

## COMMITTEE ON ETHICS

The Select Committee on Ethics has the responsibility to 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; to make appropriate findings of fact and conclusions with respect thereto; and to recommend to the Senate disciplinary action to be taken with respect to such violations which the Select Committee shall determine to have occurred.

The Select Committee also has the responsibility to administer and interpret the regulations and laws relating to the use of the mailing frank and the receipt of foreign gifts and decorations.

The Select Committee also issues interpretative rulings and advisory opinions explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction.

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### Senate Resolution 338, 88th Congress, as Amended

#### [Select Committee on Ethics]

*Resolved*, That (a) there is hereby established a permanent select committee of the Senate to be known as the Select Committee on Ethics (referred to hereinafter as the "Select Committee") consisting of six Members of the Senate, of whom three shall be selected from members of the majority party and three shall be selected from members of the minority party. Members thereof shall be appointed by the Senate in accordance with the provisions of paragraph 1 of rule XXIV of the Standing Rules of the Senate at the beginning of each Congress. The Select Committee shall select a chairman and a vice chairman from among its members. For purposes of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member or chairman of the Select Committee shall not be taken into account.

(b) Vacancies in the membership of the Select Committee shall not affect the authority of the remaining members to execute the functions of the committee, and shall be filled in the same manner as original appointments thereto are made.

(c) A majority of the members of the Select Committee shall constitute a quorum for the transaction of business, except that the Select Committee may fix a lesser number as a quorum for the purpose of taking sworn testimony. The Select Committee shall adopt rules of

procedure not inconsistent with the rules of the Senate governing standing committees of the Senate.

(d) (Repealed by S. Res. 271, 96-1, Oct. 31, 1979.)

(e)(1) A member of the Select Committee shall be ineligible to participate in any initial review or investigation relating to his own conduct, the conduct of any officer or employee he supervises, or the conduct of any employee of any officer he supervises, or relating to any complaint filed by him, and the determinations and recommendations of the Select Committee with respect thereto. For purposes of this subparagraph, a Member of the Select Committee and an officer of the Senate shall be deemed to supervise any officer or employee consistent with the provision of paragraph 11 of rule XXXVII of the Standing Rules of the Senate.

(2) A member of the Select Committee may, at his discretion, disqualify himself from participating in any initial review or investigation pending before the Select Committee and the determinations and recommendations of the Select Committee with respect thereto. Notice of such disqualification shall be given in writing to the President of the Senate.

(3) Whenever any member of the Select Committee is ineligible under paragraph (1) to participate in any initial review or investigation or disqualifies himself under paragraph (2) from participating in any initial review or investigation, another Member of the Senate shall, subject to the provisions of subsection (d), be appointed to serve as a member of the Select Committee solely for purposes of such initial review or investigation and the determinations and recommendations of the Select Committee with respect thereto.

Any Member of the Senate appointed for such purposes shall be of the same party as the Member who is ineligible or disqualifies himself.

SEC. 2. (a) It shall be the duty of the Select Committee 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 to the Senate by report or resolution by a majority vote of the full committee disciplinary action (including, but not limited to, in the case of a Member: censure, expulsion, or recommendation to the appropriate party conference regarding such Member's seniority or positions of responsibility; and, in the case of an officer or employee: suspension or dismissal) to be taken with respect to such violations which the Select Committee shall determine, after according to the individuals concerned due notice and opportunity for hearing, to have occurred;

(3) recommend to the Senate, by report or resolution, such additional rules or regulations as the Select Committee shall determine to be necessary or desirable to insure proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities; and

(4) report violations by a majority vote of the full committee of any law to the proper Federal and State authorities.

(b)(1) Each sworn complaint filed with the Select Committee shall be in writing, shall be in such form as the Select Committee may prescribe by regulation, and shall be under oath.

(2) For purposes of this section, "sworn complaint" means a statement of facts within the personal knowledge of the complainant alleging a violation of law, the Senate Code of Official Conduct or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Members, officers, or employees of the Senate.

(3) Any person who knowingly and willfully swears falsely to a sworn complaint does so under penalty of perjury, and the Select Committee may refer any such case to the Attorney General for prosecution.

(4) For the purposes of this section, "investigation" is a proceeding undertaken by the Select Committee after a finding, on the basis of an initial review, that there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred.

(c)(1) No investigation of conduct of a Member or officer of the Senate, and no report, resolution, or recommendation relating thereto, may be made unless approved by the affirmative recorded vote of not less than four members of the Select Committee.

(2) No other resolution, report, recommendation, interpretative ruling, or advisory opinion may be made without an affirmative vote of a majority of the members of the Select Committee voting.

(d)(1) When the Select Committee receives a sworn complaint against a Member or officer of the Senate, it shall promptly conduct an initial review of that complaint. The initial review shall be of duration and scope necessary to determine whether there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred.

(2) If as a result of an initial review under paragraph (1), the Select Committee determines by a recorded vote that there is not such substantial credible evidence, the Select Committee shall report such determination to the complainant and to the party charged, together with an explanation of the basis of such determination.

(3) If as a result of an initial review under paragraph (1), the Select Committee determines that a violation is inadvertent, technical, or otherwise of a de minimis nature the Select Committee may attempt to correct or prevent such a violation by informal methods.

(4) If as the result of an initial review under paragraph (1) the Select Committee determines that there is such substantial credible evidence but that the violation, if proven, is neither of a de minimis nature nor sufficiently serious to justify any of the penalties expressly referred to in subsection (a)(2), the Select Committee may propose a remedy it deems appropriate. If the matter is thereby resolved, a summary of the Select Committee's conclusions and the remedy proposed shall be filed as a public record with the Secretary of the Senate and a notice of such filing shall be printed in the Congressional Record.

(5) If as the result of an initial review under paragraph (1), the Select Committee determines that there is such substantial credible evidence, the Select Committee shall promptly conduct an investigation if (A) the violation, if proven, would be sufficiently serious, in the judgment of the Select Committee, to warrant imposition of one or more of the penalties expressly referred to in subsection (a)(2), or (B) the violation, if proven, is less serious, but was not resolved pursuant to paragraph (4) above. Upon the conclusion of such investigation, the Select Committee shall report to the Senate, as soon as practicable, the results of such investigation together with its recommendations (if any) pursuant to subsection (a)(2).

(6) Upon the conclusion of any other investigation respecting the conduct of a Member or officer undertaken by the Select Committee, the Select Committee shall report to the Senate, as soon as practicable, the results of such investigation together with its recommendations (if any) pursuant to subsection (a)(2).

(e) When the Select Committee receives a sworn complaint against an employee of the Senate, it shall consider the complaint according to procedures it deems appropriate. If the Select Committee determines that the complaint is without substantial merit, it shall notify the complainant and the accused of its determination, together with an explanation of the basis of such determination.

(f) The Select Committee may, in its discretion, employ hearing examiners to hear testimony and make findings of fact and/or recommendations to the Select Committee concerning the disposition of complaints.

(g) Notwithstanding any other provision of this section, no initial review or investigation shall be made of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provision of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code. The Select Committee may conduct an initial review or investigation of any alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Select Committee.

(h) The Select Committee shall adopt written rules setting forth procedures to be used in conducting investigations of complaints.

(i) The Select Committee from time to time shall transmit to the Senate its recommendation as to any legislative measures which it may consider to be necessary for the effective discharge of its duties.

SEC. 3. (a) The Select Committee is authorized to (1) make such expenditures; (2) hold such hearings; (3) sit and act at such times and places during the sessions, recesses, and adjournment periods of the Senate; (4) require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, (5) administer such oaths; (6) take such testimony orally or by deposition; (7) employ and fix the compensation of a staff director, a counsel, an assistant counsel, one or more investigators, one or more hearing examiners, and such technical, clerical, and other assistants and consultants as it deems advisable; and (8) to

procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, by contract as independent contractors or, in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent of the highest rate of compensation which may be paid to a regular employee of the Select Committee.

(b)(1) The Select Committee is authorized to retain and compensate counsel not employed by the Senate (or by any department or agency of the executive branch of the Government) whenever the Select Committee determines that, the retention of outside counsel is necessary or appropriate for any action regarding any complaint or allegation which, in the determination of the Select Committee is more appropriately conducted by counsel not employed by the Government of the United States as a regular employee.

(2) Any investigation conducted under section 2 shall be conducted by outside counsel as authorized in paragraph (1), unless the Select Committee determines not to use outside counsel.

(c) With the prior consent of the department or agency concerned, the Select Committee may (1) utilize the services, information, and facilities of any such department or agency of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee thereof, the Select Committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the chairman of the Select Committee determines that such action is necessary and appropriate.

(d) Subpenas may be issued (1) by the Select Committee or (2) by the chairman and vice chairman, acting jointly. Any such subpoena shall be signed by the chairman or the vice chairman and may be served by any person designated by such chairman or vice chairman. The chairman of the Select Committee or any member thereof may administer oaths to witnesses.

(e)(1) The Select Committee shall prescribe and publish such regulations as it feels are necessary to implement the Senate Code of Official Conduct.

(2) The Select Committee is authorized to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction.

(3) The Select Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(4) The Select Committee may in its discretion render an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation



pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(5) Notwithstanding any provision of the Senate Code of Official Conduct or any rule or regulation of the Senate, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraphs (3) and (4) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

(6) Any advisory opinion rendered by the Select Committee under paragraphs (3) and (4) may be relied upon by (A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered: *Provided, however,* That the request for such advisory opinion included a complete and accurate statement of the specific factual situation; and (B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(7) Any advisory opinion issued in response to a request under paragraph (3) or (4) shall be printed in the Congressional Record with appropriate deletions to assure the privacy of the individual concerned. The Select Committee shall to the extent practicable, before rendering an advisory opinion, provide any interested party with an opportunity to transmit written comments to the Select Committee with respect to the request for such advisory opinion. The advisory opinions issued by the Select Committee shall be compiled, indexed, reproduced, and made available on a periodic basis.

(8) A brief description of a waiver granted under section 102(a)(2)(B) of title I of Ethics in Government Act of 1978 or paragraph 1 of rule XXXV of the Standing Rules of the Senate shall be made available upon request in the Select Committee office with appropriate deletions to assure the privacy of the individual concerned.

SEC. 4. The expenses of the Select Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Select Committee.

SEC. 5. As used in this resolution, the term "officer or employee of the Senate" means—

(1) an elected officer of the Senate who is not a Member of the Senate;

(2) an employee of the Senate, any committee or subcommittee of the Senate, or any Member of the Senate;

(3) the Legislative Counsel of the Senate or any employee of his office;

(4) an Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) a member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) an employee of the Vice President if such employee's compensation is disbursed by the Secretary of the Senate;

(7) an employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate.

## Senate Resolution 400, 94th Congress, as Amended

(c)(1) No information in the possession of the select committee [on Intelligence] relating to the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this subsection, shall disclose such information except in a closed session of the Senate.

(d) It shall be the duty of the Select Committee on Standards and Conduct [Committee on Ethics] to investigate any unauthorized disclosure of intelligence information by a Member, officer or employee of the Senate in violation of subsection (c) and to report to the Senate concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct [Committee on Ethics] shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct [Committee on Ethics] determines that there has been a significant breach of confidentiality or authorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

## Standing Rules—On Code of Ethics

### Rule XXXIV <sup>1</sup>

#### [Public Financial Disclosure]

1. For purposes of this rule, the provisions of title I of the Ethics in Government Act of 1978 (Public Law 95-521) shall be deemed to be a rule of the Senate as it pertains to Members, officers, and employees of the Senate.

<sup>1</sup> This material is current through the adoption of S. Res. 236, 101-2, Jan. 30, 1990, 101-2, *Record*, pp. S 586-87.

2.<sup>2</sup> (a) The Select Committee on Ethics shall transmit a copy of each report filed with it under title I of the Ethics in Government Act of 1978 (other than a report filed by a Member of Congress) to the head of the employing office of the individual filing the report.

(b) For purposes of this rule, the head of the employing office shall be—

- (1) in the case of an employee of a Member, the Member by whom that person is employed;
- (2) in the case of an employee of a committee, the chairman and ranking minority member of such committee;
- (3) in the case of an employee on the leadership staff, the Member of the leadership on whose staff such person serves; and
- (4) in the case of any other employee of the legislative branch, the head of the office in which such individual serves.

## Rule XXXV<sup>3</sup>

### [Gifts]

1. (a)<sup>4</sup> No Member, officer, or employee of the Senate, or the spouse or dependent thereof, shall knowingly accept, directly or indirectly, any gift or gifts in any calendar year aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or \$250, whichever is greater from any person, organization, or corporation unless, in an unusual case, a waiver is granted by the Select Committee on Ethics.

(b)<sup>5</sup> The prohibitions of subparagraph (a) do not apply to gifts—

- (1) from relatives;
- (2) with a value of \$100 or less, as adjusted under section 102(a)(2)(A) of the Ethics in Government Act of 1978; or
- (3) of personal hospitality of an individual.

2.<sup>6</sup> For purposes of this rule—

(a) the term “gift” means a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, including food, lodging, transportation, or entertainment, and reimbursement for other than necessary expenses, unless consideration of equal or greater value is received, but does not include (1) a political contribution otherwise reported as required by law, (2) a loan made in a commercially reasonable manner (including requirements that the loan be repaid and that a reasonable rate of interest be paid), (3) a bequest, inheritance, or other transfer at death, (4) a bona fide award presented in recognition of public service and available to the general public, (5) a reception at which the Member, officer, or employee is to be honored, provided such individual receives no other gifts

<sup>2</sup> Pursuant to S. Res. 236, 101-2, Jan. 30, 1990, paragraph 2 was added.

<sup>3</sup> This material is current through the adoption of S. Res. 236, 101-2, Jan. 30, 1990, 101-2, *Record*, pp. S 586-87 and S. Res. 198, Oct. 31, 1991, 102-1, *Record*, pp. S 15719-20.

<sup>4</sup> Added pursuant to S. Res. 236, 101-2, Jan. 30, 1990; redesignated subparagraph (a) and amended by S. Res. 198, Oct. 31, 1991, 102-1, *Record*, pp. S 15719-20.

<sup>5</sup> Revised pursuant to S. Res. 236, 101-2, Jan. 30, 1990, and redesignated subparagraph (b) and amended pursuant to S. Res. 198, Oct. 31, 1991, 102-1, *Record*, pp. S 15719-20.

<sup>6</sup> Revised pursuant to S. Res. 236, 101-2, Jan. 30, 1990.



that exceed the restrictions in this rule, other than a suitable memento, (6) meals or beverages consumed or enjoyed, provided the meals or beverages are not consumed or enjoyed in connection with a gift of overnight lodging, or (7) anything of value given to a spouse or dependent of a reporting individual by the employer of such spouse or dependent in recognition of the service provided by such spouse or dependent, and

(b) the term "relative" has the same meaning given to such term in section 107(2) of Title I of the Ethics in Government Act of 1978 (Public Law 95-521).

(c) the term "necessary expenses" means reasonable expenses for food, lodging, or transportation which are incurred by a Member, officer, or employee of the Senate in connection with services provided to (or participation in an event sponsored by) the organization which provides reimbursement for such expenses or which provides the food, lodging, or transportation directly, however necessary expenses do not include—

(1) the provision of food, lodging, or transportation, or the payment for such expenses, for a continuous period in excess of 3 days exclusive of travel time within the United States or 7 days exclusive of travel time outside of the United States unless such travel is approved by the Committee on Ethics as necessary for participation in a conference, seminar, meeting or similar matter, and

(2) the provision of food, lodging, or transportation, or the payment for such expenses, for anyone accompanying a Member, officer, or employee of the Senate, other than the spouse or child of such Member, officer, or employee of the Senate or one Senate employee acting as an aide to a Member.

3. If a Member, officer, or employee, after exercising reasonable diligence to obtain the information necessary to comply with this rule, unknowingly accepts a gift described in paragraph 1, such Member, officer, or employee shall, upon learning of the nature of the gift and its source, return the gift or, if it is not possible to return the gift, reimburse the donor for the value of the gift.

4. (a) Notwithstanding the provisions of this rule, a Member, officer, or employee of the Senate may participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization if such participation is not in violation of any law and if the Select Committee on Ethics has determined that participation in such program by Members, officers, or employees of the Senate is in the interests of the Senate and the United States.

(b) <sup>7</sup> Any Member who accepts an invitation to participate in any such program shall notify the Select Committee in writing of this acceptance. A Member shall also notify the Select Committee in writing whenever he has permitted any officer or employee whom he supervises (within the meaning of paragraph 11 of rule XXXVII) to participate in any such program. Prior to the beginning of any such

<sup>7</sup> Pursuant to S. Res. 498, 99-2, Oct. 3, 1986.

program, the chairman of the Select Committee shall place in the Congressional Record a list of all individuals participating; the supervisors of such individuals, where applicable; and the nature and itinerary of such program.

(c) No Member, officer, or employee may accept funds in connection with participation in a program permitted under subparagraph (a) if such funds are not used for necessary food, lodging, transportation, and related expenses of the Member, officer, or employee.

## Rule XXXVI <sup>8</sup>

### [Outside Earned Income]

For purposes of this rule, the provisions of section 501 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.

Section 501 of the Ethics in Government Act of 1978 provides as follows:

#### SEC. 501. OUTSIDE EARNED INCOME LIMITATION.

(a) Outside Earned Income Limitation.—(1) Except as provided by paragraph (2), a Member or an officer or employee who is a noncareer officer or employee and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS-16 of the General Schedule under section 5332 of title 5, United States Code, may not in any calendar year have outside earned income attributable to such calendar year which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year.

(2) In the case of any individual who becomes a Member or an officer or employee who is a noncareer officer or employee and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS-16 of the General Schedule during a calendar year, such individual may not have outside earned income attributable to the portion of that calendar year which occurs after such individual becomes a Member or such an officer or employee which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year multiplied by a fraction the numerator of which is the number of days such individual is a Member or such officer or employee during such calendar year and the denominator of which is 365.

(b) Honoraria Prohibition.—An individual may not receive any honorarium while that individual is a Member, officer or employee.

(c) Treatment of Charitable Contributions.—Any honorarium which, except for subsection (b), might be paid to a Member, officer or employee, but which is paid instead on behalf of such Member, officer or employee to a charitable organization, shall be deemed not to be

<sup>8</sup> This version of Rule XXXVI was added by S. Res. 198, adopted on Oct. 31, 1991, 102-1, *Record*, pp. S 15719-20. A previous version of this rule was repealed on Dec. 14, 1982, by S. Res. 512, 97-2, before becoming effective.

received by such Member, officer or employee. No such payment shall exceed \$2,000 or be made to a charitable organization from which such individual or a parent, sibling, spouse, child, or dependent relative of such individual derives any financial benefit.

Section 503(c) of such Act defines "honorarium" as follows:

(3) The term "honorarium" means a payment of money or anything of value for an appearance, speech or article (including a series of appearances, speeches, or articles if the subject matter is directly related to the individual's official duties or the payment is made because of the individual's status with the Government) by a Member, officer or employee, excluding any actual and necessary travel expenses incurred by such individual (and one relative) to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of such expenses to the extent that such expenses are not paid or reimbursed.

### **Honoraria:**

On December 14, 1982, previous Rule XXXVI ("Outside Earned Income") was deleted from the Standing Rules of the Senate as the result of the adoption of Senate Resolution 512.

The receipt of honoraria by Members of the Senate was limited to 40 percent of the Senator's base salary effective January 1, 1986, pursuant to an amendment to the Supplemental Appropriations Act for Fiscal Year 1983, agreed to December 19, 1985. In addition, the Federal Election Campaign Act, 2 U.S.C. 441(i) had provided that a Member, officer, or employee could not accept more than \$2,000 for a speech, appearance, or article. These statutory provisions were repealed, and receipt of honoraria by Senators, officers and employees of the Senate was prohibited by section 6 of the Legislative Branch Appropriations Act of 1992 (Pub. L. 102-90, 105 Stat. at 450-51, Aug. 14, 1991).

## **Rule XXXVII <sup>9</sup>**

### **[Conflict of Interest]**

1. A Member, officer, or employee of the Senate shall not receive any compensation, nor shall he permit any compensation to accrue to his beneficial interest from any source, the receipt or accrual of

<sup>9</sup> Subparagraphs (b) were added (and conforming changes made) to paragraphs 5 and 6, pursuant to S. Res. 198, Oct. 31, 1991, 102-1, *Record*, pp. S 15719-20.

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 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 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 continues, the nature of such activity or employment to his supervisor. The supervisor shall then, in the discharge of his duties, take such action as he considers necessary for the avoidance of conflict of interest or interference with duties to the Senate.

4. No Member, officer, or employee shall knowingly use his official position to introduce or aid the progress or passage of legislation, a principal purpose of which is to further only his pecuniary interest, only the pecuniary interest of his immediate family, or only the pecuniary interest of a limited class of persons or enterprises, when he, or his immediate family, or enterprises controlled by them, are members of the affected class.

5. (a) No Member, officer, or employee of the Senate compensated at a rate in excess of \$25,000 per annum and employed for more than ninety days in a calendar year shall (1) affiliate with a firm, partnership, association, or corporation for the purpose of providing professional services for compensation; (2) permit that individual's name to be used by such a firm, partnership, association or corporation; or (3) practice a profession for compensation to any extent during regular office hours of the Senate office in which employed. For the purposes of this paragraph, "professional services" shall include but not be limited to those which involve a fiduciary relationship.

(b) A Member or an officer or employee whose rate of basic pay is equal to or greater than 120 percent of the annual rate of basic pay in effect for grade GS-15 of the General Schedule shall not—

(1) receive compensation for affiliating with or being employed by a firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship;

(2) permit that Member's, officer's, or employee's name to be used by any such firm, partnership, association, corporation, or other entity;

(3) receive compensation for practicing a profession which involves a fiduciary relationship; or

(4) receive compensation for teaching, without the prior notification and approval of the Committee on Ethics.

6. (a) No Member, officer, or employee of the Senate compensated at a rate in excess of \$25,000 per annum and employed for more than ninety days in a calendar year shall serve as an officer or member of the board of any publicly held or publicly regulated corporation, financial institution, or business entity. The preceding sentence shall not apply to service of a Member, officer, or employee as—

(1) an officer or member of the board of an organization which is exempt from taxation under section 501(c) of the Internal Rev-

enue Code of 1954, if such service is performed without compensation;

(2) an officer or member of the board of an institution or organization which is principally available to Members, officers, or employees of the Senate, or their families, if such service is performed without compensation; or

(3) a member of the board of a corporation, institution, or other business entity, if (A) the Member, officer, or employee had served continuously as a member of the board thereof for at least two years prior to his election or appointment as a Member, officer, or employee of the Senate, (B) the amount of time required to perform such service is minimal, and (C) the Member, officer, or employee is not a member of, or a member of the staff of any Senate committee which has legislative jurisdiction over any agency of the Government charged with regulating the activities of the corporation, institution, or other business entity.

(b) A Member or an officer or employee whose rate of basic pay is equal to or greater than 120 percent of the annual rate of basic pay in effect for grade GS-15 of the General Schedule shall not serve for compensation as an officer or member of the board of any association, corporation, or other entity.

7. An employee on the staff of a committee who is compensated at a rate in excess of \$25,000 per annum and employed for more than ninety days in a calendar year shall divest himself of any substantial holdings which may be directly affected by the actions of the committee for which he works, unless the Select Committee, after consultation with the employee's supervisor, grants permission in writing to retain such holdings or the employee makes other arrangements acceptable to the Select Committee and the employee's supervisor to avoid participation in committee actions where there is a conflict of interest, or the appearance thereof.

8. If a Member, upon leaving office, becomes a registered lobbyist under the Federal Regulation of Lobbying Act of 1946 or any successor statute, or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, he shall not lobby Members, officers, or employees of the Senate for a period of one year after leaving office.

9. If an employee on the staff of a Member, upon leaving that position, becomes a registered lobbyist under the Federal Regulation of Lobbying Act of 1946 or any successor statute, or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, such employee may not lobby the Member for whom he worked or that Member's staff for a period of one year after leaving that position. If an employee on the staff of a committee, upon leaving his position, becomes such a registered lobbyist or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, such employee may not lobby the members of the committee for which he worked, or the staff of that committee, for a period of one year after leaving his position.

10.<sup>10</sup> (a) Except as provided by subparagraph (b), any employee of the Senate who is required to file a report pursuant to rule XXXIV

<sup>10</sup> Pursuant to S. Res. 236, 101-2, paragraphs 10 and 11 were renumbered as 11 and 12, respectively, and paragraph 10 was added.

shall refrain from participating personally and substantially as an employee of the Senate in any contract with any agency of the executive or judicial branch of Government with respect to non-legislative matters affecting any non-governmental person in which the employee has a significant financial interest.

(b) Subparagraph (a) shall not apply if an employee first advises his supervising authority of his significant financial interest and obtains from his employing authority a written waiver stating that the participation of the employee is necessary. A copy of each such waiver shall be filed with the Select Committee.

11. For purposes of this rule—

(a) "employee of the Senate" includes an employee or individual described in paragraphs 2, 3, and 4(c) of rule XLI;

(b) an individual who is an employee on the staff of a subcommittee of a committee shall be treated as an employee on the staff of such committee; and

(c) the term "lobbying" means any oral or written communication to influence the content or disposition of any issue before Congress, including any pending or future bill, resolution, treaty, nomination, hearing, report, or investigation; but does not include—

(1) a communication (i) made in the form of testimony given before a committee or office of the Congress, or (ii) submitted for inclusion in the public record, public docket or public file of a hearing; or

(2) a communication by an individual, acting solely on his own behalf, for redress of personal grievances, or to express his personal opinion.

12. For purposes of this rule—

(a) a Senator or the Vice President is the supervisor of his administrative, clerical, or other assistants;

(b) a Senator who is the chairman of a committee is the supervisor of the professional, clerical, or other assistants to the committee except that minority staff members shall be under the supervision of the ranking minority Senator on the committee;

(c) a Senator who is a chairman of a subcommittee which has its own staff and financial authorization is the supervisor of the professional, clerical, or other assistants to the subcommittee except that minority staff members shall be under the supervision of the ranking minority Senator on the subcommittee;

(d) the President pro tempore is the supervisor of the Secretary of the Senate, Sergeant at Arms and Doorkeeper, the Chaplain, the Legislative Counsel, and the employees of the Office of the Legislative Counsel;

(e) the Secretary of the Senate is the supervisor of the employees of his office;

(f) the Sergeant at Arms and Doorkeeper is the supervisor of the employees of his office;

(g) the Majority and Minority Leaders and the Majority and Minority Whips are the supervisors of the research, clerical or other assistants assigned to their respective offices;

(h) the Majority Leader is the supervisor of the Secretary for the Majority and the Secretary for the Majority is the supervisor of the employees of his office; and



(i) the Minority Leader is the supervisor of the Secretary for the Minority and the Secretary for the Minority is the supervisor of the employees of his office.

## Rule XXXVIII <sup>11</sup>

### [Prohibition of Unofficial Office Accounts]

1. (a) No member may maintain or have maintained for his use an unofficial office account. The term "unofficial office account" means an account or repository into which funds are received for the purpose, at least in part, of defraying otherwise unreimbursed expenses allowable in connection with the operation of a Member's office. An unofficial office account does not include, and expenses incurred by a Member in connection with his official duties shall be defrayed only from—

- (1) personal funds of the Member;
- (2) official funds specifically appropriated for that purpose;
- (3) funds derived from a political committee (as defined in section 301(d) of the Federal Election Campaign Act of 1971 (2 U.S.C.431)); and
- (4) funds received as reasonable reimbursements for expenses or expenses incurred by a Member in connection with personal services provided by the Member to the organization making the reimbursement.

(b) Notwithstanding subparagraph (a), official expenses may be defrayed only as provided by subsections (d) and (i) of section 311 of the Legislative Appropriations Act, 1991 (Public Law 101-520).

2. No contribution (as defined in section 301(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431)) shall be converted to the personal use of any Member or any former Member. For the purposes of this rule "personal use" does not include reimbursement of expenses incurred by a Member in connection with his official duties.

## Rule XXXIX

### [Foreign Travel]

1. (a) Unless authorized by the Senate (or by the President of the United States after an adjournment sine die), no funds from the United States Government (including foreign currencies made available under section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 175(b))) shall be received for the purpose of travel outside the United States by any Member of the Senate whose term will expire at the end of a Congress after—

- (1) the date of the general election in which his successor is elected; or
- (2) in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election

<sup>11</sup> Subparagraph (b) added, and conforming changes made by S. Res. 198, Oct. 31, 1991, 102-1, *Record*, pp. S 15719-20.

or the adjournment sine die of the second regular session of that Congress.

(b) The travel restrictions provided by subparagraph (a) with respect to a Member of the Senate whose term will expire at the end of a Congress shall apply to travel by—

- (1) any employee of the Member;
- (2) any elected officer of the Senate whose employment will terminate at the end of a Congress; and
- (3) any employee of a committee whose employment will terminate at the end of a Congress.

2. No Member, officer, or employee engaged in foreign travel may claim payment or accept funds from the United States Government (including foreign currencies made available under section 592(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754(b)) for any expense for which the individual has received reimbursement from any other source; nor may such Member, officer, or employee receive reimbursement for the same expense more than once from the United States Government. No Member, officer, or employee shall use any funds furnished to him to defray ordinary and necessary expenses of foreign travel for any purpose other than the purpose or purposes for which such funds were furnished.

3. A per diem allowance provided a Member, officer, or employee in connection with foreign travel shall be used solely for lodging, food, and related expenses and it is the responsibility of the Member, officer, or employee receiving such an allowance to return to the United States Government that portion of the allowance received which is not actually used for necessary lodging, food, and related expenses.

## Rule XL

### [Franking Privilege and Radio and Television Studios]

1. A Senator or an individual who is a candidate for nomination for election, or election, to the Senate may not use the frank for any mass mailing (as defined in section 3210(a)(6)(E) of title 39, United States Code) if such mass mailing is mailed at or delivered to any postal facility less than sixty days immediately before the date of any primary or general election (whether regular, special, or runoff) in which the Senator is a candidate for public office or the individual is a candidate for Senator.

2. A Senator shall use only official funds of the Senate, including his official Senate allowances, to purchase paper, to print, or to prepare any mass mailing material which is to be sent out under the frank.

3. (a) When a Senator disseminates information under the frank by mass mailing (as defined in section 3210(a)(6)(E) of title 39, United States Code), the Senator shall register annually with the Secretary of the Senate such mass mailings. Such registration shall be made by filing with the Secretary a copy of the matter mailed and providing, on a form supplied by the Secretary, a description of the group or groups of persons to whom the mass mailing was mailed.

(b) The Secretary of the Senate shall promptly make available for public inspection and copying a copy of the mail matter registered,

and a description of the group or groups of persons to whom the mass mailing was mailed.

4. Nothing in this rule shall apply to any mailing under the frank which is (a) in direct response to inquiries or requests from persons to whom the matter is mailed; (b) addressed to colleagues in Congress or to government officials (whether Federal, State, or local); or (c) consists entirely of news releases to the communications media.

5. The Senate computer facilities shall not be used (a) to store, maintain, or otherwise process any lists or categories of lists of names and addresses identifying the individuals included in such lists as campaign workers or contributors, as members of a political party, or by any other partisan political designation, (b) to produce computer printouts except as authorized by user guides approved by the Committee on Rules and Administration, or (c) to produce mailing labels for mass mailings, or computer tapes and discs, for use other than in service facilities maintained and operated by the Senate or under contract to the Senate. The Committee on Rules and Administration shall prescribe such regulations not inconsistent with the purposes of this paragraph as it determines necessary to carry out such purposes.

6. (a) The radio and television studios provided by the Senate or by the House of Representatives may not be used by a Senator or an individual who is a candidate for nomination for election, or election, to the Senate less than sixty days immediately before the date of any primary or general election (whether regular, special, or runoff) in which that Senator is a candidate for public office or that individual is a candidate for Senator.

(b) This paragraph shall not apply if the facilities are to be used at the request of, and at the expense of, a licensed broadcast organization or an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

## Rule XLI<sup>12</sup>

### [Political Fund Activity; Definitions]

1. No officer or employee of the Senate may receive, solicit, be a custodian of, or distribute any funds in connection with any campaign for the nomination for election, or the election, of any individual to be a Member of the Senate or to any other Federal office. This prohibition does not apply to three assistants to a Senator, at least one of whom is in Washington, District of Columbia, who have been designated by that Senator to perform any of the functions described in the first sentence of this paragraph and who are compensated at an annual rate in excess of \$10,000, if such designation has been made in writing and filed with the Secretary of the Senate and if each such assistant files a financial statement in the form provided under rule XXXIV for each year during which he is designated under this rule. The Majority Leader and the Minority Leader may each designate an employee of their respective leadership office staff as one of the 3

<sup>12</sup> As amended by S. Res. 258, Oct. 1, 1987, 100-1, S. Res. 236, Jan. 30, 1990, 101-2, and S. Res. 198, Oct. 31, 1991, 102-1.

designees referred to in the second sentence. The Secretary of the Senate shall make the designation available for public inspection.

2. For purposes of the Senate Code of Official Conduct—

(a) an employee of the Senate includes any employee whose salary is disbursed by the Secretary of the Senate; and

(b) the compensation of an officer or employee of the Senate who is a reemployed annuitant shall include amounts received by such officer or employee as an annuity, and such amounts shall be treated as disbursed by the Secretary of the Senate.

3. Before approving the utilization by any committee of the Senate of the services of an officer or employee of the Government in accordance with paragraph 4 of rule XXVII or with an authorization provided by Senate resolution, the Committee on Rules and Administration shall require such officer or employee to agree in writing to comply with the Senate Code of Official Conduct in the same manner and to the same extent as an employee of the Senate. Any such officer or employee shall, for purposes of such Code, be treated as an employee of the Senate receiving compensation disbursed by the Secretary of the Senate in an amount equal to the amount of compensation he is receiving as an officer or employee of the Government.

4. No Member, officer, or employee of the Senate shall utilize the full-time services of an individual for more than ninety days in a calendar year in the conduct of official duties of any committee or office of the Senate (including a Member's office) unless such individual—

(a) is an officer or employee of the Senate,

(b) is an officer or employee of the Government (other than the Senate), or

(c) agrees in writing to comply with the Senate Code of Official Conduct in the same manner and to the same extent as an employee of the Senate.

Any individual to whom subparagraph (c) applies shall, for purposes of such Code, be treated as an employee of the Senate receiving compensation disbursed by the Secretary of the Senate in an amount equal to the amount of compensation which such individual is receiving from any source for performing such services.

5. In exceptional circumstances for good cause shown, the Select Committee on Ethics may waive the applicability of any provision of the Senate Code of Official Conduct to an employee hired on a per diem basis.

6. (a) The supervisor of an individual who performs services for any Member, committee, or office of the Senate for a period in excess of four weeks and who receives compensation therefor from any source other than the United States Government shall report to the Select Committee on Ethics with respect to the utilization of the services of such individual.

(b) A report under subparagraph (a) shall be made with respect to an individual—

(1) when such individual begins performing services described in such subparagraph;

(2) at the close of each calendar quarter while such individual is performing such services; and

(3) when such individual ceases to perform such services.

Each such report shall include the identity of the source of the compensation received by such individual and the amount or rate of compensation paid by such source.

(c) No report shall be required under subparagraph (a) with respect to an individual who normally performs services for a Member, committee, or office for less than eight hours a week.

(d) For purposes of this paragraph, the supervisor of an individual shall be determined under paragraph 11 of rule XXXVII.

## Rule XLII <sup>13</sup>

### [Employment Practices]

1. No Member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

(a) fail or refuse to hire an individual;

(b) discharge an individual; or

(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.

2. For purposes of this rule, the provisions of section 509(a) of the Americans With Disabilities Act of 1990 shall be deemed to be a rule of the Senate as it pertains to Members, officers, and employees of the Senate.

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### Franking Mail and Gifts

The committee also supervises any ethics involved in the administration of Laws Relating to the Mailing of Congressional Franked Mail, and the Foreign Gifts and Decorations. These laws are not reproduced here but are found in U.S. Code, title 2, sections 202d, 493b and section 502; title 18, section 1718; U.S. Code title 39, 3210-3216, 3218-3219; and U.S. Code title 44, sections 733 and 907, for the law on mailing of Congressional franked mail and title 5 of the U.S. Code, sections 7341 and 7342 for the law on acceptance of foreign gifts and decorations.

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### Chairman of the Committee on Ethics:

Although the resolution establishing the Select Committee on Ethics provides that the committee itself choose its chairman and vice chairman, the Senate has on occa-

<sup>13</sup> Paragraph 2 added (and conforming amendments made) by S. Res. 198, Oct. 31, 1991, 102-1, *Record*, pp. S 15719-20.

sion by resolution appointed the chairman and vice chairman of the Ethics Committee.<sup>14</sup>

### **Jurisdiction of the Committee:**

The jurisdiction of the Committee is set forth in Section 2 of Senate Resolution 338 of the 88th Congress, as amended, as follows:

SEC. 2. (a) It shall be the duty of the Select Committee 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 to the Senate by report or resolution by a majority vote of the full committee disciplinary action (including, but not limited to, in the case of a Member: censure, expulsion, or recommendation to the appropriate party conference regarding such Member's seniority or positions of responsibility; and, in the case of an officer or employee: suspension or dismissal) to be taken with respect to such violations which the Select Committee shall determine, after according to the individuals concerned due notice and opportunity for hearing, to have occurred;

(3) recommend to the Senate, by report or resolution, such additional rules or regulations as the Select Committee shall determine to be necessary or desirable to insure proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities; and

(4) report violations by a majority vote of the full committee of any law to the proper Federal and State authorities.

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(i) The Select Committee from time to time shall transmit to the Senate its recommendation as to any legislative measures which it may consider to be necessary for the effective discharge of its duties.

### **Work of the Committee:**

The Committee constantly advises Members, officers and employees of the Senate, and individuals outside of the Senate on ethics matters pursuant to standing rules XXXIV through XLII and on provisions of the law relative to the use of the Congressional frank by Senators and the law on acceptance of foreign gifts and decorations.

<sup>14</sup> Jan. 6, 1981, 97-1, *Record*, p. 160.