of support, Representative Smith did in  
22 fact accept \$7,000 in cash; and

1           WHEREAS, On March 21, 2012, under House Rule 91, 5 members  
2 of the Illinois House of Representatives filed a Petition  
3 containing suggested charges against Representative Smith that  
4 outlined the allegations contained in the Criminal Complaint  
5 and the Butler Affidavit (Petition); and

6           WHEREAS, Under House Rule 91, following the filing of the  
7 Petition on March 21, 2012, the House Special Investigating  
8 Committee (House SIC) was formed, consisting of 3 members  
9 appointed by the Speaker of the House and 3 members appointed  
10 by the Minority Leader of the House; and

11           WHEREAS, On April 10, 2012, a federal grand jury indicted  
12 Representative Smith on the charge of violating 18 U.S.C. §  
13 666(a)(1)(B), which indictment further contained a forfeiture  
14 allegation under 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. §  
15 2461(c) for unrecovered proceeds approximating \$4,500 of the  
16 cash bribe that Representative Smith was alleged to have  
17 received; and

18           WHEREAS, The House SIC held a public hearing on March 27,  
19 2012, at which Representative Jim Sacia, one of the signatories  
20 to the Petition, submitted a suggested Charge as follows:  
21 "Representative Smith provided an official letter of support on  
22 his letterhead for a daycare owner's application for a state

1 grant from the [Illinois] Capital Development Board in exchange  
2 for personally accepting a \$7,000 bribe."; and

3 WHEREAS, The House SIC engaged in written and oral  
4 communications with the United States Attorney for the Northern  
5 District of Illinois in an attempt to determine (1) whether the  
6 House SIC could obtain evidence in the U.S. Attorney's  
7 possession, and (2) whether the U.S. Attorney would consider  
8 any independent investigation by the House SIC to be an  
9 interference with the federal investigation; and

10 WHEREAS, The U.S. Attorney informed the House SIC that he  
11 could not provide the House SIC with any information or  
12 evidence in his possession and that he would consider an  
13 independent investigation by the House SIC to constitute an  
14 interference with the federal investigation, which he  
15 characterized as "ongoing"; and

16 WHEREAS, The House SIC held public hearings on April 26,  
17 2012, and on May 10, 2012; and

18 WHEREAS, The House SIC entered into the Record eleven  
19 exhibits, including Exhibit 11, which was received from  
20 Representative Smith's counsel and which was entered into the  
21 Record by unanimous consent of the House SIC members; and

1           WHEREAS, The exhibits, public notices, and transcripts of  
2 hearings are included in the House SIC Record, available for  
3 public view on the General Assembly's website; and

4           WHEREAS, The House SIC Record is adopted and incorporated  
5 herein as if fully set forth; and

6           WHEREAS, The House SIC gave ample notice to Representative  
7 Smith and his attorney of each and every hearing, and confirmed  
8 with Representative Smith's attorney that he had received  
9 notice; and

10           WHEREAS, While the House SIC gave Representative Smith the  
11 opportunity to testify under oath, he declined to do so; and

12           WHEREAS, While the House SIC gave Representative Smith's  
13 attorney the opportunity to specifically admit or deny various  
14 allegations in the Butler Affidavit, he declined to do so; and

15           WHEREAS, The House SIC gave Representative Smith the  
16 opportunity to provide the House SIC with any information he  
17 deemed relevant to the House SIC's investigation; and

18           WHEREAS, The Butler Affidavit contains lengthy excerpts of  
19 alleged statements that were recorded and attributed to  
20 Representative Smith, indicating that Representative Smith was

1 intentionally and knowingly trading a letter of support for an  
2 ECC Grant for a cash bribe of \$7,000; and

3 WHEREAS, The House SIC unanimously found that reasonable  
4 grounds existed to prefer a Charge against Representative  
5 Smith, to wit: "Representative Derrick Smith abused the power  
6 of his office by participating in a scheme to obtain a personal  
7 benefit in exchange for his official acts."; and

8 WHEREAS, The Charge was supported by the following  
9 Specifications:

10 (1) Representative Smith, in his official capacity as a  
11 State Representative, has an obligation to faithfully  
12 discharge his duties in the best interests of the people of  
13 the State of Illinois and not for his own personal benefit;

14 (2) During the time period beginning on or about  
15 December, 2011 through March, 2012, Representative Smith  
16 agreed that, in exchange for a cash bribe, he would provide  
17 an official letter of support for a daycare's Early  
18 Childhood Construction Grant to the Illinois Capital  
19 Development Board;

20 (3) On or about March 1, 2012, Representative Smith  
21 did, in fact, sign this official letter of support in his  
22 official capacity as a State Representative and planned or  
23 intended for that letter to be submitted to the Illinois  
24 Capital Development Board;

1           (4) On or about March 10, 2012, Representative Smith  
2           did, in fact, receive a cash bribe in exchange for  
3           providing this official letter of support;

4           (5) Accepting a cash bribe in exchange for an official  
5           act, or even plotting or attempting to do so, constitutes a  
6           breach of Representative Smith's obligation as a public  
7           official to faithfully discharge his duties in the best  
8           interests of the people of the State of Illinois and  
9           warrants disciplinary action by the House of  
10          Representatives; and

11          WHEREAS, Under House Rule 93, the House SIC appointed  
12          Representatives Lou Lang and Jim Durkin to serve as the House  
13          Managers to present the case for disciplinary action against  
14          Representative Smith; and

15          WHEREAS, Under House Rule 94, a House Select Committee on  
16          Discipline (Select Committee) was formed, with 6 Members  
17          appointed by the Speaker of the House, including Representative  
18          Barbara Flynn Currie as Chairperson, and 6 Members appointed by  
19          the Minority Leader of the House, including Representative  
20          Chapin Rose as the Minority Spokesman; and

21          WHEREAS, The Select Committee held a Final Hearing on July  
22          19, 2012; and

1           WHEREAS, Representative Smith declined to appear at the  
2 Final Hearing, but was represented by counsel in attendance on  
3 his behalf; and

4           WHEREAS, The Select Committee considered portions of the  
5 Butler Affidavit that were admitted into evidence by  
6 stipulation as part of Select Committee Group Exhibit 4; and

7           WHEREAS, Those portions of the Butler Affidavit were  
8 accepted as credible evidence by the Select Committee; and

9           WHEREAS, At the Final Hearing, the House Managers called  
10 Representative Smith as a witness to testify, but  
11 Representative Smith declined to do so; and

12           WHEREAS, At the conclusion of the presentation of the  
13 evidence and argument at the Final Hearing, the Select  
14 Committee recessed to deliberate over the evidence; and

15           WHEREAS, After this consideration, the Select Committee  
16 re-convened for the purpose of taking a record vote on the  
17 Charge and Specifications; and

18           WHEREAS, The Select Committee unanimously voted to find  
19 Representative Smith at fault on the Charge and on each  
20 Specification; and



1           WHEREAS, Following this finding of fault, the Select  
2           Committee considered the appropriate penalty to recommend to  
3           the House of Representatives; and

4           WHEREAS, By a vote of 11 Members voting "yes" and one  
5           member voting "no," the Select Committee adopted a  
6           recommendation that Representative Smith be expelled from the  
7           House of Representatives; and

8           WHEREAS, Under House Rule 96, the Select Committee prepared  
9           and filed a Report with the House Clerk; and

10          WHEREAS, The Report of the Select Committee is adopted and  
11          incorporated herein as if fully set forth; and

12          WHEREAS, In its Report, the Select Committee determined  
13          that credible evidence existed that Representative Smith  
14          engaged in and carried out a plot to write an official letter  
15          of support to a daycare center for a capital grant in exchange  
16          for a bribe of \$7,000 in cash; and

17          WHEREAS, In its Report, the Select Committee properly  
18          concluded that the principal purpose of disciplinary  
19          proceedings before the House is not to punish a Member but to  
20          protect the public from official misbehavior and to preserve

1 the people's trust in their representatives and in the General  
2 Assembly as a whole; and

3 WHEREAS, In its Report, the Select Committee properly  
4 determined that Representative Smith's refusal to testify  
5 could be considered not to suggest the truth of the evidence  
6 against him but because a public official owes the people of  
7 this State an obligation to affirmatively assure them that he  
8 has put the interests of the people before his own and to  
9 assure them that he did not, in fact, trade an official act for  
10 a cash bribe; and

11 WHEREAS, In its Report, the Select Committee emphasized  
12 that any consideration of Representative Smith's refusal to  
13 testify was ancillary to the credible evidence presented  
14 against Representative Smith, which by itself was sufficient to  
15 reach a finding of fault on the Charge and each of the  
16 Specifications; and

17 WHEREAS, In its Report, the Select Committee, by a vote of  
18 11 to one, determined that expulsion was the only appropriate  
19 remedy given the credible evidence against Representative  
20 Smith and given that the Charge against him was a breach of the  
21 public trust of the highest order; and

22 WHEREAS, The House finds that the Select Committee properly

1 interpreted House Rule 95(c), including the waiver of that  
2 Rule's protection, in all respects; and

3 WHEREAS, The Select Committee Exhibits, the Procedural  
4 Rules adopted by Chairperson Currie, and the transcripts of  
5 proceedings before the Select Committee are adopted and  
6 incorporated herein as if fully set forth; and

7 WHEREAS, Article 4, Section 6(d) of the Illinois  
8 Constitution provides that no Member shall be expelled by  
9 either house of the General Assembly, except by a vote of  
10 two-thirds of the Members elected to that house; and

11 WHEREAS, House Rule 97(f) provides that a resolution the  
12 effect of which is to expel a member may be adopted only by the  
13 affirmative vote of 79 Members elected; therefore be it

14 RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE  
15 NINETY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, That  
16 the House of Representatives finds Representative Smith to be  
17 At Fault on the Charge and on each of the Specifications  
18 against him as preferred by the House Special Investigating  
19 Committee and as determined by the House Select Committee on  
20 Discipline; and be it further

21 RESOLVED, That Representative Smith is hereby Expelled

1 from the House of Representatives, the Expulsion to take effect  
2 immediately upon adoption of this Resolution by a record vote  
3 of 79 Members elected.