

35

RULE XXXV

GIFTS⁴⁵

35.1a 1. (a)(1) No Member, officer, or employee of the Senate shall knowingly accept a gift except as provided in this rule.

(2)(A)⁴⁶ A Member, officer, or employee may accept a gift (other than cash or cash equivalent) which the Member, officer, or employee reasonably and in good faith believes to have a value of less than \$50, and a cumulative value from one source during a calendar year of less than \$100. No gift with a value below \$10 shall count toward the \$100 annual limit. No formal recordkeeping is required by this paragraph, but a Member, officer, or employee shall make a good faith effort to comply with this paragraph.

(B) A Member, officer, or employee may not knowingly accept a gift from a registered lobbyist, an agent of a foreign principal, or a private entity that retains or employs a registered lobbyist or an agent of a foreign principal, except as provided in subparagraphs (c) and (d).

35.1b (b)(1) For the purpose of this rule, the term “gift” means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

(2)(A) A gift to a family member of a Member, officer, or employee, or a gift to any other individual based on that individual’s relationship with the Member, officer, or employee, shall be considered a gift to the Member, officer, or employee if it is given with the knowledge and acquiescence of the Member, officer, or employee and the Member, officer, or employee has reason to believe the gift was given because of the official position of the Member, officer, or employee.

(B) If food or refreshment is provided at the same time and place to both a Member, officer, or employee and the spouse or dependent thereof, only the food or refreshment provided to the Member, officer, or employee shall be treated as a gift for purposes of this rule.

⁴⁵ Amended pursuant to S. Res. 158, 104–1, July 28, 1995, effective Jan. 1, 1996.

⁴⁶ Subparagraph (A) renumbered and (B) added pursuant to Pub. L. 110–81, Sep. 14, 2007.

(c) The restrictions in subparagraph (a) shall not apply **35.1c** to the following:

(1)(A)⁴⁷ Anything for which the Member, officer, or employee pays the market value, or does not use and promptly returns to the donor.

(B) The market value of a ticket to an entertainment or sporting event shall be the face value of the ticket or, in the case of a ticket without a face value, the value of the ticket with the highest face value for the event, except that if a ticket holder can establish in advance of the event to the Select Committee on Ethics that the ticket at issue is equivalent to another ticket with a face value, then the market value shall be set at the face value of the equivalent ticket. In establishing equivalency, the ticket holder shall provide written and independently verifiable information related to the primary features of the ticket, including, at a minimum, the seat location, access to parking, availability of food and refreshments, and access to venue areas not open to the public. The Select Committee on Ethics may make a determination of equivalency only if such information is provided in advance of the event.

(C)(i)⁴⁸ Fair market value for a flight on an aircraft described in item (ii) shall be the pro rata share of the fair market value of the normal and usual charter fare or rental charge for a comparable plane of comparable size, as determined by dividing such cost by the number of Members, officers, or employees of Congress on the flight.

(ii) A flight on an aircraft described in this item is any flight on an aircraft that is not—

(I) operated or paid for by an air carrier or commercial operator certificated by the Federal Aviation Administration and required to be conducted under air carrier safety rules; or

(II) in the case of travel which is abroad, an air carrier or commercial operator certificated by an appropriate foreign civil aviation authority and the flight is required to be conducted under air carrier safety rules.

⁴⁷ Subclause (A) renumbered and (B) added pursuant to Pub. L. 110–81, Sep. 14, 2007.

⁴⁸ Subparagraph C added pursuant to Pub. L. 110–81, Sep. 14, 2007.

(iii) This subclause shall not apply to an aircraft owned or leased by a governmental entity or by a Member of Congress or a Member's immediate family member (including an aircraft owned by an entity that is not a public corporation in which the Member or Member's immediate family member has an ownership interest), provided that the Member does not use the aircraft any more than the Member's or immediate family member's proportionate share of ownership allows.

(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

(3) A gift from a relative as described in section 109(16) of Title I of the Ethics Reform Act of 1989 (5 U.S.C. App. 6).⁴⁹

(4)(A) Anything, including personal hospitality,⁵⁰ provided by an individual on the basis of a personal friendship unless the Member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the Member, officer, or employee and not because of the personal friendship.

(B) In determining whether a gift is provided on the basis of personal friendship, the Member, officer, or employee shall consider the circumstances under which the gift was offered, such as:

(i) The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between such individuals.

(ii) Whether to the actual knowledge of the Member, officer, or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift.

(iii) Whether to the actual knowledge of the Member, officer, or employee the individual who

⁴⁹ As amended, S. Res. 198, 104–1, Dec. 7, 1995. See Senate Manual Sec. 1026, for definitions.

⁵⁰ The phrase “including personal hospitality” inserted pursuant to S. Res. 198, 104–1, Dec. 7, 1995.

gave the gift also at the same time gave the same or similar gifts to other Members, officers, or employees.

(5) A contribution or other payment to a legal expense fund established for the benefit of a Member, officer, or employee, that is otherwise lawfully made, subject to the disclosure requirements of the Select Committee on Ethics, except as provided in paragraph 3(c).

(6) Any gift from another Member, officer, or employee of the Senate or the House of Representatives.

(7) Food, refreshments, lodging, and other benefits—

(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the Member, officer, or employee as an officeholder) of the Member, officer or employee, or the spouse of the Member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the Member, officer, or employee and are customarily provided to others in similar circumstances;

(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or

(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

(9) Informational materials that are sent to the office of the Member, officer, or employee in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.

(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of pub-

lic service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

(12) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

(13) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a Member, officer, or employee, if such training is in the interest of the Senate.

(14) Bequests, inheritances, and other transfers at death.

(15) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

(16) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

(17) A gift of personal hospitality (as defined in section 109(14) of the Ethics in Government Act)⁵¹ of an individual other than a registered lobbyist or agent of a foreign principal.

(18) Free attendance at a widely attended event permitted pursuant to subparagraph (d).

(19) Opportunities and benefits which are—

(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

(B) offered to members of a group or class in which membership is unrelated to congressional employment;

(C) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

(D) offered to any group or class that is not defined in a manner that specifically discrimi-

⁵¹ See Senate Manual Sec. 1026, for definitions.

nates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

(20) A plaque, trophy, or other item that is substantially commemorative in nature and which is intended solely for presentation.

(21) Anything for which, in an unusual case, a waiver is granted by the Select Committee on Ethics.

(22) Food or refreshments of a nominal value offered other than as a part of a meal.

(23) An item of little intrinsic value such as a greeting card, baseball cap, or a T-shirt.

(24)⁵² Subject to the restrictions in subparagraph (a)(2)(A), free attendance at a constituent event permitted pursuant to subparagraph (g).

(d)(1) A Member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if— **35.1d**

(A) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the Member's, officer's, or employee's official position; or

(B) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, officer, or employee.

(2) A Member, officer, or employee who attends an event described in clause (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be simi-

⁵² Clause (24) was added pursuant to Pub. L. 110–81, Sep. 14, 2007.

larly accompanied or if such attendance is appropriate to assist in the representation of the Senate.

(3) A Member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with an event that does not meet the standards provided in paragraph 2.

(4) For purposes of this paragraph, the term "free attendance" may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, nor does it include food or refreshments taken other than in a group setting with all or substantially all other attendees.

(5)⁵³ During the dates of the national party convention for the political party to which a Member belongs, a Member may not participate in an event honoring that Member, other than in his or her capacity as the party's presidential or vice presidential nominee or presumptive nominee, if such event is directly paid for by a registered lobbyist or a private entity that retains or employs a registered lobbyist.

35.1e (e) No Member, officer, or employee may accept a gift the value of which exceeds \$250 on the basis of the personal friendship exception in subparagraph (c)(4) unless the Select Committee on Ethics issues a written determination that such exception applies. No determination under this subparagraph is required for gifts given on the basis of the family relationship exception.

35.1f (f) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

35.1g (g)(1)⁵⁴ A Member, officer, or employee may accept an offer of free attendance in the Member's home State at a conference, symposium, forum, panel discussion, dinner event, site visit, viewing, reception, or similar event, provided by a sponsor of the event, if—

⁵³ Clause (5) was added pursuant to Pub. L. 110–81, Sep. 14, 2007.

⁵⁴ Subparagraph (g) was added pursuant to Pub. L. 110–81, Sep. 14, 2007.

(A) the cost of meals provided the Member, officer, or employee is less than \$50;

(B)(i) the event is sponsored by constituents of, or a group that consists primarily of constituents of, the Member (or the Member by whom the officer or employee is employed); and

(ii) the event will be attended primarily by a group of at least 5 constituents of the Member (or the Member by whom the officer or employee is employed) provided that a registered lobbyist shall not attend the event; and

(C)(i) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the Member's, officer's, or employee's official position; or

(ii) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, officer, or employee.

(2) A Member, officer, or employee who attends an event described in clause (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the Senate.

(3) For purposes of this subparagraph, the term 'free attendance' has the same meaning given such term in subparagraph (d).

2.⁵⁵(a)(1)⁵⁶ A reimbursement (including payment in 35.2a kind) to a Member, officer, or employee from an individual other than a registered lobbyist or agent of a foreign principal or a private entity that retains or employs 1 or more registered lobbyists or agents of a foreign principal for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the Member, officer, or employee as an officeholder shall be deemed to be a reimbursement to the Senate and not a gift prohib-

⁵⁵(Note: amendments to paragraph (2) pursuant to Pub. L. 110-81, Sep. 14, 2007, take effect 60 days after enactment or the date that the Select Committee on Ethics issues new guidelines pertaining to this paragraph.)

⁵⁶Subparagraph (a)(1) was amended pursuant to Pub. L. 110-81, Sep. 14, 2007.

ited by this rule, if the Member, officer, or employee complies with the requirements of this paragraph.

(2)(A)⁵⁷ Notwithstanding clause (1), a reimbursement (including payment in kind) to a Member, officer, or employee of the Senate from an individual, other than a registered lobbyist or agent of a foreign principal, that is a private entity that retains or employs 1 or more registered lobbyists or agents of a foreign principal shall be deemed to be a reimbursement to the Senate under clause (1) if—

(i) the reimbursement is for necessary transportation, lodging, and related expenses for travel to a meeting, speaking engagement, factfinding trip, or similar event described in clause (1) in connection with the duties of the Member, officer, or employee and the reimbursement is provided only for attendance at or participation for 1 day (exclusive of travel time and an overnight stay) at an event described in clause (1); or

(ii) the reimbursement is for necessary transportation, lodging, and related expenses for travel to a meeting, speaking engagement, factfinding trip, or similar event described in clause (1) in connection with the duties of the Member, officer, or employee and the reimbursement is from an organization designated under section 501(c)(3) of the Internal Revenue Code of 1986.

(B) When deciding whether to preapprove a trip under this clause, the Select Committee on Ethics shall make a determination consistent with regulations issued pursuant to section 544(b) of the Honest Leadership and Open Government Act of 2007. The committee through regulations to implement subclause (A)(i) may permit a longer stay when determined by the committee to be practically required to participate in the event, but in no event may the stay exceed 2 nights.

(3)⁵⁸ For purposes of clauses (1) and (2), events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with duties of a Member, officer, or employee as an officeholder.

35.2b (b)⁵⁹ Before an employee may accept reimbursement pursuant to subparagraph (a), the employee shall receive ad-

⁵⁷ Clause (2) was added pursuant to Pub. L. 110–81, Sep. 14, 2007.

⁵⁸ Clause (3) was renumbered and amended pursuant to Pub. L. 110–81, Sep. 14, 2007.

⁵⁹ Subparagraph (b) amended pursuant to Pub. L. 110–81, Sep. 14, 2007.

vance written authorization from the Member or officer under whose direct supervision the employee works. Each advance authorization to accept reimbursement shall be signed by the Member or officer under whose direct supervision the employee works and shall include—

- (1) the name of the employee;
- (2) the name of the person who will make the reimbursement;
- (3) the time, place, and purpose of the travel; and
- (4) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

(c)⁶⁰ Each Member, officer, or employee that receives reimbursement under this paragraph shall disclose the expenses reimbursed or to be reimbursed, the authorization under subparagraph (b) (for an employee), and a copy of the certification in subparagraph (e)(1) to the Secretary of the Senate not later than 30 days after the travel is completed. Each disclosure made under this subparagraph of expenses reimbursed or to be reimbursed shall be signed by the Member or officer (in the case of travel by that Member or officer) or by the Member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include— **35.2c**

- (1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;
- (2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;
- (3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;
- (4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;
- (5) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in this paragraph;
- (6)⁶¹ a description of meetings and events attended; and
- (7)⁶² in the case of a reimbursement to a Member or officer, a determination that the travel was in connection with the duties of the Member or officer as an officeholder and would not create the appearance

⁶⁰ Subparagraph (c) amended pursuant to Pub. L. 110–81, Sep. 14, 2007.

⁶¹ Clause (6) added pursuant to Pub. L. 110–81, Sep. 14, 2007.

⁶² Clause (7) renumbered pursuant to Pub. L. 110–81, Sep. 14, 2007.

that the Member or officer is using public office for private gain.

35.2d (d)(1)⁶³ A Member, officer, or employee of the Senate may not accept a reimbursement (including payment in kind) for transportation, lodging, or related expenses under subparagraph (a) for a trip that was—

(A) planned, organized, or arranged by or at the request of a registered lobbyist or agent of a foreign principal; or

(B)(i) for trips described under subparagraph (a)(2)(A)(i) on which a registered lobbyist accompanies the Member, officer, or employee on any segment of the trip; or

(ii) for all other trips allowed under this paragraph, on which a registered lobbyist accompanies the Member, officer, or employee at any point throughout the trip.

(2) The Select Committee on Ethics shall issue regulations identifying de minimis activities by registered lobbyists or foreign agents that would not violate this subparagraph.

35.2e (e)⁶⁴ A Member, officer, or employee shall, before accepting travel otherwise permissible under this paragraph from any source—

(1) provide to the Select Committee on Ethics a written certification from such source that—

(A) the trip will not be financed in any part by a registered lobbyist or agent of a foreign principal;

(B) the source either—

(i) does not retain or employ registered lobbyists or agents of a foreign principal and is not itself a registered lobbyist or agent of a foreign principal; or

(ii) certifies that the trip meets the requirements of subclause (i) or (ii) of subparagraph (a)(2)(A);

(C) the source will not accept from a registered lobbyist or agent of a foreign principal or a private entity that retains or employs 1 or more registered lobbyists or agents of a foreign principal, funds earmarked directly or indirectly for the purpose of financing the specific trip; and

⁶³ Subparagraph (d) added pursuant to Pub. L. 110–81, Sep. 14, 2007.

⁶⁴ Subparagraph (e) added pursuant to Pub. L. 110–81, Sep. 14, 2007.

(D) the trip will not in any part be planned, organized, requested, or arranged by a registered lobbyist or agent of a foreign principal and the traveler will not be accompanied on the trip consistent with the applicable requirements of subparagraph (d)(1)(B) by a registered lobbyist or agent of a foreign principal, except as permitted by regulations issued under subparagraph (d)(2); and

(2) after the Select Committee on Ethics has promulgated regulations pursuant to section 544(b) of the Honest Leadership and Open Government Act of 2007, obtain the prior approval of the committee for such reimbursement.

(f) ⁶⁵ For the purposes of this paragraph, the term “necessary transportation, lodging, and related expenses”— **35.2f**

(1) includes reasonable expenses that are necessary for travel for a period not exceeding 3 days exclusive of travel time within the United States or 7 days exclusive of travel time outside of the United States unless approved in advance by the Select Committee on Ethics;

(2) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (1);

(3) does not include expenditures for recreational activities, nor does it include entertainment other than that provided to all attendees as an integral part of the event, except for activities or entertainment otherwise permissible under this rule; and

(4) may include travel expenses incurred on behalf of either the spouse or a child of the Member, officer, or employee, subject to a determination signed by the Member or officer (or in the case of an employee, the Member or officer under whose direct supervision the employee works) that the attendance of the spouse or child is appropriate to assist in the representation of the Senate.

(g) The Secretary of the Senate shall make all advance **35.2g**
authorizations, certifications, and disclosures filed pursu-

⁶⁵ Subparagraph (f) renumbered and subparagraph (g) renumbered and amended pursuant to Pub. L. 110–81, Sep. 14, 2007.

ant to this paragraph available for public inspection as soon as possible after they are received, but in no event prior to the completion of the relevant travel.

35.3 3. A gift prohibited by paragraph 1(a) includes the following:

35.3a (a) Anything provided by a registered lobbyist or an agent of a foreign principal to an entity that is maintained or controlled by a Member, officer, or employee.

35.3b (b) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a registered lobbyist or an agent of a foreign principal on the basis of a designation, recommendation, or other specification of a Member, officer, or employee (not including a mass mailing or other solicitation directed to a broad category of persons or entities), other than a charitable contribution permitted by paragraph 4.

35.3c (c) A contribution or other payment by a registered lobbyist or an agent of a foreign principal to a legal expense fund established for the benefit of a Member, officer, or employee.

35.3d (d) A financial contribution or expenditure made by a registered lobbyist or an agent of a foreign principal relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of Members, officers, or employees.

35.4a 4. (a) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a registered lobbyist or an agent of a foreign principal in lieu of an honorarium to a Member, officer, or employee shall not be considered a gift under this rule if it is reported as provided in subparagraph (b).

35.4b (b) A Member, officer, or employee who designates or recommends a contribution to a charitable organization in lieu of honoraria described in subparagraph (a) shall report within 30 days after such designation or recommendation to the Secretary of the Senate—

- (1) the name and address of the registered lobbyist who is making the contribution in lieu of honoraria;
- (2) the date and amount of the contribution; and
- (3) the name and address of the charitable organization designated or recommended by the Member.

The Secretary of the Senate shall make public information received pursuant to this subparagraph as soon as possible after it is received.

5. For purposes of this rule— 35.5
 - (a) the term “registered lobbyist” means a lobbyist 35.5a
registered under the Federal Regulation of Lobbying Act or any successor statute; and
 - (b) the term “agent of a foreign principal” means 35.5b
an agent of a foreign principal registered under the Foreign Agents Registration Act.
6. All the provisions of this rule shall be interpreted and 35.6
enforced solely by the Select Committee on Ethics. The Select Committee on Ethics is authorized to issue guidance on any matter contained in this rule.

RULE XXXVI⁶⁶ 36

OUTSIDE EARNED INCOME

For purposes of this rule, the provisions of section 501 36.1
of the Ethics in Government Act of 1978 (5 U.S.C. App. 7 501) shall be deemed to be a rule of the Senate as it pertains to Members, officers, and employees of the Senate.

RULE XXXVII 37

CONFLICT OF INTEREST

1. A Member, officer, or employee of the Senate shall 37.1
not receive any compensation, nor shall he permit any compensation to accrue to his beneficial interest from any source, the receipt or accrual of which would occur by virtue of influence improperly exerted from his position as a Member, officer, or employee.
2. No Member, officer, or employee shall engage in any 37.2
outside business or professional activity or employment for compensation which is inconsistent or in conflict with the conscientious performance of official duties.
3. No officer or employee shall engage in any outside 37.3
business or professional activity or employment for compensation unless he has reported in writing when such activity or employment commences and on May 15 of each year thereafter so long as such activity or employment con-

⁶⁶Previous provisions of Rule XXXVI were repealed by S. Res. 512, 97–2, Dec. 14, 1982, effective Jan. 1, 1983. New Rule XXXVI language established by S. Res. 192, 102–1, Oct. 31, 1991, effective Aug. 14, 1991. See Senate Manual Secs. 1030–1034, for provisions of 5 U.S.C. App. 4.