

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. RES. 158

To provide for Senate gift reform.

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## IN THE SENATE OF THE UNITED STATES

JULY 28 (legislative day, JULY 10), 1995

Mr. MCCAIN (for himself, Mr. LEVIN, Mr. COHEN, Mr. WELLSTONE, Mr. FEINGOLD, Mr. LAUTENBERG, Mr. KYL, Mr. McCONNELL, Mr. GRAMS, Mr. ABRAHAM, Mr. WARNER, Mr. HARKIN, Mr. BINGAMAN, and Mr. BAUCUS) submitted the following resolution; which was considered and agreed to

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## RESOLUTION

To provide for Senate gift reform.

1 *Resolved,*

2 **SECTION 1. AMENDMENTS TO SENATE RULES.**

3 Rule XXXV of the Standing Rules of the Senate is  
4 amended to read as follows:

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

8 “(2) A Member, officer, or employee may accept a  
9 gift (other than cash or cash equivalent) which the Mem-  
10 ber, officer, or employee reasonably and in good faith be-

1 lieves to have a value of less than \$50, and a cumulative  
2 value from one source during a calendar year of less than  
3 \$100. No gift with a value below \$10 shall count toward  
4 the \$100 annual limit. No formal recordkeeping is re-  
5 quired by this paragraph, but a Member, officer, or em-  
6 ployee shall make a good faith effort to comply with this  
7 paragraph.

8       “(b)(1) For the purpose of this rule, the term ‘gift’  
9 means any gratuity, favor, discount, entertainment, hospi-  
10 tality, loan, forbearance, or other item having monetary  
11 value. The term includes gifts of services, training, trans-  
12 portation, lodging, and meals, whether provided in kind,  
13 by purchase of a ticket, payment in advance, or reimburse-  
14 ment after the expense has been incurred.

15       “(2)(A) A gift to a family member of a Member, offi-  
16 cer, or employee, or a gift to any other individual based  
17 on that individual’s relationship with the Member, officer,  
18 or employee, shall be considered a gift to the Member, offi-  
19 cer, or employee if it is given with the knowledge and ac-  
20 quiescence of the Member, officer, or employee and the  
21 Member, officer, or employee has reason to believe the gift  
22 was given because of the official position of the Member,  
23 officer, or employee.

24       “(B) If food or refreshment is provided at the same  
25 time and place to both a Member, officer, or employee and

1 the spouse or dependent thereof, only the food or refresh-  
2 ment provided to the Member, officer, or employee shall  
3 be treated as a gift for purposes of this rule.

4 “(c) The restrictions in subparagraph (a) shall not  
5 apply to the following:

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

9 “(2) A contribution, as defined in the Federal  
10 Election Campaign Act of 1971 (2 U.S.C. 431 et  
11 seq.) that is lawfully made under that Act, or at-  
12 tendance at a fundraising event sponsored by a po-  
13 litical organization described in section 527(e) of the  
14 Internal Revenue Code of 1986.

15 “(3) A gift from a relative as described in sec-  
16 tion 107(2) of title I of the Ethics in Government  
17 Act of 1978 (Public Law 95–521).

18 “(4)(A) Anything provided by an individual on  
19 the basis of a personal friendship unless the Mem-  
20 ber, officer, or employee has reason to believe that,  
21 under the circumstances, the gift was provided be-  
22 cause of the official position of the Member, officer,  
23 or employee and not because of the personal friend-  
24 ship.

1           “(B) In determining whether a gift is provided  
2           on the basis of personal friendship, the Member, of-  
3           ficer, or employee shall consider the circumstances  
4           under which the gift was offered, such as:

5                   “(i) The history of the relationship be-  
6                   tween the individual giving the gift and the re-  
7                   cipient of the gift, including any previous ex-  
8                   change of gifts between such individuals.

9                   “(ii) Whether to the actual knowledge of  
10                  the Member, officer, or employee the individual  
11                  who gave the gift personally paid for the gift or  
12                  sought a tax deduction or business reimburse-  
13                  ment for the gift.

14                  “(iii) Whether to the actual knowledge of  
15                  the Member, officer, or employee the individual  
16                  who gave the gift also at the same time gave  
17                  the same or similar gifts to other Members, of-  
18                  ficers, or employees.

19           “(5) A contribution or other payment to a legal  
20           expense fund established for the benefit of a Mem-  
21           ber, officer, or employee, that is otherwise lawfully  
22           made, subject to the disclosure requirements of the  
23           Select Committee on Ethics, except as provided in  
24           paragraph 3(c).

1           “(6) Any gift from another Member, officer, or  
2 employee of the Senate or the House of Representa-  
3 tives.

4           “(7) Food, refreshments, lodging, and other  
5 benefits—

6                   “(A) resulting from the outside business or  
7 employment activities (or other outside activi-  
8 ties that are not connected to the duties of the  
9 Member, officer, or employee as an officeholder)  
10 of the Member, officer, or employee, or the  
11 spouse of the Member, officer, or employee, if  
12 such benefits have not been offered or enhanced  
13 because of the official position of the Member,  
14 officer, or employee and are customarily pro-  
15 vided to others in similar circumstances;

16                   “(B) customarily provided by a prospective  
17 employer in connection with bona fide employ-  
18 ment discussions; or

19                   “(C) provided by a political organization  
20 described in section 527(e) of the Internal Rev-  
21 enue Code of 1986 in connection with a fund-  
22 raising or campaign event sponsored by such an  
23 organization.

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

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

9           “(10) Awards or prizes which are given to com-  
10 petitors in contests or events open to the public, in-  
11 cluding random drawings.

12           “(11) Honorary degrees (and associated travel,  
13 food, refreshments, and entertainment) and other  
14 bona fide, nonmonetary awards presented in recogni-  
15 tion of public service (and associated food, refresh-  
16 ments, and entertainment provided in the presen-  
17 tation of such degrees and awards).

18           “(12) Donations of products from the State  
19 that the Member represents that are intended pri-  
20 marily for promotional purposes, such as display or  
21 free distribution, and are of minimal value to any in-  
22 dividual recipient.

23           “(13) Training (including food and refresh-  
24 ments furnished to all attendees as an integral part  
25 of the training) provided to a Member, officer, or

1 employee, if such training is in the interest of the  
2 Senate.

3 “(14) Bequests, inheritances, and other trans-  
4 fers at death.

5 “(15) Any item, the receipt of which is author-  
6 ized by the Foreign Gifts and Decorations Act, the  
7 Mutual Educational and Cultural Exchange Act, or  
8 any other statute.

9 “(16) Anything which is paid for by the Federal  
10 Government, by a State or local government, or se-  
11 cured by the Government under a Government con-  
12 tract.

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

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

19 “(19) Opportunities and benefits which are—

20 “(A) available to the public or to a class  
21 consisting of all Federal employees, whether or  
22 not restricted on the basis of geographic consid-  
23 eration;

1           “(B) offered to members of a group or  
2 class in which membership is unrelated to con-  
3 gressional employment;

4           “(C) offered to members of an organiza-  
5 tion, such as an employees’ association or con-  
6 gressional credit union, in which membership is  
7 related to congressional employment and similar  
8 opportunities are available to large segments of  
9 the public through organizations of similar size;

10           “(D) offered to any group or class that is  
11 not defined in a manner that specifically dis-  
12 criminate among Government employees on the  
13 basis of branch of Government or type of re-  
14 sponsibility, or on a basis that favors those of  
15 higher rank or rate of pay;

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

19           “(F) in the form of reduced membership or  
20 other fees for participation in organization ac-  
21 tivities offered to all Government employees by  
22 professional organizations if the only restric-  
23 tions on membership relate to professional  
24 qualifications.

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

4           “(21) Anything for which, in an unusual case,  
5           a waiver is granted by the Select Committee on Eth-  
6           ics.

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

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

11          “(d)(1) A Member, officer, or employee may accept  
12          an offer of free attendance at a widely attended conven-  
13          tion, conference, symposium, forum, panel discussion, din-  
14          ner, viewing, reception, or similar event, provided by the  
15          sponsor of the event, if—

16               “(A) the Member, officer, or employee partici-  
17               pates in the event as a speaker or a panel partici-  
18               pant, by presenting information related to Congress  
19               or matters before Congress, or by performing a cere-  
20               monial function appropriate to the Member’s, offi-  
21               cer’s, or employee’s official position; or

22               “(B) attendance at the event is appropriate to  
23               the performance of the official duties or representa-  
24               tive function of the Member, officer, or employee.

1       “(2) A Member, officer, or employee who attends an  
2 event described in clause (1) may accept a sponsor’s unso-  
3 licited offer of free attendance at the event for an accom-  
4 panying individual if others in attendance will generally  
5 be similarly accompanied or if such attendance is appro-  
6 priate to assist in the representation of the Senate.

7       “(3) A Member, officer, or employee, or the spouse  
8 or dependent thereof, may accept a sponsor’s unsolicited  
9 offer of free attendance at a charity event, except that re-  
10 imbursement for transportation and lodging may not be  
11 accepted in connection with an event that does not meet  
12 the standards provided in paragraph 2.

13       “(4) For purposes of this paragraph, the term ‘free  
14 attendance’ may include waiver of all or part of a con-  
15 ference or other fee, the provision of local transportation,  
16 or the provision of food, refreshments, entertainment, and  
17 instructional materials furnished to all attendees as an in-  
18 tegral part of the event. The term does not include enter-  
19 tainment collateral to the event, nor does it include food  
20 or refreshments taken other than in a group setting with  
21 all or substantially all other attendees.

22       “(e) No Member, officer, or employee may accept a  
23 gift the value of which exceeds \$250 on the basis of the  
24 personal friendship exception in subparagraph (c)(4) un-  
25 less the Select Committee on Ethics issues a written deter-

1 mination that such exception applies. No determination  
2 under this subparagraph is required for gifts given on the  
3 basis of the family relationship exception.

4 “(f) When it is not practicable to return a tangible  
5 item because it is perishable, the item may, at the discre-  
6 tion of the recipient, be given to an appropriate charity  
7 or destroyed.

8 “2. (a)(1) A reimbursement (including payment in  
9 kind) to a Member, officer, or employee from an individual  
10 other than a registered lobbyist or agent of a foreign prin-  
11 cipal for necessary transportation, lodging and related ex-  
12 penses for travel to a meeting, speaking engagement, fact-  
13 finding trip or similar event in connection with the duties  
14 of the Member, officer, or employee as an officeholder  
15 shall be deemed to be a reimbursement to the Senate and  
16 not a gift prohibited by this rule, if the Member, officer,  
17 or employee—

18 “(A) in the case of an employee, receives ad-  
19 vance authorization, from the Member or officer  
20 under whose direct supervision the employee works,  
21 to accept reimbursement, and

22 “(B) discloses the expenses reimbursed or to be  
23 reimbursed and the authorization to the Secretary of  
24 the Senate within 30 days after the travel is com-  
25 pleted.

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

5       “(b) Each advance authorization to accept reimburse-  
6 ment shall be signed by the Member or officer under whose  
7 direct supervision the employee works and shall include—

8               “(1) the name of the employee;

9               “(2) the name of the person who will make the  
10 reimbursement;

11              “(3) the time, place, and purpose of the travel;  
12 and

13              “(4) a determination that the travel is in con-  
14 nection with the duties of the employee as an office-  
15 holder and would not create the appearance that the  
16 employee is using public office for private gain.

17       “(c) Each disclosure made under subparagraph  
18 (a)(1) of expenses reimbursed or to be reimbursed shall  
19 be signed by the Member or officer (in the case of travel  
20 by that Member or officer) or by the Member or officer  
21 under whose direct supervision the employee works (in the  
22 case of travel by an employee) and shall include—

23              “(1) a good faith estimate of total transpor-  
24 tation expenses reimbursed or to be reimbursed;

1           “(2) a good faith estimate of total lodging ex-  
2           penses reimbursed or to be reimbursed;

3           “(3) a good faith estimate of total meal ex-  
4           penses reimbursed or to be reimbursed;

5           “(4) a good faith estimate of the total of other  
6           expenses reimbursed or to be reimbursed;

7           “(5) a determination that all such expenses are  
8           necessary transportation, lodging, and related ex-  
9           penses as defined in this paragraph; and

10          “(6) in the case of a reimbursement to a Mem-  
11          ber or officer, a determination that the travel was in  
12          connection with the duties of the Member or officer  
13          as an officeholder and would not create the appear-  
14          ance that the Member or officer is using public of-  
15          fice for private gain.

16          “(d) For the purposes of this paragraph, the term  
17          ‘necessary transportation, lodging, and related ex-  
18          penses’—

19                 “(1) includes reasonable expenses that are nec-  
20                 essary for travel for a period not exceeding 3 days  
21                 exclusive of travel time within the United States or  
22                 7 days exclusive of travel time outside of the United  
23                 States unless approved in advance by the Select  
24                 Committee on Ethics;

1           “(2) is limited to reasonable expenditures for  
2 transportation, lodging, conference fees and mate-  
3 rials, and food and refreshments, including reim-  
4 bursement for necessary transportation, whether or  
5 not such transportation occurs within the periods de-  
6 scribed in clause (1);

7           “(3) does not include expenditures for rec-  
8 reational activities, nor does it include entertainment  
9 other than that provided to all attendees as an inte-  
10 gral part of the event, except for activities or enter-  
11 tainment otherwise permissible under this rule; and

12           “(4) may include travel expenses incurred on  
13 behalf of either the spouse or a child of the Member,  
14 officer, or employee, subject to a determination  
15 signed by the Member or officer (or in the case of  
16 an employee, the Member or officer under whose di-  
17 rect supervision the employee works) that the at-  
18 tendance of the spouse or child is appropriate to as-  
19 sist in the representation of the Senate.

20           “(e) The Secretary of the Senate shall make available  
21 to the public all advance authorizations and disclosures  
22 of reimbursement filed pursuant to subparagraph (a) as  
23 soon as possible after they are received.

24           “3. A gift prohibited by paragraph 1(a) includes the  
25 following:

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

5           “(b) A charitable contribution (as defined in  
6 section 170(c) of the Internal Revenue Code of  
7 1986) made by a registered lobbyist or an agent of  
8 a foreign principal on the basis of a designation, rec-  
9 ommendation, or other specification of a Member,  
10 officer, or employee (not including a mass mailing or  
11 other solicitation directed to a broad category of per-  
12 sons or entities), other than a charitable contribu-  
13 tion permitted by paragraph 4.

14           “(c) A contribution or other payment by a reg-  
15 istered lobbyist or an agent of a foreign principal to  
16 a legal expense fund established for the benefit of a  
17 Member, officer, or employee.

18           “(d) A financial contribution or expenditure  
19 made by a registered lobbyist or an agent of a for-  
20 eign principal relating to a conference, retreat, or  
21 similar event, sponsored by or affiliated with an offi-  
22 cial congressional organization, for or on behalf of  
23 Members, officers, or employees.

24           “4. (a) A charitable contribution (as defined in sec-  
25 tion 170(c) of the Internal Revenue Code of 1986) made

1 by a registered lobbyist or an agent of a foreign principal  
2 in lieu of an honorarium to a Member, officer, or employee  
3 shall not be considered a gift under this rule if it is re-  
4 ported as provided in subparagraph (b).

5 “(b) A Member, officer, or employee who designates  
6 or recommends a contribution to a charitable organization  
7 in lieu of honoraria described in subparagraph (a) shall  
8 report within 30 days after such designation or rec-  
9 ommendation to the Secretary of the Senate—

10 “(1) the name and address of the registered  
11 lobbyist who is making the contribution in lieu of  
12 honoraria;

13 “(2) the date and amount of the contribution;  
14 and

15 “(3) the name and address of the charitable or-  
16 ganization designated or recommended by the Mem-  
17 ber.

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

21 “5. For purposes of this rule—

22 “(a) the term ‘registered lobbyist’ means a lob-  
23 byist registered under the Federal Regulation of  
24 Lobbying Act or any successor statute; and



1           “(b) for purposes of section 102(d)(1) of the  
2 Ethics in Government Act of 1978 additional cat-  
3 egories of income as follows:

4           “(1) greater than \$1,000,000 but not more  
5 than \$5,000,000;

6           “(2) greater than \$5,000,000 but not more  
7 than \$25,000,000;

8           “(3) greater than \$25,000,000 but not  
9 more than \$50,000,000; and

10          “(4) greater than \$50,000,000.

11          “(c) For purposes of this paragraph and section  
12 102 of the Ethics in Government Act of 1978, addi-  
13 tional categories with amounts or values greater  
14 than \$1,000,000 set forth in section 102(a)(1)(B)  
15 and 102(d)(1) shall apply to the income, assets, or  
16 liabilities of spouses and dependent children only if  
17 the income, assets, or liabilities are held jointly with  
18 the reporting individual. All other income, assets, or  
19 liabilities of the spouse or dependent children re-  
20 quired to be reported under section 102 and this  
21 paragraph in an amount or value greater than  
22 \$1,000,000 shall be categorized only as an amount  
23 or value greater than \$1,000,000.”.

24          (b) BLIND TRUST ASSETS.—

1           (1) IN GENERAL.—Rule XXXIV of the Stand-  
2           ing Rules of the Senate is further amended by add-  
3           ing at the end following new paragraph:

4           “4. In addition to the requirements of paragraph 1,  
5           Members, officers, and employees of the Senate shall in-  
6           clude in each report filed under paragraph 2 an additional  
7           statement under section 102(a) of the Ethics in Govern-  
8           ment Act of 1978 listing the category of the total cash  
9           value of any interest of the reporting individual in a quali-  
10          fied blind trust as provided in section 102(d)(1) of the  
11          Ethics in Government Act of 1978, unless the trust instru-  
12          ment was executed prior to July 24, 1995 and precludes  
13          the beneficiary from receiving information on the total  
14          cash value of any interest in the qualified blind trust.”.

15          (2) EFFECTIVE DATE.—The amendment made  
16          by this subsection shall apply with respect to reports  
17          filed under title I of the Ethics in Government Act  
18          of 1978 for calendar year 1996 and thereafter.

19   **SEC. 3. GIFTS IN THE JUDICIAL BRANCH.**

20          It is the sense of the Senate that the Judicial Con-  
21          ference of the United States should review and reevaluate  
22          its regulations pertaining to the acceptance of gifts and  
23          the acceptance of travel and travel-related expenses and  
24          that such regulations should cover all judicial branch em-

1 ployees, including members and employees of the Supreme  
2 Court of the United States.

3 **SEC. 4. ACCEPTANCE OF GIFTS BY THE COMMITTEE ON**  
4 **RULES AND ADMINISTRATION.**

5 The Senate Committee on Rules and Administration,  
6 on behalf of the Senate, may accept a gift if the gift does  
7 not involve any duty, burden, or condition, or is not made  
8 dependent upon some future performance by the United  
9 States Senate. The Committee on Rules and Administra-  
10 tion is authorized to promulgate regulations to carry out  
11 this section.

12 **SEC. 5. EFFECTIVE DATE.**

13 This resolution and the amendment made by this res-  
14 olution shall take effect on and be effective for calendar  
15 years beginning on January 1, 1996.

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