**U.S. House of Representatives**

**U.S. Congress: The House of Representatives**

**and The Senate**

**How Our Laws Are Made**

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I. Introduction

This handbook is intended to provide a readable and nontechnical outline of the background and the numerous steps of our Federal lawmaking process from the origin of an idea for a legislative proposal through its publication as a statute. This is a matter about which every citizen should be well informed so as to be able to understand the everyday news reports and discussions concerning the work of Congress.

It is hoped that this handbook will enable every citizen to gain a greater understanding of the Federal legislative process and its role as one of the bulwarks of our representative system. One of the most practical safeguards of the American democratic way of life is this legislative process that, with its emphasis on the protection of the minority, gives ample opportunity to all sides to be heard and make their views known. The fact that a proposal cannot become a law without consideration and approval by both Houses of Congress is an outstanding virtue of our legislative system. Open and full discussion provided for under our Constitution frequently results in the notable improvement of a bill by amendment before it becomes law, or the defeat of a bad proposal.

Because the large majority of laws originate in the House of Representatives, this discussion will be directed principally to the procedure in that body.

II. The Congress

Article I, Section 1, of the United States Constitution, provides that:

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

The Senate is composed of 100 Members—2 from each State, irrespective of population or area—elected by the people in conformity with the provisions of the 17th Amendment to the Constitution. That amendment changed the former Constitutional method under which Senators were chosen by the respective State legislatures. A Senator must be at least 30 years of age, have been a citizen of the United States for 9 years, and, when elected, be a resident of the State for which the Senator is chosen. The term of office is 6 years and one-third of the total membership of the Senate is elected every second year. The terms of both Senators from a particular State are so arranged that they do not terminate at the same time. Of the 2 Senators from a State serving at the same time, the one who was elected first—or if both were elected at the same time, the one elected for a full term—is referred to as the "senior" Senator from that State. The other is referred to as the "junior" Senator. If a Senator dies or resigns during the term, the governor of the State must call a special election unless the State legislature has authorized the governor to appoint a successor until the next election, at which time a successor is elected for the balance of the term. Most of the State legislatures have granted their governors the power of appointment.

Each Senator has one vote.

As constituted in 1989—the 101st Congress—the House of Representatives is composed of 435 Members elected every 2 years from among the 50 States, apportioned to their total populations. The permanent number of 435 was established following the Thirteenth Decennial Census in 1910, as directed in Article I, Section 2, of the Constitution, and was increased temporarily to 437 for the 87th Congress, to provide for one Representative each for Alaska and Hawaii. It seems undesirable to make a considerable increase in the number of Members, because a larger body, similar to the British House of Commons, consisting of 650 members, would be too unwieldy. The Constitution limits the number of Representatives to not more than one for every 30,000 of population, and, under a former apportionment in one State a particular Representative represented more than 900,000 constituents, while another in the same State was elected from a district having a population of only 175,000. The Supreme Court has since held unconstitutional a Missouri statute permitting a maximum population variance of 3.1 percent from mathematical equality. The Court said that the variances among the districts were not unavoidable and, therefore, were invalid. This is an interpretation of the Court's earlier decision that "as nearly as is practicable one man's vote in a Congressional election is to be worth as much as another's" [Kirkpatrick v. Preisler, 394 U.S. 526 (1969)].

A law enacted in 1967 abolished all "at-large" elections (that is, Representatives elected by the voters of the entire State rather than in a Congressional district within the State) except, of course, in States entitled to only one Representative.

A Representative must be at least 25 years of age, have been a citizen of the United States for 7 years, and, when elected, be a resident of the State in which the Representative is chosen. If a Representative dies or resigns during the term, the governor of the State must call a special election for the choosing of a successor to serve for the unexpired portion of the term.

Each Representative has one vote.

In addition to the Representatives from each of the States, there is a Resident Commissioner from the Commonwealth of Puerto Rico and Delegates from the District of Columbia, American Samoa, Guam, and the Virgin Islands. The Resident Commissioner and the Delegates have most of the prerogatives of Representatives, with the important exception of the right to vote on matters before the House.

Under the provisions of Section 2 of the 20th Amendment to the Constitution, Congress must assemble at least once every year, at noon on the 3d day of January, unless by law they appoint a different day.

A Congress lasts for 2 years, commencing in January of the year following the biennial election of Members, and is divided into 2 sessions.

Unlike some other parliamentary bodies, both the Senate and the House of Representatives have equal legislative functions and powers (except that only the House of Representatives may initiate revenue bills), and the designation of one as the "upper" House and the other as the "lower" House is not appropriate.

The Constitution authorizes each House to determine the rules of its proceedings. Pursuant to that authority the House of Representatives adopts its rules on the opening day of each Congress. The Senate, which considers itself a continuing body, operates under standing rules that it amends from time to time.

The chief function of Congress is the making of laws. In addition, the Senate has the function of advising and consenting to treaties and to certain nominations by the President. In the matter of impeachments, the House of Representatives presents the charges—a function similar to that of a grand jury—and the Senate sits as a court to try the impeachment. Both Houses meet in joint session on the 6th day of January, following a presidential election, to count the electoral votes. If no candidate receives a majority of the total electoral votes, the House of Representatives chooses the President from among the 3 candidates having the largest number of votes, and the Senate chooses the Vice President from the 2 candidates having the largest number of votes for that office.

III. Sources of Legislation

Sources of ideas for legislation are unlimited, and proposed drafts of bills originate in many diverse quarters. First of these is, of course, the idea and draft conceived by a Member. This may emanate from the election campaign during which the Member had promised to introduce legislation on a particular subject, if elected. The entire campaign may have been based upon one or more such proposals. Or, through experience after taking office the Member may have become aware of the need for amendment or repeal of existing laws or the enactment of a statute in an entirely new field.

In addition, the Member's constituents—either as individuals or by corporate activity such as citizen groups or associations, bar associations, labor unions, manufacturers' associations, and chambers of commerce—may avail themselves of the right to petition, which is guaranteed by the First Amendment to the Constitution, and transmit their proposals to the Member. Many excellent laws have originated in this way inasmuch as some of those organizations, because of their vital concern with various areas of legislation, have considerable knowledge regarding the laws affecting their interests and have the services of expert legislative draftsmen at their disposal for this purpose. If favorably impressed by the idea, the Member may introduce the proposal in the form in which it has been submitted or may first redraft it. In all events, the Member may consult with the Legislative Counsel of the House or the Senate, as the case may be, to frame the ideas in suitable legislative language and form for introduction.

In modern times the "executive communication" has become a prolific source of legislative proposals. This is usually in the form of a letter from a member of the President's Cabinet or the head of an independent agency—or even from the President—transmitting a draft of a proposed bill to the Speaker of the House of Representatives and the President of the Senate. Despite the system of separation of powers, Article II, Section 3, of the Constitution imposes an obligation on the President to report to Congress from time to time on the "State of the Union" and to recommend for consideration such measures as the President considers necessary and expedient. Many of these executive communications follow on the President's message to Congress on the State of the Union. The communication is then referred to the standing committee having jurisdiction of the subject matter embraced in the proposal because a bill may be introduced only by a Member of Congress. The Chairman of that committee usually introduces the bill promptly either in the form in which it was received or with changes the Chairman considers necessary or desirable.

This practice prevails even when the majority of the House and the President are not of the same political party, although there is no constitutional or statutory requirement that a bill be introduced to effectuate the recommendations.

Otherwise, the message may be considered by the committee or one of its subcommittees to determine whether a bill should be introduced. The most important of the regular executive communications is the annual message from the President transmitting the proposed budget to Congress. This, together with testimony by officials of the various branches of the Government before the Appropriations Committees of the House and Senate, is the basis of the several appropriation bills that are drafted by the Committee on Appropriations of the House.

Several of the executive departments and independent agencies have staffs of trained legislative counsels whose functions include the drafting of bills to be forwarded to Congress with a request for their enactment.

The drafting of statutes is an art that requires great skill, knowledge, and experience. In some instances a draft is the result of a study covering a period of a year or more by a commission or committee designated by the President or one of the Cabinet officers. The Administrative Procedure Act and the Uniform Code of Military Justice are only 2 of many examples of enactments resulting from such studies. In addition, Congressional committees sometimes draft bills after studies and hearings covering periods of a year or more. Bills to codify the laws relating to crimes and criminal procedure, the judiciary and judicial procedure, the armed forces, and other subjects, have each required several years of preparation.

IV. Forms of Congressional Action

The work of Congress is initiated by the introduction of a proposal in one of 4 principal forms. These are: the bill, the joint resolution, the concurrent resolution, and the simple resolution. By far the most customary form used in both Houses is the bill. During the 100th Congress (1987-1988), there were introduced in both Houses, 8,515 bills and 1,073 joint resolutions. Of this number 5,585 bills and 678 joint resolutions originated in the House of Representatives.

For the sake of simplicity this discussion will be confined generally to the procedure on a House of Representatives bill, but a brief comment will be made about each of the forms.

Bills

A bill is the form used for most legislation, whether permanent or temporary, general or special, public or private.

The form of a House bill is as follows:

A BILL For the establishment, etc. [as the title may be].

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, etc.

The enacting clause was prescribed by law in 1871 and is identical in all bills, whether they originate in the House of Representatives or in the Senate.

Bills may originate in either the House of Representatives or the Senate, with one notable exception provided for by the Constitution. Article I, Section 7, of the Constitution, provides that all bills for raising revenue shall originate in the House of Representatives but the Senate may propose or concur with amendments, as on other bills. General appropriation bills also originate in the House of Representatives.

There are 2 types of bill—public and private. A public bill is one that affects the public generally. A bill of a private character, that is, a bill that affects an individual rather than the population at large, is called a private bill. A private bill is used for relief in matters such as immigration and naturalization and claims by or against the United States.

Article I, Section 8, prescribes the matters concerning which Congress may legislate, while Section 9 of the same Article places certain limitations on Congressional action.

A bill originating in the House of Representatives is designated by the letters "H.R." followed by a number that it retains throughout all its parliamentary stages. The letters signify "House of Representatives" and not, as is sometimes supposed, "House resolution." A Senate bill is designated by the letter "S." followed by its number. The term "companion bill" is used to describe a bill introduced in one House of Congress that is similar or identical to a bill introduced in the other House of Congress.

A bill that has been agreed to in identical form by both bodies becomes the law of the land only after:

1. Presidential approval; or 2. Failure by the President to return it with objections to the House in which it originated within 10 days while Congress is in session; or 3. The overriding of a Presidential veto by a two-thirds vote in each House.

It does not become law without the President's signature if Congress by their adjournment prevent its return with objections. This is known as a "pocket veto."

Joint Resolutions

Joint resolutions may originate either in the House of Representatives or in the Senate—not, as may be supposed, jointly in both Houses. There is little practical difference between a bill and a joint resolution and, although the latter are not as numerous as bills, the 2 forms are often used indiscriminately. Statutes that have been initiated as bills have later been amended by a joint resolution, and vice versa. Both are subject to the same procedure—with the exception of a joint resolution proposing an amendment to the Constitution. When a joint resolution amending the Constitution is approved by two-thirds of both Houses, it is sent directly to the Archivist of the United States for submission to the several States for ratification. It is not presented to the President for approval.

The form of a House joint resolution is as follows:

Joint Resolution

Authorizing, etc. [as the title may be].

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all, etc.

The resolving clause is identical in both House and Senate joint resolutions, having been prescribed by statute in 1871.

It is frequently preceded by one or more "whereas" clauses indicating the necessity for or the desirability of the joint resolution.

The term "joint" does not signify simultaneous introduction and consideration in both Houses.

A joint resolution originating in the House of Representatives is designated "H.J. Res." followed by its individual number which it retains throughout all its parliamentary stages. One originating in the Senate is designated "S.J. Res." followed by its number.

Joint resolutions become law in the same manner as bills.

Concurrent Resolutions

Matters affecting the operations of both Houses are usually initiated by means of concurrent resolutions. In modern practice, these normally are notlegislative in character but are used merely for expressing facts, principles, opinions, and purposes of the 2 Houses. They are not equivalent to a bill and their use is narrowly limited within these bounds.

The term "concurrent" does not signify simultaneous introduction and consideration in both Houses.

A concurrent resolution originating in the House of Representatives is designated "H. Con. Res." followed by its individual number, while a Senate concurrent resolution is designated "S. Con. Res." together with its number. On approval by both Houses, they are signed by the Clerk of the House and the Secretary of the Senate and transmitted to the Archivist of the United States for publication in a special part of the Statutes at Large volume covering that session of Congress. They are not presented to the President for action as in the cases of bills and joint resolutions unless they contain a proposition of legislation, and that, of course, is not within their scope in their modern form.

Simple Resolutions

A matter concerning the operation of either House alone is initiated by a simple resolution. A resolution affecting the House of Representatives is designated "H. Res." followed by its number, while a Senate resolution is designated "S. Res." together with its number. They are considered only by the body in which they were introduced and on adoption are attested to by the Clerk of the House of Representatives or the Secretary of the Senate, as the case may be, and are published in the Congressional Record.

V. Introduction and Reference to Committee

Any Member, the Resident Commissioner, and the Delegates in the House of Representatives may introduce a bill at any time while the House is actually sitting by simply placing it in the "hopper" provided for the purpose at the side of the Clerk's desk in the House Chamber. Permission is not required to introduce the measure or to make a statement at the time of introduction. Printed blank forms for use in typing the original bill are supplied through the Clerk's office.

The name of the sponsor is endorsed on the bill. A public bill may be sponsored by an unlimited number of Members.

On request, a Member may be added as a sponsor no later than the day the bill is reported to the House. (For a discussion of Reported bills, see Part VII.) In addition, a Member listed as a sponsor (other than the first sponsor) may have the Member's name deleted as a sponsor no later than the day the bill is reported to the House. To forestall the possibility that a bill might be introduced in the House on behalf of a Member without that Member's prior approval, the sponsoring Member's signature must appear on the bill before it is accepted for introduction. When there are multiple sponsors of a bill, the signature must be that of the Member first named thereon. In the Senate, unlimited multiple sponsorship of a bill also is permitted. Occasionally, a Member may insert the words "by request" after the Member's name to indicate that the introduction of the measure is in compliance with the suggestion of some other person.

In the Senate, a Senator usually introduces a bill or resolution by presenting it to one of the clerks at the Presiding Officer's desk, without commenting on it from the floor of the Senate. However, a Senator may use a more formal procedure by rising and introducing the bill or resolution from the floor. A Senator usually makes a statement about the measure when introducing it on the floor. Frequently, Senators obtain consent to have the bill or resolution printed in the body of the Congressional Record, following their formal statement.

If any Senator objects to the introduction of a bill or resolution, the introduction of the bill or resolution is postponed until the next day. If there is no objection, the bill is read by title and referred to the appropriate committee.

In the House of Representatives it is no longer the custom to read bills—even by title—at the time of introduction. The title is entered in the Journal and printed in the Congressional Record, thus preserving the purpose of the old rule.

The bill is assigned its legislative number by the Clerk and referred to the appropriate committees by the Speaker (the Member elected to be the Presiding Officer of the House) with the assistance of the Parliamentarian. These details appear in the daily issue of the Congressional Record. It is then sent to the Government Printing Office where it is printed in its introduced form, and printed copies are available shortly thereafter in the document rooms of both Houses.

One copy is sent to the office of the Chairman of the committee to which it has been referred, for action by that committee. The clerk of the committee enters it on the committee's Legislative Calendar.

Perhaps the most important phase of the Congressional process is the action by committees. That is where the most intensive consideration is given to the proposed measures and where the people are given their opportunity to be heard. Nevertheless, this phase where such a tremendous volume of hard work is done by the Members is sometimes overlooked by the public, particularly when complaining about delays in enacting laws. There are, at present, 22 standing committees in the House and 16 in the Senate, as well as several select committees. In addition, there are several standing joint committees of the 2 Houses.

Each committee has jurisdiction over certain subject matters of legislation and all measures affecting a particular area of the law are referred to that committee that has jurisdiction over it. For example, the Committee on the Judiciary has jurisdiction over measures relating to judicial proceedings (civil and criminal) generally, and 18 other categories, of which Constitutional amendments, immigration and naturalization, bankruptcy, revision and codification of statutes, civil liberties, antitrust, patents, copyrights and trademarks, are but a few. In all, the rules of the House and of the Senate each provide for approximately 200 different classifications of measures that are to be referred to committees.

Membership on the various committees is divided between the 2 major political parties. The proportion of the Members of the minority party to the Members of the majority party is determined by the majority party, except that one-half of the Members on the Committee on Standards of Official Conduct are from the majority party and one-half from the minority party. The respective party caucuses nominate Members of the caucus to be elected to each standing committee at the beginning of each Congress. Membership on a standing committee during the course of a Congress is contingent on continuing membership in the caucus that nominated the Member for election to the committee. If the Member ceases to be a Member of the caucus, the Member automatically ceases to be a Member of the standing committee.

A Member may serve on more than one committee. However, the rules of the caucus of the majority party in the House provide that the Chairmen of certain committees may not serve on another committee and that a Member may be Chairman of only one subcommittee of a committee or select committee with legislative jurisdiction, excepting certain committees performing housekeeping functions and joint committees.

A Member usually seeks election to the committee that has jurisdiction over a field in which the Member is most qualified and interested. For example, the Committee on the Judiciary traditionally is composed entirely of lawyers.

Many Members are nationally recognized experts in the specialty of their particular committee or subcommittee.

Members rank in seniority in accordance with the order of their appointment to the committee, and usually the ranking majority Member is elected Chairman. The rules of the House require that committee Chairmen be elected from nominations submitted by the majority party caucus at the commencement of each Congress.

Most committees have 2 or more subcommittees that, in addition to having general jurisdiction, specialize in the consideration of particular classifications of bills. Each standing committee of the House, except the Committee on the Budget, that has more than 20 Members must establish at least 4 subcommittees.

Each committee is provided with a professional and clerical staff to assist it in the innumerable administrative details and other problems involved in the consideration of bills. For the standing committees, the professional staff (consisting of not more than 18, 6 of whom may be selected by the minority) is appointed on a permanent basis solely on the basis of fitness to perform the duties of their respective positions. The clerical staff (consisting of not more than 12, 4 of whom may be selected by the minority) is appointed to handle correspondence and stenographic work for the committee staff and the Chairman and ranking minority Member on matters related to committee work. All staff appointments are made by a majority vote of the committee without regard to race, creed, sex, or age. The minority staff provisions do not apply to the Committee on Standards of Official Conduct because of its bipartisan nature. The Committee on Appropriations and the Committee on the Budget have special authority under the rules of the House for appointment of staff and assistants for the minority.

Under certain conditions, a standing committee may appoint consultants on a temporary or intermittent basis and also may provide financial assistance to members of its professional staff for the purpose of acquiring specialized training, whenever the committee determines that such training will aid the committee in the discharge of its responsibilities.

VI. Consideration By Committee

The rules adopted by the caucus of the majority party in the House provide that the Chairman of the committee to which a bill has been referred must refer the bill to the appropriate subcommittee within 2 weeks, unless a majority of the Members of the majority party on the committee vote to have the bill considered by the full committee. One of the first actions taken is the transmittal of copies of the bill to the departments and agencies concerned with the subject matter and frequently to the General Accounting Office with a request for an official report of views on the necessity or desirability of enacting the bill into law. Ample time is given for the submission of the reports and when received they are accorded serious consideration but are not binding on the committee in determining whether or not to act favorably on the bill. Reports of the departments and agencies in the executive branch are submitted first to the Office of Management and Budget to determine whether they are consistent with the program of the President.

Committee Meetings

Standing committees are required to have regular meeting days at least once a month, but the Chairman may call and convene additional meetings. Three or more Members of a standing committee may file with the committee a written request that the Chairman call a special meeting. The request must specify the measure or matter to be considered. If the Chairman fails, within 3 calendar days after the filing of the request, to call the requested special meeting, to be held within 7 calendar days after the filing of the request, a majority of the Members of the committee may call the special meeting by filing with the committee written notice specifying the time and date of the meeting and the measure or matter to be considered.

With the exception of the Committees on Appropriations, on the Budget, on Rules, on Standards of Official Conduct, on Ways and Means, and on House Administration, committees may not, without special permission, meet while the House is reading a measure for amendment under the "five-minute rule." (See first paragraph under heading "Second Reading" in Part XI.) Special permission to meet will be given unless 10 or more Members object. The rules of the House also provide that House committees may not meet during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress. Committees may meet at other times during a recess up to the expiration of the constitutional term.

Public Hearings

If the bill is of sufficient importance, and particularly if it is controversial, the committee will usually set a date for public hearings. Each committee (except the Committee on Rules) is required to make public announcement of the date, place, and subject matter of any hearing to be conducted by the committee on any measure or matter at least one week before the commencement of that hearing, unless the committee determines that there is good cause to begin the hearing at an earlier date. If the committee makes that determination, it must make a public announcement to that effect at the earliest possible date. Public announcements are published in the Daily Digest portion of the Congressional Record as soon as possible after the announcement is made by the committee, and are often noted in news papers and periodicals. Personal notice, usually in the form of a letter, but possibly in the form of a subpoena, is sent frequently to individuals, organizations, and Government departments and agencies that are known to be interested.

Each hearing by a committee and subcommittee is required to be open to the public except when the committee or subcommittee, in open session and with a majority present, determines by rollcall vote that all or part of the remainder of the hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate a law or a rule of the House. The committee or subcommittee by the same procedure may vote to close one subsequent day of hearing, except that the Committees on Appropriations and on Armed Services and the Permanent Select Committee on Intelligence, and subcommittees of those committees, by the same procedure may vote to close up to 5 additional consecutive days of hearings. When a quorum for taking testimony is present, a majority of the Members present may close a hearing to discuss whether the evidence or testimony to be received would endanger national security or would tend to defame, degrade, or incriminate any person.

Hearings on the budget are required to be held by the Committee on Appropriations in open session within 30 days after its transmittal to Congress, except when the Committee, in open session and with a quorum present, determines by rollcall vote that the testimony to be taken at that hearing on that day may be related to a matter of national security. The Committee may by the same procedure close one subsequent day of hearing.

On the day set for the public hearing an official reporter is present to record the testimony in favor of and against the bill. The bill may be read in full at the opening of the hearings and a copy is inserted in the record. After a brief introductory statement by the Chairman and often by the ranking minority Member or other committee Member, the first witness is called. Members or Senators who wish to be heard are given preference out of courtesy and because of the limitations on their time. Cabinet officers and high-ranking civil and military officials of the Government, as well as interested private individuals, testify either voluntarily or at the request or summons of the committee.

Committees require, so far as practicable, that witnesses who appear before it file with the committee, in advance of their appearance, a written statement of their proposed testimony and limit their oral presentations to a brief summary of their arguments.

Minority party Members of the committee are entitled to call witnesses of their own to testify on a measure during at least one day of the hearing.

All committee rules in the House must provide that each Member shall have only 5 minutes in the interrogation of witnesses until each Member of the committee who desires to question a witness has had an opportunity to do so.

A typewritten transcript of the testimony taken at a public hearing is made available for inspection in the office of the clerk of the committee and frequently the complete transcript is printed and distributed widely by the committee.

Business Meetings

After hearings are completed, the subcommittee usually will consider the bill in a session that is popularly known as the "markup" session. The views of both sides are studied in detail and at the conclusion of deliberation a vote is taken to determine the action of the subcommittee. It may decide to report the bill favorably to the full committee, with or without amendment, or unfavorably, or suggest that the committee "table" it, that is, postpone action indefinitely. Each Member of the subcommittee, regardless of party affiliation, has one vote.

All meetings for the transaction of business, including the markup of legislation, of standing committees or subcommittees must be open to the public except when the committee or subcommittee, in open session with a majority present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public. This requirement does not apply to any meeting that relates solely to internal budget or personnel matters. Members of the committee may authorize congressional staff and departmental representatives to be present at any business or markup session that has been closed to the public.

Committee Action

At committee meetings reports on bills may be made by subcommittees. Reports are fully discussed and amendments may be offered. Committee amendments are only proposals to change the bill as introduced and are subject to acceptance or rejection by the House itself. A vote of committee Members is taken to determine whether the full committee will report favorably or "table" the bill. If the committee votes to report the bill favorably to the House, it may report the bill with or without amendments or report a "clean bill." If the committee has approved extensive amendments, the committee may decide to report a new bill incorporating those amendments, commonly known as a "clean bill". The new bill is introduced (usually by the Chairman of the committee), and, after referral back to the committee, is reported favorably to the House by the committee. Because tabling a bill normally is effective in preventing action on it, adverse reports to the House by the full committee ordinarily are not made. On rare occasions, a committee may report a bill without recommendation or unfavorably.

Generally, a majority of the committee constitutes a quorum, the number of Members who must be present in order for the committee to act. This ensures adequate participation by both sides in the action taken. However, a committee may vary the number of Members necessary for a quorum for certain actions. For example, a committee may fix the number of its Members, but not less than 2, necessary for a quorum for taking testimony and receiving evidence.

Except for the Committees on Appropriations, on the Budget, and on Ways and Means, a committee may fix the number of its Members, but not less than one-third, necessary for a quorum for taking certain other actions. The absence of a quorum is the subject of a point of order—that is, an objection that the proceedings are out of order—that is, that the required number of Members is not present.

Public Inspection of Results of Rollcall Vote in Committee

The result of each rollcall vote in any meeting of a committee must be made available by that committee for inspection by the public at reasonable times in the offices of that committee. Information available for public inspection includes (1) a description of each amendment, motion, order, or other proposition, (2) the name of each Member voting for and each Member voting against the amendment, motion, order, or proposition, and whether by proxy or in person, and (3) the names of those Members present but not voting.

With respect to each rollcall vote by a committee on a motion to report a bill or resolution of a public character, the total number of votes cast for, and the total number of votes cast against, the reporting of the bill or resolution must be included in the committee report.

Proxy Voting

A vote by a Member of a committee with respect to a measure or other matter may not be cast by proxy unless that committee adopts a written rule that permits voting by proxy and requires that the proxy authorization (1) be in writing, (2) assert that the Member is absent on official business or is otherwise unable to be present at the meeting of the committee, (3) designate the person who is to execute the proxy authorization, and (4) be limited to a specific measure or matter and any amendments or motions pertaining to the measure or matter. A Member may authorize a general proxy only for motions to recess, adjourn or other procedural matters. A proxy must be signed by the Member and must contain the date and time of day that it is signed. A proxy may not be counted for a quorum.

Points of Order With Respect to Committee Procedure

A point of order does not lie with respect to a measure reported by a committee on the ground that hearings on the measure were not conducted in accordance with required committee procedure. However, certain points of order may be made by a Member of the committee which reported the measure if, in the committee, that point of order was (1) timely made and (2) improperly overruled or not properly considered.

Broadcasting Committee Hearings and Meetings

It is permissible to cover open committee hearings and meetings in the House by television, radio, and still photography. This permission is granted under well-defined conditions as provided in the rules of the House. Similarly, the rules of the Senate permit broadcasting of open hearings of a Senate committee under such rules as the committee may adopt.

VII. Reported Bills

If the committee votes to report the bill favorably to the House, one of the Members is designated to write the committee report. The report describes the purpose and scope of the bill and the reasons for its recommended approval. Generally, a section-by-section analysis is set forth in detail explaining precisely what each section is intended to accomplish. All changes in existing law must be indicated in the report and the text of laws being repealed must be set out. This requirement is known as the "Ramseyer" rule; a similar rule in the Senate is known as the "Cordon" rule. Committee amendments also must be set out at the beginning of the report and explanations of them are included. Executive communications regarding the bill usually are quoted in full.

If at the time of approval of a bill by a committee (except the Committee on Rules) a Member of the committee gives notice of an intention to file supplemental, minority, or additional views, that Member is entitled to not less than 3 calendar days (excluding Saturdays, Sundays, and legal holidays) in which to file those views with the clerk of the committee and they must be included in the report on the bill. Committee reports, with certain exceptions, must be filed while the House actually is sitting unless unanimous consent is obtained from the House to file at a later time.

The report is assigned a report number when it is filed, and it is delivered to the Government Printing Office for printing during that night. Beginning with the 91st Congress, in 1969, the report number contains a prefix-designator which indicates the number of the Congress. For example, the first House report in 1969 was numbered 91-1.

The bill is reprinted when reported and committee amendments are indicated by showing new matter in italics and deleted matter in line-through type. The report number is printed on the bill and the calendar number is shown on both the first and back pages of the bill. However, in the case of a bill that was referred to 2 or more committees for consideration in sequence, the calendar number is printed only on the bill as reported by the last committee to consider it. See Part IX, "Calendars".

Committee reports are perhaps the most valuable single element of the legislative history of a law. They are used by courts, executive departments and agencies, and the public generally, as a source of information regarding the purpose and meaning of the law.

Contents of Reports

The report of a committee on a measure that has been approved by the committee must include (1) the committee's oversight findings and recommendations, (2) the statement required by the Congressional Budget Act of 1974, if the measure provides new budget authority (other than continuing appropriations), certain new spending authority, new credit authority, or an increase or decrease in revenues or tax expenditures, (3) the cost estimate and comparison prepared by the Director of the Congressional Budget Office whenever the Director has submitted that estimate and comparison to the committee prior to the filing of the report, and (4) a summary of the oversight findings and recommendations made by the Committee on Government Operations whenever they have been submitted to the legislative committee in a timely fashion to allow an opportunity to consider the findings and recommendations during the committee's deliberations on the measure. Each of these items are set out separately and clearly identified in the report. For a discussion of the Congressional budget process, see Part XII.

Inflationary Impact and Cost Estimates in Reports

In addition, each report of a committee on a bill or joint resolution of a public character reported by the committee must contain a detailed analytical statement as to whether the enactment of the bill or joint resolution into law may have an inflationary impact on prices and costs in the operation of the national economy.

Each report also must contain an estimate, made by the committee, of the costs which would be incurred in carrying out that bill or joint resolution in the fiscal year reported and in each of the 5 fiscal years thereafter or for the duration of the program authorized if less than 5 years. In the case of a measure involving revenues, the report need contain only an estimate of the gain or loss in revenues for a one-year period. The report must include a comparison of the estimates of those costs with the estimate made by any Government agency and submitted to that committee. The Committees on Appropriations, on House Administration, on Rules, and on Standards of Official Conduct are not required to include cost estimates in their reports. In addition, the cost estimates are not required to be included in reports when a cost estimate and comparison prepared by the Director of the Congressional Budget Office has been submitted prior to the filing of the report and included in the report.

Filing of Reports

Measures approved by a committee must be reported promptly after approval. A majority of the Members of the committee may file a written request with the clerk of the committee for the reporting of the measure. When the request is filed, the clerk immediately must notify the Chairman of the committee of the filing of the request, and the report on the measure must be filed within 7 days (excluding days on which the House is not in session) after the day on which the request is filed. This does not apply to a report of the Committee on Rules with respect to the rules, joint rules, or order of business of the House or to the reporting of a resolution of inquiry addressed to the head of an executive department.

Availability of Reports and Hearings

With certain exceptions (relating to emergency situations, such as a measure declaring war or other national emergency and Government agency decisions, determinations, and actions that are effective unless disapproved or otherwise invalidated by one or both Houses of Congress), a measure or matter reported by a committee (except the Committee on Rules in the case of a resolution making in order the consideration of a bill, resolution, or other order of business) may not be considered in the House until the third calendar day (excluding Saturdays, Sundays, and legal holidays) on which the report of that committee on that measure has been available to the Members of the House. In addition, the measure or matter may not be considered unless copies of the report and the reported measure or matter have been available to the Members for at least 3 calendar days (excluding Saturdays, Sundays, and legal holidays during which the House is not in session) before the beginning of consideration. However, it is always in order to consider a report from the Committee on Rules specifically providing for the consideration of a reported measure or matter notwithstanding this restriction. If hearings were held on a measure or matter so reported, the committee is required to make every reasonable effort to have those hearings printed and available for distribution to the Members of the House prior to the consideration of the measure in the House. General appropriation bills may not be considered until printed committee hearings and a committee report thereon have been available to the Members of the House for at least 3 calendar days (excluding Saturdays, Sundays, and legal holidays).

VIII. Legislative Review By Standing Committees

Each standing committee (other than the Committees on Appropriations and on the Budget) is required to review and study, on a continuing basis, the application, administration, execution, and effectiveness of the laws dealing with the subject matter over which the committee has jurisdiction and the organization and operation of Federal agencies and entities having responsibility for the administration and evaluation of those laws.

The purpose of the review and study is to determine whether laws and the programs created by Congress are being implemented and carried out in accordance with the intent of Congress and whether those programs should be continued, curtailed, or eliminated. In addition, each committee having oversight responsibility is required to review and study any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of that committee, and must undertake, on a continuing basis, futures research and forecasting on matters within the jurisdiction of that committee. Each standing committee also has the function of reviewing and studying, on a continuing basis, the impact or probable impact of tax policies on subjects within its jurisdiction.

In addition, several of the standing committees have special oversight responsibilities, the details of which are contained in the rules of the House.

IX. Calendars

The House of Representatives has 5 calendars of business: the Union Calendar, the House Calendar, the Private Calendar, the Consent Calendar, and the Calendar of Motions to Discharge Committees. The calendars, together with a listing of all bills introduced and a history of all bills reported out of committee in the current Congress, are printed each day the House is in session to provide information on the status of pending legislation.

As soon as a public bill is favorably reported, it is assigned a calendar number on either the Union Calendar or the House Calendar, the 2 principal calendars of business. The calendar number is printed on the first page of the bill and, in certain instances, is printed also on the back page. In the case of a bill that was referred to 2 or more committees for consideration in sequence, the calendar number is printed only on the bill as reported by the last committee to consider it.

Union Calendar

The rules of the House provide that there shall be:

First. A Calendar of the Committee of the Whole House on the state of the Union, to which shall be referred bills raising revenue, general appropriation bills, and bills of a public character directly or indirectly appropriating money or property.

This is commonly known as the Union Calendar and the large majority of public bills and resolutions are placed on it on being reported to the House. For a discussion of the Committee of the Whole House, see Part XI.

House Calendar

The rules further provide that there shall be: Second. a House Calendar, to which shall be referred all bills of a public character not raising revenue nor directly or indirectly appropriating money or property.

The public bills and resolutions that are not placed on the Union Calendar are referred to the House Calendar.

Private Calendar

The rules also provide that there shall be:

Third. A Calendar of the Committee of the Whole House, to which shall be referred all bills of a private character.

This is commonly known as the Private Calendar and all private bills are placed on it on being reported to the House.

The Private Calendar is called on the first and third Tuesdays of each month. If objection is made by 2 or more Members to the consideration of any measure called, it is recommitted to the committee that reported it. As in the case of the Consent Calendar (see below) there are 6 official objectors, 3 on the majority side and 3 on the minority side, who make a careful study of each bill or resolution on the Private Calendar and who will object to a measure that does not conform to the requirements for that calendar, thereby preventing the passage without debate of nonmeritorious bills and resolutions.

Consent Calendar

If a measure pending on either the House or Union Calendar is of a noncontroversial nature, it may be placed on the Consent Calendar. After a bill has been favorably reported and is on either the House or Union Calendar, any Member may file with the Clerk a notice that the Member desires the bill placed on the Consent Calendar. On the first and third Mondays of each month immediately after the reading of the Journal, the Speaker directs the Clerk to call the bills in numerical order (that is, in the order of their appearance on that calendar) that have been on the Consent Calendar for 3 legislative days. If objection is made to the consideration of any bill so called, it is carried over on the calendar without prejudice to the next day when the Consent Calendar is again called, and if then objected to by 3 or more Members it is immediately stricken from the calendar and may not be placed on the Consent Calendar again during that session of Congress. If objection is not made and if the bill is not "passed over" by request, it is passed by unanimous consent without debate. Ordinarily, the only amendments considered are those sponsored by the committee that reported the bill.

To avoid the passage without debate of measures that may be controversial or are sufficiently important or complex to require full discussion, there are 6 official objectors—3 on the majority side and 3 on the minority side—who make a careful study of bills on the Consent Calendar. If a bill involves the expenditure of more than a fixed maximum amount of money or if it changes national policy or has other aspects that any of the objectors believes demand explanation and extended debate, it will be objected to and will not be passed by unanimous consent. That action does not necessarily mean the final defeat of the bill because it may then be brought up for consideration in the same way as any other bill on the House or Union Calendars.

Calendar of Motions to Discharge Committees

When a majority of the Members of the House sign a motion to discharge a committee from consideration of a public bill or resolution, that motion is referred to the Calendar of Motions to Discharge Committees. For a further discussion of Motions to Discharge, see "Motion to Discharge Committee" in Part X.

X. Obtaining Consideration of Measures

Obviously certain measures pending on the House and Union Calendars are more important and urgent than others and it is necessary to have a system permitting their consideration ahead of those that do not require immediate action.

Because all measures are placed on those calendars in the order in which they are reported to the House, the latest bill reported would be the last to be taken up if the calendar number alone were the determining factor.

Special Resolutions

To avoid delays and to provide some degree of selectivity in the consideration of measures, it is possible to have them taken up out of order by obtaining from the Committee on Rules a special resolution or "rule" for their consideration.

That Committee, which is composed of majority and minority Members but with a larger proportion of majority Members than other committees, is specifically granted jurisdiction over resolutions relating to the order of business of the House. Usually the Chairman of the committee that has favorably reported the bill appears before the Committee on Rules accompanied by the sponsor of the measure and one or more Members of the Chairman's committee in support of the request for a resolution providing for its immediate consideration. If the Committee on Rules is satisfied that the measure should be taken up it will report a resolution reading substantially as follows with respect to a bill on the Union Calendar:

Resolved, that upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. \_\_\_) entitled, etc., and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed \_\_ hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on \_\_\_, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

If the measure is on the House Calendar the resolution reads substantially as follows:

Resolved, that upon the adoption of this resolution it shall be in order to consider the bill (H.R. \_\_\_) entitled, etc., in the House.

The resolution may waive points of order against the bill. When it limits or prevents floor amendments, it is popularly known as a "closed rule".

Consideration of Measures Made in Order By Previous Resolution

When a "rule" has been reported to the House, and is not considered immediately, it is referred to the calendar and, if not called up for consideration by the Member making the report within 7 legislative days thereafter, any Member of the Committee on Rules may call it up as a question of privilege (after having given one calendar day notice of the Member's intention to do so) and the Speaker will recognize any Member of the Committee seeking recognition for that purpose. For a discussion of privileged questions, see the matter under the heading "Privileged Matters" at the end of this part.

If, within 7 calendar days after a measure has, by resolution, been made in order for consideration by the House, a motion has not been offered for its consideration, the Speaker may recognize a Member of the committee that reported the measure to offer a motion that the House consider it, if the Member has been duly authorized by that committee to offer the motion.

There are several other methods of obtaining consideration of bills that either have not been reported by a committee or, if reported, for which a special resolution or "rule" has not been obtained. Two of those methods, a motion to discharge a committee and a motion to suspend the rules, are discussed below.

Motion to Discharge Committee

A Member may present to the Clerk a motion in writing to discharge a committee from the consideration of a public bill or resolution that has been referred to it 30 days prior thereto. A Member also may file a motion to discharge the Committee on Rules from further consideration of a resolution providing either a special order of business, or a special rule for the consideration of a public bill or resolution favorably reported by a standing committee, or a special rule for the consideration of a public bill or resolution that has remained in a standing committee 30 days or more without action. This motion may be made only when the resolution, from which it is moved to discharge the Committee on Rules, has been referred to that committee at least 7 days prior to the filing of the motion to discharge. The motion is placed in the custody of the Clerk, who arranges some convenient place for the signature of Members. When a majority of the total membership of the House have signed the motion, it is entered on the Journal, printed with the signatures thereto in the Congressional Record, and referred to the Calendar of Motions to Discharge Committees.

On the second and fourth Mondays of each month, except during the last 6 days of a session, a Member who has signed a motion to discharge, that has been on the calendar at least 7 days, may seek recognition and be recognized for the purpose of calling up the motion. The bill or resolution is then read by title only. After 20 minutes' debate, one-half in favor of the proposition and one-half in opposition, the House proceeds to vote on the motion to discharge.

If the motion to discharge the Committee on Rules from a resolution pending before the Committee prevails, the House immediately votes on the adoption of that resolution.

If the motion to discharge one of the standing committees of the House from a public bill or resolution pending before the committee prevails, a Member who signed the motion may move that the House proceed to the immediate consideration of the bill or resolution. If the motion is agreed to, the bill or resolution is considered immediately under the general rules of the House. If the House votes against the motion for immediate consideration, the bill or resolution is referred to its proper calendar with the same rights and privileges it would have had if reported favorably by the standing committee.

Motion to Suspend the Rules

On Monday and Tuesday of each week and during the last 6 days of a session, the Speaker may entertain a motion to suspend the rules of the House and pass a bill or resolution. Arrangement must be made in advance with the Speaker to recognize the Member who wishes to offer the motion. Before being considered by the House, the motion must be seconded by a majority of the Members present, by teller vote, if demanded. However, a second is not required on a motion to suspend the rules when printed copies of the proposed bill or resolution have been available for one legislative day before the motion is considered. The motion to suspend the rules and pass the bill is then debated for 40 minutes, one-half by those in favor of the proposition and one-half by those opposed. The motion may not be amended and if amendments to the bill are proposed they must be included in the motion when it is made. The rules may be suspended and the bill passed only by affirmative vote of two-thirds of the Members voting, a quorum being present.

The Speaker may postpone all recorded and yea-nay votes on motions to suspend the rules and pass bills and resolutions until the end of that legislative day or the next 2 legislative days. At that time the House disposes of the deferred votes consecutively without further debate. After the first deferred vote is taken, the Speaker may reduce to not less than 5 minutes the time period for subsequent deferred votes. If the House adjourns before completing action on one or more deferred votes, these must be the first order of business on the next legislative day. By eliminating intermittent recorded votes on suspensions, this procedure reduces interruptions of committee meetings and also reduces the time Members spend on suspension days going back and forth between the floor and their committee rooms or offices.

Calendar Wednesday

On Wednesday of each week, unless dispensed with by unanimous consent or by affirmative vote of two-thirds of the Members voting, a quorum being present, the standing committees are called in alphabetical order. A committee when named may call up for consideration any bill reported by it on a previous day and pending on either the House or Union Calendar. Not more than 2 hours of general debate is permitted on any measure called up on Calendar Wednesday and all debate must be confined to the subject matter of the measure, the time being equally divided between those for and those against it. The affirmative vote of a simple majority of the Members present is sufficient to pass the measure.

District of Columbia Business

The second and fourth Mondays in each month, after the disposition of motions to discharge committees and after the disposal of business on the Speaker's table requiring only referral to committee, are set aside, when claimed by the Committee on the District of Columbia, for the consideration of any business that is presented by that Committee.

Privileged Matters

Under the rules of the House certain matters are regarded as privileged matters and may interrupt the order of business, for example, reports from the Committee on Rules and reports from the Committee on Appropriations on the general appropriation bills.

At any time after the reading of the Journal, a Member, by direction of the appropriate committee, may move that the House resolve itself into the Committee of the Whole House on the State of the Union for the purpose of considering bills raising revenues, or general appropriation bills. General appropriation bills may not be considered in the House until 3 calendar days (excluding Saturdays, Sundays, and legal holidays) after printed committee reports and hearings on them have been available to the Members. The limit on general debate is generally fixed by unanimous consent.

Other examples of privileged matters are conference reports, certain amendments to measures by the Senate, veto messages from the President of the United States, and resolutions privileged pursuant to statute. The Member in charge of such a matter may call it up at practically any time for immediate consideration. Usually, this is done after consultation with both the majority and minority floor leaders so that the Members of both parties will have advance notice and will not be taken by surprise.

XI. Consideration

Our democratic tradition demands that bills be given consideration by the entire membership with adequate opportunity for debate and the proposing of amendments.

Committee of the Whole House

In order to expedite the consideration of bills and resolutions, the rules of the House provide for a parliamentary usage that enables the House to act with a quorum of less than the requisite majority of 218. The House resolves itself into the Committee of the Whole House on the State of the Union (a quorum of which consists of 100 Members) to consider a measure. All measures on the Union Calendar—involving a tax, making appropriations, or authorizing payments out of appropriations already made—must be first considered in the Committee of the Whole.

The Committee on Rules reports a special resolution or "rule" allowing for immediate consideration of a measure by the Committee of the Whole. After adoption of the resolution by the House, the House votes on a motion to resolve itself into the Committee of the Whole or, in certain situations, the Speaker declares the House resolved into the Committee of the Whole without intervening motion. When the House resolves into the Committee of the Whole, the Speaker leaves the chair after appointing a Chairman to preside.

The special resolution or "rule" referred to in the preceding paragraph also fixes the length of the debate in the Committee of the Whole. This may vary according to the importance and controversial nature of the measure. As provided in the resolution, the control of the time is divided equally—usually between the Chairman and the ranking minority Member of the committee that reported the measure. Members seeking to speak for or against the measure usually arrange in advance with the Member in control of the time on their respective side to be allowed a certain amount of time in the debate. Others may ask the Member speaking at the time to yield to them for a question or a brief statement. A transcript of the proceedings and debate in the House and the Senate is printed daily in the Congressional Record.

Frequently permission is granted a Member by unanimous consent to extend the Member's remarks in the Congressional Record if sufficient time to make a lengthy oral statement is not available during actual debate.

The conduct of the debate is governed principally by the rules of the House that are adopted at the opening of each Congress. Another recognized authority is Jefferson's Manual that was prepared by Thomas Jefferson for his own guidance as President of the Senate from 1797 to 1801. The House, in 1837, adopted a rule that still stands, providing that the provisions of Jefferson's Manual should govern the House in all cases to which they are applicable and in which they are not inconsistent with the rules and orders of the House. In addition, there is a most valuable compilation of precedents up to the year 1935 set out in Hinds' Precedents and Cannon's Precedents of the House of Representatives, consisting of 11 volumes, to guide the action of the House. A later compilation, Deschler's Precedents of the House of Representatives, covers years 1936 to date. Summaries of the House precedents prior to 1959 can be found in a single volume entitled Cannon's Procedure in the House of Representatives. A later volume, Procedure in the U.S. House of Representatives, fourth edition, as supplemented, is a compilation of the parliamentary precedents of the House, in summary form, together with other useful related material, from 1959 to date. Also, various rulings of the Speaker since 1931 are set out as notes to the current House Rules and Manual.

Most parliamentary questions arising during the course of debate are susceptible of ruling backed up by a precedent of action in a similar situation. The Parliamentarian of the House is present in the House Chamber in order to assist the Chairman or the Speaker in making a correct ruling on parliamentary questions.

Second Reading

During the general debate an accurate account is kept of the time used on both sides and when all the time allowed under the rule has been consumed the Chairman terminates the debate. Then begins the "second reading of the bill", section by section, at which time amendments may be offered to a section when it is read. A Member is permitted 5 minutes to explain the proposed amendment, after which the Member who is first recognized by the Chair is allowed to speak for 5 minutes in opposition to it; there is no further debate on that amendment, thereby effectively preventing any attempt at filibuster tactics. This is known as the "five-minute rule." There is, how ever, a device whereby a Member may offer a pro forma amendment—"to strike out the last word"—without intending any change in the language, and be allowed 5 minutes for debate, thus permitting a somewhat more comprehensive debate. Each amendment is put to the Committee of the Whole for adoption. Generally, a pro forma amendment is withdrawn.

However, in the absence of being withdrawn, it must be voted on.

At any time after a debate is begun under the five-minute rule, on proposed amendments to a section or paragraph of a bill, the Committee of the Whole may by majority vote of the Members present, close debate on the section or paragraph. However, if debate is closed on a section or paragraph before there has been debate on any amendment that a Member has caused to be printed in the Congressional Record after the reporting of the bill by the committee but at least one day prior to floor consideration of the amendment, the Member who caused the amendment to be printed in the Record is given 5 minutes in which to explain the amendment, after which the first person to obtain the floor has 5 minutes to speak in opposition to it, and there is no further debate on that proposed amendment.

However, time for debate is not allowed when the offering of the amendment is dilatory. Material placed in the Congressional Record must indicate the full text of the proposed amendment, the name of the proponent Member, the number of the bill to which it will be offered and the point in the bill or amendment thereto where the amendment is intended to be offered, and must appear in a portion of the Record designated for that purpose.

When an amendment is offered, while the House is meeting in the Committee of the Whole, the Clerk is required to transmit 5 copies of the amendment to the majority committee table, 5 copies to the minority committee table, and at least one copy each to the majority and minority cloak rooms.

The Committee "Rises"

At the conclusion of the consideration of a bill for amendment, the Committee of the Whole "rises" and reports the bill to the House with the amendments that have been adopted. In rising the Committee of the Whole reverts back to the House and the Chairman of the Committee is replaced in the chair by the Speaker of the House. The House then acts on the bill and any amendments adopted by the Committee of the Whole.

House Action

Debate is cut off by moving "the previous question." If this motion is carried by a majority of the Members voting, a quorum being present, all debate is cut off on the bill on which the previous question has been ordered. The Speaker then puts the question: "Shall the bill be engrossed and read a third time?" If this question is decided in the affirmative, the bill is read a third time by title only and voted on for passage.

If the previous question has been ordered by the terms of the special resolution or "rule" on a bill reported by the Committee of the Whole, the House immediately votes on whatever amendments have been reported by the Committee in the sequence in which they were reported. After completion of voting on the amendments, the House immediately votes on the passage of the bill with the amendments it has adopted.

In those cases where the previous question has not been ordered, the House may engage in debate lasting one hour, at the conclusion of which the previous question is ordered and the House votes on the passage of the bill. During the debate it is in order to offer amendments to the bill or to the Committee amendments.

The Speaker may postpone a vote on final passage of a bill or resolution or agreement to a conference report. A vote may be postponed for up to 2 legislative days.

Measures that do not have to be considered in the Committee of the Whole are considered in the House in the first instance under the hour rule or in accordance with the terms of the special resolution limiting debate on the measure.

After passage of the bill by the House, a pro forma motion to reconsider it is automatically made and laid on the table—that is, action is postponed indefinitely—to forestall this motion at a later date, because the vote of the House on a proposition is not final and conclusive on the House until there has been an opportunity to reconsider it.

Motions to Recommit

After the previous question has been ordered on the passage of a bill or joint resolution, it is in order to make one motion to recommit the bill or joint resolution to a committee and the Speaker is required to give preference in recognition for that purpose to a Member who is opposed to the bill or joint resolution. This motion is normally not subject to debate. However, with respect to a motion to recommit with instructions after the previous question has been ordered, it is in order to debate the motion for 10 minutes before the vote is taken, except that the majority floor manager may demand that the debate be extended to one hour. Whatever time is allotted for debate is divided equally between the proponents and opponents of the motion.

Quorum Calls and Rollcalls

In order to speed up and expedite quorum calls and rollcalls, the rules of the House provide alternative methods for pursuing these procedures.

In the absence of a quorum, 15 Members, including the Speaker, if there is one, are authorized to compel the attendance of absent Members. Such a call of the House is ordered by a majority vote, and a minority of 15 or more favoring a call is not sufficient. A call of the House is then ordered, and the Speaker is required to have the call taken by electronic device. However, the Speaker instead may name one or more clerks "to tell" the Members who are present. In that case the names of those present are recorded by the clerks, and entered in the Journal of the House and absent Members have not less than 15 minutes from the ordering of the call of the House to have their presence recorded. If sufficient excuse is not offered for their absence, by order of a majority of those present, they may be sent for by officers appointed by the Sergeant-at-Arms for that purpose, and their attendance secured and retained.

The House then determines the conditions on which they may be discharged. Members who voluntarily appear are, unless the House otherwise directs, immediately admitted to the Hall of the House and they must report their names to the Clerk to be entered on the Journal as present. However, the former practice of presenting Members at the Bar of the House, during a call, is now obsolete, and Members now report to the Clerk and are recorded without being formally excused unless brought in under compulsion.

Whenever a quorum fails to vote on any question, and a quorum is not present and objection is made for that reason, there is a call of the House unless the House adjourns. The call is taken by electronic device unless the Speaker orders the call in the manner described in the preceding paragraph, and the Sergeant-at-Arms proceeds to bring in absent Members. The yeas and nays on the pending question are at the same time considered as ordered and an automatic rollcall vote is taken. The Clerk calls the roll and each Member who is present may vote on the pending question as the Member answers the roll. After the rollcall is completed, each Member, whose attendance was secured, is brought before the House by the Sergeant-at-Arms, where the Member's presence is noted. The Member then is given an opportunity to vote. If those voting on the question and those who are present and decline to vote together make a majority of the House, the Speaker declares that a quorum is constituted, and the pending question is decided according to the will of the majority of those voting. Further proceedings under the call are considered as dispensed with. At any time after the rollcall has been completed, the Speaker may entertain a motion to adjourn, if seconded by a majority of those present as ascertained by actual count by the Speaker; and if the House adjourns, all quorum call proceedings are vacated.

The rules prohibit points of no quorum (1) before or during the daily prayer, (2) during administration of the oath of office to the Speaker or any Member, (3) during the reception of messages from the President or the Senate, (4) in connection with motions incidental to a call of the House, and (5) against a vote in which the Committee of the Whole agrees to rise (but an appropriate point of no quorum would be permitted against a vote defeating a motion to rise). If the presence of a quorum has been established at least once on any day, further points of no quorum are prohibited (1) during the reading of the Journal, (2) between the time a Committee of the Whole rises and its Chairman reports, and (3) during the period on any legislative day when Members are addressing the House under special orders. The language prohibiting quorum calls "during any period" when Members are speaking under special orders includes the time between addresses delivered during this period as well as the addresses themselves. Furthermore, a quorum call is not in order when no business has intervened since the previous call. For the purposes of this provision, all the situations described above are not to be considered as "business."

The rules prohibit points of no quorum when a motion or proposition is pending in the House unless the Speaker has put the motion or proposition to a vote. However, the Speaker has the discretion to recognize a Member of the Speaker's choice to move a call of the House.

The first time the Committee of the Whole finds itself without a quorum during any day the Chairman is required to order the roll to be called by electronic device, unless the Chairman orders a call by naming clerks "to tell" the Members as described above. However, the Chairman may refuse to entertain a point of order that a quorum is not present during general debate. If on a call a quorum appears, the Committee continues its business. If a quorum does not appear, the Committee rises and the Chairman reports the names of the absentees to the House. The rules provide for the expeditious conduct of quorum calls in the Committee of the Whole. The Chairman may suspend a quorum call after determining that a bare or minimum quorum has been reached, that is, 100 or more Members.

Under such a short quorum call the Committee will not rise, and therefore Members' names will not be published.

Once the presence of a quorum of the Committee of the Whole has been established for the day, quorum calls in the Committee are only in order when the Committee is operating under the five-minute rule and the Chairman has put the pending motion or proposition to a vote.

Voting

There are 4 methods of voting in the Committee of the Whole, that are also employed, together with an additional method, in the House. These are the voice vote (viva voce), the division, the teller vote, the recorded vote, and the yea-and-nay vote that is used only in the House. If a Member objects to the vote on the ground that a quorum is not present in the House, there may be an automatic rollcall vote.

To obtain a voice vote the Chair states "As many as are in favor (as the question may be) say 'Aye'." "As many as are opposed, say 'No'." The Chair determines the result on the basis of the volume of ayes and noes. This is the form in which the vote is ordinarily taken in the first instance.

If it is difficult to determine the result of a voice vote, a division may be demanded. The Chair then states that a division has been demanded and says "As many as are in favor will rise and stand until counted." After counting those in favor he calls on those opposed to stand and be counted, thereby determining the number in favor of and those opposed to the question.

If a demand for a teller vote is supported by one-fifth of a quorum (20 in the Committee of the Whole, and 44 in the House), the Chair appoints one or more tellers from each side and directs the Members in favor of the proposition to pass between the tellers and be counted. After counting, a teller announces the number in the affirmative, and the Chair then directs the Members opposed to pass between the tellers and be counted. When the count is stated by a teller, the Chair announces the result.

If any Member requests a recorded vote and that request is supported by at least one-fifth of a quorum of the House, or 25 Members in the Committee of the Whole, the vote is taken by electronic device, unless the Speaker orders clerks "to tell," that is, record the names of those voting on each side of the question. After the recorded vote is concluded, the names of those voting together with those not voting are entered in the Journal. Members usually have 15 minutes to be counted from the time the recorded vote is ordered or the ordering of the clerks "to tell" the vote.

The Speaker may reduce the period for voting to 5 minutes in certain situations.

In addition to the foregoing methods of voting, in the House, if the yeas and nays are demanded, the Speaker directs those in favor of taking the vote by that method to stand and be counted. The assent of one-fifth of the Members present (as distinguished from one-fifth of a quorum in the case of a demand for tellers) is necessary for ordering the yeas and nays. When the yeas and nays are ordered (or a point of order is made that a quorum is not present) the Speaker directs that as many as are in favor of the proposition will, as their names are called, answer "Aye"; as many as are opposed will answer "No." The Clerk calls the roll and reports the result to the Speaker who announces it to the House. The Speaker is not required to vote unless the Speaker's vote would be decisive.

The rules prohibit a Member from (1) casting another Member's vote or recording another Member's presence in the House or the Committee of the Whole or (2) authorizing another individual to cast a vote or record the Member's presence in the House or the Committee of the Whole.

Electronic Voting

Recorded and rollcall votes are usually taken by electronic device, except when the Speaker orders the vote to be recorded by other methods prescribed by the rules of the House, and in emergency situations, such as, the failure of the electronic device to function. In addition, quorum calls are generally taken by electronic device. Essentially the system works as follows: A number of vote stations are attached to selected chairs in the Chamber. Each station is equipped with a vote card slot and 4 indicators, marked "yea," "nay," "present," and "open." The "open" indicator is used only when a vote period is in progress and the system is ready to accept votes. Each Member is provided with a personalized Vote 09ID Card. A Member votes by inserting the voting card into any one of the vote stations and depressing the appropriate push button to indicate the Member's choice. The machine records the votes and reports the result when the vote is completed. In the event the Member is without a Vote 09ID Card, the Member may still vote by handing a paper ballot to the Tally Clerk, who may then record the vote electronically according to the indicated preference of the Member. The paper ballots are green for "yea," red for "nay," and amber for "present."

Pairing of Members

When a Member anticipates being unavoidably absent at the time a vote is to be taken, the Member may arrange in advance to be recorded as being either in favor of, or opposed to, the question by being "paired" with a Member who will also be absent and who holds contrary views on the question. A specific pair of this kind shows how the Member would have voted if present. Occasionally, a Member who has arranged in advance to be paired, actually is present at the time of voting. The Member then votes as if not paired, and subsequently withdraws that vote and asks to be marked "present" to protect the other Member. This is known as a "live pair". If the absence is to continue for several days during which a number of different questions are to be voted upon, the Member may arrange a "general pair." A general pair does not indicate how the Member would have voted on the question, but merely that the paired Members would not have been on the same side of the question.

Pairs are not counted in determining the vote on the question, but, rather, provide an opportunity for absent Members to express formally how they would have voted had they been present. Pairs are announced by the Clerk of the House and are listed in the Congressional Record immediately after the names of those Members not voting on the question.

System of Lights and Bells

Because of the large number and the diversity of daily tasks that they have to perform it is not practicable for Members to be present in the House (or Senate) Chamber at every minute that the body is actually sitting.

Furthermore, many of the routine matters do not require the personal attendance of all the Members. A legislative call system (consisting of electric lights and bells or buzzers located in various parts of the Capitol Building and of the House and Senate Office Buildings) alerts Members to certain occurrences in the House and Senate Chambers.

In the House, the Speaker has ordered that the bells and lights comprising the system be utilized as follows:

1 ring and 1 light on the left—Teller vote.

1 long ring followed by a pause and then 3 rings and 3 lights on the left—Start or continuation of a notice or short quorum call in the Committee of the Whole that will be vacated if and when 100 Members appear on the floor. Bells are repeated every 5 minutes unless the call is vacated or the call is converted into a regular quorum call.

1 long ring and extinguishing of 3 lights on the left—Short or notice quorum call vacated.

2 rings and 2 lights on the left—Recorded vote, yea-and-nay vote or automatic rollcall vote by electronic device or by tellers with ballot cards. The bells are repeated 5 minutes after the first ring.

2 rings and 2 lights on the left followed by a pause and then 2 more rings—Automatic rollcall vote or yea-and-nay vote taken by a call of the roll in the House. The bells are repeated when the clerk reaches the R's in the first call of the roll.

2 rings followed by a pause and then 5 rings—First vote under Suspension of the Rules or on clustered votes. 2 bells are repeated 5 minutes after the first ring. The first vote will take 15 minutes with successive votes at intervals of not less than 5 minutes. Each successive vote is signaled by 5 rings.

3 rings and 3 lights on the left—Regular quorum call in either the House or in the Committee of the Whole by electronic device or by clerks. The bells are repeated 5 minutes after the first ring.

3 rings followed by a pause and then 3 more rings—Regular quorum call by a call of the roll. The bells are repeated when the Clerk reaches the R's in the first call of the roll.

3 rings followed by a pause and then 5 more rings—Quorum call in the Committee of the Whole that may be followed immediately by a five-minute recorded vote.

4 rings and 4 lights on the left—Adjournment of the House.

5 rings and 5 lights on the left—Any five-minute vote.

6 rings and 6 lights on the left—Recess of the House.

12 rings at 2-second intervals with 6 lights on the left— Civil Defense Warning.

The 7th light indicates that the House is in session.

Broadcasting Live Coverage of Floor Proceedings

The rules of the House provide for unedited radio and television broadcasting and recording of proceedings on the floor of the House. However, the rules prohibit the use of these broadcasts and recordings for any political purpose or in any commercial advertisement. Likewise, the rules of the Senate provide for broadcasting and recording of proceedings in the Senate Chamber with similar restrictions.

XII. Congressional Budget Process

The Congressional Budget and Impoundment Control Act of 1974 provides Congress with a procedure for establishing appropriate budget and revenue levels for each year. Essentially, the Congressional budget process involves "concurrent resolutions on the budget" that are passed each year. These resolutions are designed to coordinate the revenue and spending decisions that the various legislative committees of Congress make in acting on measures within their respective jusrisdictions in order to provide fiscal discipline for Congress.

Congress must complete action on a concurrent resolution on the budget for the next fiscal year by April 15. This resolution sets levels of new budget authority and spending, revenue, and debt levels. However, Congress may adopt a later budget resolution that revises or reaffirms the most recently adopted budget resolution.

One of the mechanisms Congress uses to enforce projected budget authority and spending, revenue, and debt levels is called the reconciliation process. Under reconciliation, Congress in a budget resolution directs one or more of the legislative committees to determine and recommend changes in laws or bills that will achieve the levels set by the budget resolution. The directions to the committees specify the total amounts that must be changed but leaves to the discretion of the committees the changes that must be made to achieve the required levels.

If only one committee has been directed to recommend changes, that committee reports its reconciliation legislation directly to the floor for consideration by the whole House. How ever, if more than one committee has been directed to make changes, the committees report the recommended changes to the Committee on the Budget. The Committee then reports an omnibus reconciliation bill to the floor for consideration by the whole House. The Committee may not change the reconciliation legislation substantively.

When changes are to be made in legislation that already has been enacted or enrolled (for an explanation of enrollment, see Part XVII), the vehicle used is a reconciliation bill that is enacted in the same manner as any other bill.

However, if changes are to be made in bills or resolutions that have not been enrolled yet, Congress enacts the changes in a concurrent resolution not requiring approval of the President. The concurrent resolution directs the Clerk of the House or the Secretary of the Senate to make the necessary changes in the bill or resolution as directed by the reconciliation resolution. Congress must complete action on a reconciliation bill or resolution by June 15 of each year.

Generally, after Congress has completed action on a concurrent resolution on the budget for a fiscal year, it is not in order to consider legislation that does not conform to the budget authority and spending, revenue, and debt levels set for that fiscal year.

In 1985, Congress enacted legislation establishing a procedure to gradually reduce the Federal deficit to zero. The current target date for a zero deficit is 1993. Under the new procedure, if the estimated deficit for a fiscal year exceeds the statutory level for that year, across-the-board cuts in the Federal budget (with certain exceptions) would go into effect automatically pursuant to order of the President.

XIII. Engrossment and Message to Senate

The preparation of a copy of the bill in the form in which it has passed the House is sometimes a detailed and complicated process because of the large number and complexity of amendments to some bills adopted by the House. Frequently these amendments are offered during a spirited debate with little or no prior formal preparation.

The amendment may be for the purpose of inserting new language, substituting different words for those set out in the bill, or deleting portions of the bill. It is not unusual to have more than 100 amendments, including those proposed by the committee at the time the bill is reported and those offered from the floor during the consideration of the bill in the Chamber. Some of the amendments offered from the floor are written in longhand and others are typewritten. Each amendment must be inserted in precisely the proper place in the bill, with the spelling and punctuation exactly the same as it was adopted by the House. Obviously, it is extremely important that the Senate receive a copy of the bill in the precise form in which it has passed the House. The preparation of such a copy is the function of the enrolling clerk.

There is an enrolling clerk in each House. In the House, the enrolling clerk is under the Clerk of the House. In the Senate, the enrolling clerk is under the Secretary of the Senate. The enrolling clerk receives all the papers relating to the bill, including the official Clerk's copy of the bill as reported by the standing committee and each amendment adopted by the House. From this material the enrolling clerk prepares the engrossed copy of the bill as passed, containing all the amendments agreed to by the House. At this point, the measure ceases technically to be called a bill and is termed "an act" signifying that it is the act of one body of the Congress, although it is still popularly referred to as a bill. The engrossed bill is printed on blue paper and a certificate that it passed the House of Representatives is signed by the Clerk of the House. The engrossed bill is delivered by a reading clerk to the Senate, while that body is actually sitting, in a rather formal ceremonious manner befitting the dignity of both Houses. The reading clerk is escorted into the Chamber by the Secretary or another officer of the Senate and on being recognized by the Presiding Officer of the Senate states that the House has passed the bill, giving its number and title, and requests the concurrence of the Senate.

XIV. Senate Action

The Presiding Officer of the Senate refers the engrossed bill to the appropriate standing committee of the Senate in conformity with the rules of the Senate. The bill is reprinted immediately and copies are made available in the document rooms of both Houses. This printing is known as the "Act print" or the "Senate referred print".

Committee Consideration

Senate committees give the bill the same kind of detailed consideration as it received in the House, and may report it with or without amendment or "table" it. A committee Member who wishes to express an individual view, or a group of Members who wish to file a minority report, may do so, by giving notice, at the time of the approval of the measure, of an intention to file supplemental, minority or additional views, in which event those views may be filed within 3 days with the clerk of the committee and they become a part of the report.

When a committee reports a bill, it is reprinted with the committee amendments indicated by showing new matter in italics and deleted matter in line-through type. The calendar number and report number are indicated on the first and back pages, together with the name of the Senator making the report. The committee report and any minority or individual views accompanying the bill also are printed at the same time. Any Senator may enter a motion to discharge a committee from further consideration of a bill that it has failed to report after what is deemed to be a reasonable time. If the motion is agreed to by a majority vote, the committee is discharged and the bill is placed on the Calendar of Business under the rules of the Senate.

All committee meetings, including those to conduct hearings, must be open to the public. However, a majority of the Members of a committee or subcommittee may, after discussion in closed session, vote in open session to close a meeting or series of meetings on the same subject for no longer than 14 days if it is determined that the matters to be discussed or testimony to be taken will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States; will relate solely to internal committee staff management or procedure; will tend to charge an individual with a crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt, or will represent a clearly unwarranted invasion of the privacy of an individual; will disclose law enforcement information that is required to be kept secret; will disclose certain information regarding certain trade secrets; or may disclose matters required to be kept confidential under other provisions of law or Government regulation.

Chamber Procedure

The rules of procedure in the Senate differ to a large extent from those in the House. The Senate relies heavily on the practice of obtaining unanimous consent for actions to be taken. For example, at the time that a bill is reported, the Senator who is making the report may ask unanimous consent for the immediate consideration of the bill. If the bill is of a noncontroversial nature and there is no objection, the Senate may pass the bill with little or no debate and with only a brief explanation of its purpose and effect. Even in this instance the bill is subject to amendment by any Senator.

A simple majority vote is necessary to carry an amendment as well as to pass the bill. If there is any objection, the report must lie over one day and the bill is placed on the calendar.

Measures reported by standing committees of the Senate may not be considered unless the report of that committee has been available to Senate Members for at least 2 days (excluding Sundays and legal holidays) prior to consideration of the measure in the Senate. This requirement, however, may be waived by agreement of the majority and minority leaders and does not apply in certain emergency situations.

In the Senate, measures are brought up for consideration by a simple unanimous consent request, by a complex unanimous consent agreement, by a motion to proceed to the consideration of a measure, or by a motion to consider a measure on the calendar. A unanimous consent agreement, sometimes referred to as a "time agreement," makes the consideration of a measure in order and often limits the amount of debate that will take place on the measure and lists the amendments that will be considered. The offering of a unanimous consent request to consider a measure or the offering of a motion to proceed to the consideration of a measure is reserved, by tradition, to the majority leader.

Usually a motion to consider a measure on the calendar is made only when unanimous consent to consider the measure cannot be obtained. There is only one Calendar of Business in the Senate, there being no differentiation, as there is in the House, between (1) bills raising revenue, general appropriation bills, and bills of a public character appropriating money or property, and (2) other bills of a public character not appropriating money or property.

The rules of the Senate provide that at the conclusion of the morning business for each "legislative day" the Senate proceeds to the consideration of the calendar. In the Senate, the term "legislative day" means the period of time from when the Senate adjourns until the next time the Senate adjourns. Because the Senate often "recesses" rather than "adjourns" at the end of a daily session, the "legislative day" usually does not correspond to the 24-hour period comprising a calendar day. Thus, a "legislative day" may cover a long period of time—from days to weeks, or even months. Because of this and the modern practice of waiving the call of the calendar by unanimous consent at the start of a new "legislative day," it is rare to have a call of the calendar. When the calendar is called, bills that are not objected to are taken up in their order, and each Senator is entitled to speak once and for 5 minutes only on any question. Objection may be interposed at any stage of the proceedings, but on motion the Senate may continue consideration after the call of the calendar is completed, and the limitations on debate then do not apply.

On any day (other than a Monday that begins a new "legislative day"), following the announcement of the close of morning business, any Senator obtaining recognition may move to take up any bill out of its regular order on the calendar. Usually, this is the majority leader. The five-minute limitation on debate does not apply to the consideration of a bill taken up in this manner, and debate may continue until the hour when the Presiding Officer of the Senate "lays down" the unfinished business of the day. At that point consideration of the bill is discontinued and the measure reverts back to the Calendar of Business and may again be called up at another time under the same conditions.

When a bill has been objected to and passed over on the call of the calendar it is not necessarily lost. The majority leader, after consulting the majority policy committee of the Senate and the minority leadership, determines the time at which the bill will be called up for debate. At that time, a motion is made to consider the bill. The motion is debatable if made after the morning hour.

Once a Senator is recognized by the Presiding Officer, the Senator may speak for as long as the Senator wishes and loses the floor only when the Senator yields it or takes certain parliamentary actions that forfeit the Senator's right to the floor. How ever, a Senator may not speak more than twice on any one question in debate on the same legislative day without leave of the Senate. Debate ends when a Senator yields the floor and no other Senator seeks recognition, or when a unanimous consent agreement limiting the time of debate is operating.

On occasion, Senators opposed to a measure may extend debate by making lengthy speeches intended to prevent or defeat action on the measure. This is the tactic known as "filibustering." Debate, however, may be closed if 16 Senators sign a motion to that effect and the motion is carried by three-fifths of the Senators duly chosen and sworn.

Such a motion is voted on without debate on the second day after the day it is filed. This procedure is called "invoking cloture." In 1986, the Senate amended its rules to limit "post-cloture" debate to 30 hours. A Senator may speak for not more than one hour and may yield all or a part of that time to the majority or minority floor managers of the bill under consideration or to the majority or minority leader. The Senate may increase the time for "post-cloture" debate by a vote of three-fifths of the Senators duly chosen and sworn. After the time for debate has expired, the Senate may consider certain amendments before voting on the bill.

While a measure is being considered it is subject to amendment and each amendment, including those proposed by the committee that reported the bill, is considered separately. Generally, there is no requirement that proposed amendments be germane to the subject matter of the bill except in the case of general appropriation bills. Under the rules, a "rider" (an amendment proposing substantive legislation to an appropriation bill) is prohibited, but this prohibition may be suspended by two-thirds vote on a motion to permit consideration of such an amendment on one day's notice in writing. Debate on the measure must be germane during the first 3 hours after the morning hour unless determined to the contrary by unanimous consent or on motion without debate. After final action on the amendments the bill is ready for engrossment and the third reading, which is usually by title only, although if demanded, it must be read in full. The Presiding Officer then puts the question on the passage and a voice vote (viva voce) is usually taken although a yea-and-nay vote is in order if demanded by one-fifth of the Senators present. A simple majority is necessary for passage. Before an amended measure is cleared for its return to the House of Representatives (or an unamended measure is cleared for enrollment), a Senator who voted with the prevailing side, or who abstained from voting, may make a motion within the next 2 days to reconsider the action. If the measure was passed without a recorded vote, any Senator may make the motion to reconsider. That motion is usually tabled and its tabling constitutes a final determination. If, however, the motion is granted, the Senate, by majority vote, may either affirm its action, which then becomes final, or reverse it.

The original engrossed House bill, together with the engrossed Senate amendments, if any, is then returned to the House with a message stating the action taken by the Senate. Where amendments have been made by the Senate the message requests that the House concur in them.

For a more detailed discussion of Senate procedure, see Senate Document No. 97-20 of the 97th Congress, second session, Enactment of a Law, by Robert B. Dove, then Parliamentarian of the Senate.

XV. Final Action on Amended Bill

On their return to the House the official papers relating to the amended measure are placed on the Speaker's table to await House action on the Senate amendments. If the amendments are of a minor or noncontroversial nature the Chairman of the committee that originally reported the bill—or any Member—may, at the direction of the committee, ask unanimous consent to take the bill with the amendments from the Speaker's table and agree to the Senate amendments. At this point the Clerk reads the title of the bill and the Senate amendments. If there is no objection, the amendments are then declared to be agreed to, and the bill is ready to be enrolled for presentation to the President.

Lacking unanimous consent, bills that do not require consideration in the Committee of the Whole are privileged and may be called up from the Speaker's table by motion for immediate consideration of the amendments. A simple majority is necessary to carry the motion and thereby complete floor action on the measure. A Senate amendment to a House bill is subject to a point of order that it must first be considered in the Committee of the Whole, if, originating in the House, it would be subject to that point.

Request for a Conference

If, however, the amendments are substantial or controversial the Member may request unanimous consent to take the bill with the Senate amendments from the Speaker's table, disagree to the amendments and request a conference with the Senate to resolve the disagreeing votes of the 2 Houses. If there is objection it becomes necessary to obtain a special resolution from the Committee on Rules. However, the Speaker may recognize a Member for a motion, authorized by the committee having jurisdiction over the subject matter of the bill, to disagree to the amendments and ask for a conference. If there is no objection to the request, or if the motion is carried, the Speaker then appoints the managers (as the conferees are called) on the part of the House and a message is sent to the Senate advising it of the House action. A majority of the Members appointed to be managers must have been supporters of the House position, as determined by the Speaker. The Speaker must name Members primarily responsible for the legislation and must include, to the fullest extent feasible, the principal proponents of the major provisions of the bill as it passed the House. The Speaker usually follows the suggestions of the Chairman of the committee in charge of the bill in designating the managers on the part of the House from among the Members of the committee. The number is fixed by the Speaker and majority party representation generally reflects the ratio for the full House committee, but may be greater on important bills. Representation of both major parties is an important attribute of all our parliamentary procedures but, in the case of conference committees, it is important that the views of the House on the House measure be fully represented.

If the Senate agrees to the request for a conference, a similar committee is appointed by unanimous consent by the Presiding Officer of the Senate. Both political parties may be represented on the Senate conference committee also. The Senate and House committees need not be the same size.

The conference committee is sometimes popularly referred to as the "Third House of Congress."

The request for a conference can be made only by the body in possession of the official papers. Occasionally the Senate, anticipating that the House will not concur in its amendments, votes to insist on its amendments and requests a conference on passage of the bill prior to returning the bill to the House. This practice serves to expedite the matter because several days' time may be saved by the designation of the Senate conferees before returning the bill to the House. The matter of which body requests the conference is not without significance because the one asking for the conference acts last on the report to be submitted by the conferees.

Authority of Conferees

Although the managers on the part of each House meet together as one committee they are in effect 2 separate committees, each of which votes separately and acts by a majority vote. For this reason the number of managers from each House is largely immaterial.

The conferees are strictly limited in their consideration to matters in disagreement between the 2 Houses.

Consequently, they may not strike out or amend any portion of the bill that was not amended by the Senate.

Furthermore, they may not insert new matter that is not germane to the differences between the 2 Houses. Where the Senate amendment revises a figure or an amount contained in the bill, the conferees are limited to the difference between the 2 numbers and may not increase the greater nor decrease the smaller figure. Neither House may alone, by instructions, empower its managers to make a change in the text to which both Houses have agreed, but the managers for both bodies may be given that authority by a concurrent resolution adopted by a majority of each House.

When a disagreement to an amendment in the nature of a substitute is committed to a conference committee it is in order for the managers on the part of the House to propose a substitute which is a germane modification of the matter in disagreement, but the introduction of language in that substitute presenting a specific additional topic, question, issue, or proposition not committed to the conference committee by either House does not constitute a germane modification of the matter in disagreement. Moreover, their report may not include matter not committed to the conference committee by either House, nor may their report include a modification of any specific topic, question, issue, or proposition committed to the conference committee by either or both Houses if that modification is beyond the scope of that specific topic, question, issue, or proposition as committed to the conference committee.

An amendment by the Senate to a general appropriation bill which would be in violation of the rules of the House, if the amendment had originated in the House, or an amendment by the Senate providing for an appropriation on a bill other than a general appropriation bill, may not be agreed to by the managers on the part of the House, unless a specific authority to agree to such an amendment is given first by the House by a separate vote on each specific amendment.

Meetings and Action of Conferees

The rules of the House require that conference meetings be open, unless the House, in open session, determines by a rollcall vote of a majority of those Members voting that all or part of the meeting will be closed to the public. When the report of the conference committee is read in the House, a point of order may be made that the conferees failed to comply with the House rule referred to in the preceding sentence. If the point of order is sustained, the conference report is considered rejected by the House and a new conference is requested.

There are generally 4 forms of recommendations available to the conferees when reporting back to their bodies:

(1) The Senate recede from all (or certain of) its amendments.

(2) The House recede from its disagreement to all (or certain of) the Senate amendments and agree thereto.

(3) The House recede from its disagreement to all (or certain of) the Senate amendments and agree thereto with amendments.

(4) The House recede from all (or certain of) its amendments to the Senate amendments.

In many instances the result of the conference is a compromise growing out of the third type of recommendation available to the conferees. The complete report may, of course, be comprised of any one or more of these recommendations with respect to the various amendments. Occasionally, the conferees find themselves unable to reach an agreement with respect to one or more amendments and report back a statement of their inability to agree on those particular amendments. These may then be acted upon separately. This partial disagreement is, of course, not practicable where the Senate strikes out all after the enacting clause and substitutes its own bill which must be considered as a single amendment.

If they are unable to reach any agreement whatsoever, the conferees report that fact to their respective bodies and the amendments are in the position they were before the conference was requested. New conferees may be appointed in either or both Houses. In addition, the Houses may instruct the conferees as to the position they are to take.

After House conferees on any bill or resolution in conference between the 2 bodies have been appointed for 20 calendar days and have failed to make a report, the rules of the House provide for a motion of the highest privilege to instruct the House conferees or discharge them and appoint new conferees. Further, during the last 6 days of a session it is a privileged motion to move to discharge, appoint, or instruct House conferees after House conferees have been appointed 36 hours without having made a report.

Conference Reports

When the conferees, by majority vote of each group, have reached complete agreement (or find that they are able to agree with respect to some but not all amendments) they make their recommendations in a report made in duplicate that must be signed by a majority of the conferees appointed by each body. The minority portion of the managers have no authority to file a statement of minority views in connection with the report. The report is required to be printed in both Houses and must be accompanied by an explanatory statement prepared jointly by the conferees on the part of the House and the conferees on the part of the Senate. The statement must be sufficiently detailed and explicit to inform Congress as to the effect that the amendments or propositions contained in the report will have on the measure to which those amendments or propositions relate. The engrossed bill and amendments and one copy of the report are delivered to the body that is to act first on the report; namely, the body that had agreed to the conference requested by the other.

In the Senate, the presentation of the report always is in order except when the Journal is being read or a point of order or motion to adjourn is pending, or while the Senate is voting or ascertaining the presence of a quorum. When the report is received, the question of proceeding to the consideration of the report, if raised, is immediately voted on without debate. The report is not subject to amendment in either body and must be accepted or rejected as an entirety. If the time for debate on the adoption of the report is limited, the time allotted must be equally divided between the majority and minority party. If the Senate, acting first, does not agree to the report it may by majority vote order it recommitted to the conferees. When the Senate agrees to the report, its managers are thereby discharged and it then delivers the original papers to the House with a message advising that body of its action.

A report that contains any recommendations which go beyond the differences between the 2 Houses is subject to a point of order in its entirety. Any change in the text as agreed to by both Houses renders the report subject to the point of order and the matter is before the House de novo.

The presentation of the report in the House always is in order, except when the Journal is being read, while the roll is being called, or the House is dividing on any proposition. The report is considered in the House and may not be sent to the Committee of the Whole on the suggestion that it contains matters ordinarily requiring consideration in that Committee. The report may not be received by the House if the required statement does not accompany it.

It is, however, not in order to consider either (1) a conference report or (2) an amendment (including an amendment in the nature of a substitute) proposed by the Senate to a measure reported in disagreement between the 2 Houses, by a conference report, that the conferees have been unable to agree, until the third calendar day (excluding Saturdays, Sundays, and legal holidays) after the report and accompanying statement have been filed in the House, and consideration then is in order only if the report and accompanying statement have been printed in the edition of the Congressional Record for the day on which the report and statement have been filed. However, these provisions do not apply during the last 6 days of the session. Nor is it in order to consider a conference report or such an amendment unless copies of the report and accompanying statement, together with the text of the amendment, have been available to Members for at least 2 hours before the beginning of consideration. However, it is always in order to call up for consideration a report from the Committee on Rules only making in order the consideration of a conference report or such an amendment notwithstanding the requirement that the report and text of the amendment be available for at least 2 hours before the beginning of consideration. The time allotted for debate on a conference report or such an amendment is divided equally between the majority party and the minority party. However, if the majority and minority floor managers both are supporters of the conference report, one-third of the debate time must be allotted to a Member who is opposed to the conference report. If the House does not agree to a conference report that the Senate has already agreed to, the report may not be recommitted to conference because the Senate conferees are discharged when the Senate agrees to the report.

When a conference report is called up before the House containing matter which would be in violation of the rules of the House with respect to germaneness if the matter had been offered as an amendment in the House, and which is contained either (1) in a Senate amendment to that measure (including a Senate amendment in the nature of a substitute for the text of that measure as passed by the House) and accepted by the House conferees or agreed to by the conference committee with modification or (2) in a substitute agreed to by the conference committee, it is in order, at any time after the reading of the report is completed or dispensed with and before the reading of the statement, to make a point of order that nongermane matter, which must be specified in the point of order, is contained in the report. It is also in order to make a point of order to nongermane Senate matter in the conference report that originally appeared in the Senate bill but was not included in the House-passed version. If the point of order is sustained, it is then in order for the Chair to entertain a motion, that is of high privilege, that the House reject the nongermane matter covered by the point of order. It is in order to debate the motion for 40 minutes, one-half of the time to be given to debate in favor of, and one-half in opposition to, the motion. Notwithstanding the final disposition of a point of order made with respect to the report, or of a motion to reject nongermane matter, further points of order may be made with respect to the report, and further motions may be made to reject other nongermane matter in the conference report not covered by any previous point of order which has been sustained. If a motion to reject has been adopted, after final disposition of all points of order and motions to reject, the conference report is considered as rejected and the question then pending before the House is whether (1) to recede and concur with an amendment that consists of that portion of the conference report not rejected or (2) to insist on the House amendment with respect to nongermane Senate matter that originally appeared in the Senate bill but was not included in the House-passed version. If all motions to reject are defeated, then, after the allocation of time for debate on the conference report, it is in order to move the previous question on the adoption of the conference report.

Similar procedures are available in the House when the Senate proposes an amendment to a measure that would be in violation of the rule against nongermane amendments, and thereafter it is (1) reported in disagreement by a committee of conference or (2) before the House and the stage of disagreement is reached.

The amendments of the Senate in disagreement may be voted on separately and may be adopted by a majority vote after the adoption of the conference report itself as though no conference had been had with respect to those amendments. The Senate may recede from all amendments, or from certain of its amendments, insisting on the others with or without a request for a conference with respect to them. If the House does not accept the amendments insisted on by the Senate the entire conference process begins again with respect to them.

Custody of Papers

The custody of the original official papers is important in conference procedure because either body may act only when in possession of the papers. As indicated above the request for a conference may be made only by the body in possession. The papers are then transmitted to the body agreeing to the conference and by it to the managers of the House that asked for the conference. The latter in turn carry the papers with them to the conference and at its conclusion turn them over to the managers of the House that agreed to the conference. The latter deliver them to their own House, that acts first on the report and then delivers the papers to the other House for final action on the report.

Each group of conferees, at the conclusion of the conference, retains one copy of the report that has been made in duplicate, and signed by a majority of the managers of each body—the House copy signed first by the House managers and the Senate copy signed first by its managers.

Obviously a bill cannot become a law of the land until it has been approved in identical terms by both Houses of the Congress. When the bill has finally been approved by both Houses all the original papers are transmitted to the enrolling clerk of the body in which the bill originated.

XVI. Bill Originating in Senate

The preceding discussion has described the legislative process for bills originating in the House. When a bill originates in the Senate, this process is reversed. When the Senate passes a bill that originated in the Senate, it is sent to the House for consideration. The bill is referred to the appropriate House committee for consideration. If the committee reports the bill to the full House and if the bill is passed by the House without amendment, it is ready for enrollment. (See Part XVII.) If the House passes an amended version of the Senate bill, the bill is returned to the Senate for action on the House amendments. The Senate may agree to the amendments or request a conference to resolve the disagreement over the House amendments.

XVII. Enrollment

When the bill has been agreed to in identical form by both bodies—either without amendment by the Senate, or by House concurrence in the Senate amendments, or by agreement in both bodies to the conference report—a copy of the bill is enrolled for presentation to the President.

The preparation of the enrolled bill is a painstaking and important task because it must reflect precisely the effect of all amendments, either by way of deletion, substitution, or addition, agreed to by both bodies. The enrolling clerk of the House (with respect to bills originating in the House) receives the original engrossed bill, the engrossed Senate amendments, the signed conference report, the several messages from the Senate, and a notation of the final action by the House, for the purpose of preparing the enrolled copy. From these the enrolling clerk must prepare meticulously the final form of the bill, as it was agreed to by both Houses, for presentation to the President. On occasion there have been upward of 500 amendments, particularly after a conference, each of which must be set out in the enrollment exactly as agreed to, and all punctuation must be in accord with the action taken.

The enrolled bill is printed on parchment paper, with a certificate on the reverse side of the last page, to be signed by the Clerk of the House stating that the bill originated in the House of Representatives (or by the Secretary of the Senate when the bill has originated in that body). It is examined for accuracy by the Committee on House Administration (or by the Secretary of the Senate when the bill originated in that body). When the Committee is satisfied with the accuracy of the bill the Chairman of the Committee attaches a slip stating that it finds the bill truly enrolled and sends it to the Speaker of the House for signature. All bills, regardless of the body in which they originated, are signed first by the Speaker and then by the Vice President of the United States, who, under the Constitution, serves as the President of the Senate. The Speaker of the House may sign enrolled bills whether or not the House is in session. The President of the Senate may sign bills only while the Senate is actually sitting unless advance permission is granted to sign during a recess or after adjournment. If the Speaker or the President of the Senate is unable to sign the bill, it may be signed by the authorized presiding officer of the respective House. After both signatures are affixed the bill is returned to the Committee for the purpose of being presented to the President for action under the Constitution.

XVIII. Presidential Action

Article I, Section 7, of the Constitution provides in part that—

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States.

In actual practice a clerk of the Committee on House Administration (or the Secretary of the Senate when the bill originated in that body) delivers the original enrolled bill to an employee at the White House and obtains a receipt, and the fact of the delivery is then reported to the House by the Chairman of the Committee. Delivery to a White House employee has customarily been regarded as presentation to the President and as commencing the 10-day Constitutional period for Presidential action.

Copies of the enrolled bill usually are transmitted by the White House to the various departments interested in the subject matter so that they may advise the President who, of course, cannot be personally familiar with every item in every bill.

If the President approves the bill, he signs it and usually writes the word "approved" and the date, although the Constitution requires only that the President sign it.

The Supreme Court has stated that undoubtedly the President when approving bills may be said to participate in the enactment of laws, which the Constitution requires the President to execute.

The bill may become law without the President's signature by virtue of the Constitutional provision that if the President does not return a bill with objections within 10 days (excluding Sundays) after it has been presented to the President, it shall be a law in like manner as if the President had signed it. However, if Congress by their adjournment prevent its return, it does not become law. The latter event is what is known as a "pocket veto," that is, the bill does not become law even though the President has not sent his objections to the Congress.

Notice of the signing of a bill by the President is sent usually by message to the House in which it originated and that House informs the other, although this action is not necessary to the validity of the act. The action is also noted in the Congressional Record.

A bill becomes law on the date of approval (or passage over the President's veto), unless it expressly provides a different effective date.

Veto Message

By the terms of the Constitution, if the President does not approve the bill "he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it." It is the usual but not invariable rule that a bill returned with the President's objections, must be voted on at once and when laid before the House the question on the passage is considered as pending. A vetoed bill is always privileged, and a motion to take it from the table is in order at any time.

The Member in charge moves the previous question which is put by the Speaker, as follows: "The question is, Will the House on reconsideration agree to pass the bill, the objections of the President to the contrary notwithstanding?" The Clerk calls the roll and those in favor of passing the bill answer "Aye," and those opposed "No." If fewer than two-thirds of the Members present (constituting a quorum) vote in the affirmative the bill is killed, and a message is usually sent to the Senate advising that body of the decision that the bill shall not pass. If, however, two-thirds vote in the affirmative, the bill is sent with the President's objections to the Senate together with a message advising it of the action in the House.

There is a similar procedure in the Senate where again a two-thirds affirmative vote is necessary to pass the bill over the President's objections. If then passed by the Senate the measure becomes the law of the land notwithstanding the objections of the President, and it is ready for publication as a binding statute.

XIX. Publication

One of the important steps in the enactment of a valid law is the requirement that it shall be made known to the people who are to be bound by it. Obviously, there would be no justice if the state were to hold its people responsible for their conduct before it made known to them the unlawfulness of such behavior. That idea is implicit in the Constitutional prohibition against enacting ex post facto laws. In practice, our laws are published immediately upon their enactment so that they may be known to the people.

If the President approves a bill, or allows it to become law without signing it, the original enrolled bill is sent from the White House to the Archivist of the United States for publication. If a bill is passed by both Houses over the objections of the President the body that last overrides the veto likewise transmits it. There it is assigned a public law number, and paginated for the Statutes at Large volume covering that session of Congress. The public and private law numbers run in sequence starting anew at the beginning of each Congress, and since 1957 are prefixed for ready identification by the number of the Congress—that is, the first public law of the 101st Congress is designated Public Law 101-1 and the first private law of the 101st Congress is designated Private Law 101-1. Subsequent laws of this Congress also will contain the same prefix designator.

Slip Laws

The first official publication of the statute is in the form generally known as the "slip law". In this form, each law is published separately as an unbound pamphlet. The heading indicates the public or private law number, the date of approval, and the bill number. The heading of a slip law for a public law also indicates the United States Statutes at Large citation. If the statute has been passed over the veto of the President, or has become law without the President's signature because he did not return it with objections, an appropriate statement is inserted in lieu of the usual notation of approval.

The Office of the Federal Register, National Archives and Records Administration, which prepares the slip laws, provides marginal editorial notes giving the citations to laws mentioned in the text and other explanatory details. The marginal notes also give the United States Code classifications, thus enabling the reader immediately to determine where the statute will appear in the Code. Each slip law also includes an informative guide to the legislative history of the law consisting of the committee report number, the name of the committee in each House, as well as the date of consideration and passage in each House, with a reference to the Congressional Record by volume, year, and date.

A reference to Presidential statements—relating to the approval of a bill (or the veto of a bill when the veto was overridden and the bill becomes law)—is included in the legislative history in the form of a citation to the Weekly Compilation of Presidential Documents.

Copies of the slip laws are delivered to the document rooms of both Houses where they become available to officials and the public. They may also be obtained by annual subscription or individual purchase from the Superintendent of Documents, U.S. Government Printing Office.

Section 113 of title 1 of the United States Code provides that slip laws are competent evidence in all the courts, tribunals and public offices of the United States, and of the several States.

Statutes at Large

For the purpose of providing a permanent collection of the laws of each session of Congress, the bound volumes (which are called the United States Statutes at Large) are prepared by the Office of the Federal Register, National Archives and Records Administration. When the latest volume containing the laws of the first session of the 101st Congress becomes available it will be No. 103 in the series. Each volume contains a complete index and a table of contents. From 1956 through 1976, each volume contained a table of earlier laws affected. These tables were cumulated for 1956-1970 and supplemented for 1971-1975 in pamphlet form, and discontinued in 1976. From 1963 through 1974, each volume also contained a most useful table showing the legislative history of each law in the volume. This latter table was not included in subsequent volumes because, beginning in 1975, the legislative histories have appeared at the end of each law. There are also extensive marginal notes referring to laws in earlier volumes and to earlier and later matters in the same volume.

Under the provisions of a statute originally enacted in 1895, these volumes are legal evidence of the laws contained in them and will be accepted as proof of those laws in any court in the United States.

The Statutes at Large are a chronological arrangement of the laws exactly as they have been enacted. There is no attempt to arrange the laws according to their subject matter or to show the present status of an earlier law that has been amended on one or more occasions. That is the function of a code of laws.

United States Code

The United States Code contains a consolidation and codification of the general and permanent laws of the United States arranged according to subject matter under 50 title headings, in alphabetical order to a large degree. It sets out the current status of the laws, as amended, without repeating all the language of the amendatory acts except where necessary for that purpose and is declared to be prima facie evidence of those laws. Its purpose is to present the laws in a concise and usable form without requiring recourse to the many volumes of the Statutes at Large containing the individual amendments.

The Code is prepared by the Law Revision Counsel of the House of Representatives. New editions are published every 6 years and cumulative supplements are published after the conclusion of each regular session of the Congress.

Twenty-two of the 50 titles have been revised and enacted into positive law, and 2 have been eliminated by consolidation with other titles. Titles that have been revised and enacted into positive law are legal evidence of the law and the courts will receive them as proof of those laws. Eventually all the titles will be revised and enacted into positive law, and thereafter they will be kept up to date by direct amendment.

The Committee System in the U.S. Congress

The Committee System in the U.S. Congress

Due to the high volume and complexity of its work, Congress divides its tasks among approximately 250 committees and subcommittees. The House and Senate each have their own committee system, which are similar. Within chamber guidelines, however, each committee adopts its own rules; thus, there is considerable variation among panels.

The Committee System in the U.S. Congress

Standing committees generally have legislative jurisdiction and most operate with subcommittees that handle a committee's work in specific areas. Select and joint committees are chiefly for oversight or housekeeping tasks.

The Committee System in the U.S. Congress

The chair of each committee and a majority of its members come from the majority party. The chair primarily controls a committee's business. Each party is predominantly responsible for assigning its members to committees, and each committee distributes its members among its subcommittees. There are limits on the number and types of panels any one Member may serve on and chair.

The Committee System in the U.S. Congress

Committees receive varying levels of operating funds and employ varying numbers of aides. Each hires and fires its own staff. Whereas most committee staff and resources are controlled by its majority party members, a portion is shared with the minority.

The Committee System in the U.S. Congress

Several thousand measures are referred to committees during each Congress. Committees select a small percentage for consideration, and those not addressed often receive no further action. Determining the fate of measures and, in effect, helping to set a chamber's agenda make committees powerful.

The Committee System in the U.S. Congress

When a committee or subcommittee favors a measure, it usually takes four actions. First, it asks relevant executive agencies for written comments on the measure. Second, it holds hearings to gather information and views from non-committee experts. Before the committee, these witnesses summarize submitted statements, then respond to questions from Members. (Other types of hearings focus on the implementation and administration of programs [oversight] or allegations of wrongdoing [investigative].) Third, a committee meets to perfect the measure through amendments, and non-committee members sometimes attempt to influence the language. Fourth, when language is agreed upon, the committee sends the measure back to the chamber, usually along with a written report describing its purposes and provisions and the work of the committee thereon.

The Committee System in the U.S. Congress

The influence of committees over measures extends to their enactment into law. A committee that considers a measure will manage the full chamber's deliberation on it. Also, its members will be appointed to any conference committee created to reconcile the two chambers' differing versions of a measure.

The Committee System in the U.S. Congress

Source: The Committee System in the U.S. Congress, Congressional Research Service, Library of Congress. Report 94-702 GOV. August 29, 1994.

The Legislative Process—Tying it All Together

The U.S. House of Representatives, The Legislative Process—Tying it All Together

"All Legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

(Article I, Section 1, of the United States Constitution)

The U.S. House of Representatives, The Legislative Process—Tying it All Together

The chief function of Congress is the making of laws. The legislative process comprises a number of steps, and much information is available from this page concerning the legislation introduced and considered in the 104th Congress. To help you understand the information and how it interrelates, a very brief overview of the legislative process within the House of Representatives is presented below. There are many aspects and variations of the process which are not addressed here. A much more in-depth discussion and presentation of the overall process is available in . Most of the information presented below was excerpted from that Congressional document.

Forms of Congressional Action

The U.S. House of Representatives, The Legislative Process—Tying it All Together

The work of Congress is initiated by the introduction of a proposal in one of four principal forms: the bill, the joint resolution, the concurrent resolution, and the simple resolution.

Bills

The U.S. House of Representatives, The Legislative Process—Tying it All Together

A bill is the form used for most legislation, whether permanent or temporary, general or special, public or private. A bill originating in the House of Representatives is designated by the letters "H.R.", signifying "House of Representatives", followed by a number that it retains throughout all its parliamentary stages. Bills are presented to the President for action when approved in identical form by both the House of Representatives and the Senate.

Joint Resolutions

The U.S. House of Representatives, The Legislative Process—Tying it All Together

Joint resolutions may originate either in the House of Representatives or in the Senate. There is little practical difference between a bill and a joint resolution. Both are subject to the same procedure, except for a joint resolution proposing an amendment to the Constitution. On approval of such a resolution by two-thirds of both the House and Senate, it is sent directly to the Administrator of General Services for submission to the individual states for ratification. It is not presented to the President for approval. A joint resolution originating in the House of Representatives is designated "H.J.Res." followed by its individual number. Joint resolutions become law in the same manner as bills.

Concurrent Resolutions

The U.S. House of Representatives, The Legislative Process—Tying it All Together

Matters affecting the operations of both the House of Representatives and Senate are usually initiated by means of concurrent resolutions. A concurrent resolution originating in the House of Representatives is designated "H.Con.Res." followed by its individual number. On approval by both the House of Representatives and Senate, they are signed by the Clerk of the House and the Secretary of the Senate. They are not presented to the President for action.

Simple Resolutions

The U.S. House of Representatives, The Legislative Process—Tying it All Together

A matter concerning the operation of either the House of Representatives or Senate alone is initiated by a simple resolution. A resolution affecting the House of Representatives is designated "H.Res." followed by its number. They are not presented to the President for action.

The U.S. House of Representatives, The Legislative Process—Tying it All Together

For more information on bills and resolutions see Forms of Congressional Action in .

Introduction and Referral to Committee

The U.S. House of Representatives, The Legislative Process—Tying it All Together

Many Member in the House of Representatives may introduce a bill at any time while the House is in session by simply placing it in the "hopper" provided for the purpose at the side of the Clerk's desk in the House Chamber. The sponsor's signature must appear on the bill. A public bill may have an unlimited number of co-sponsoring Members. The bill is assigned its legislative number by the Clerk and referred to the appropriate committee by the Speaker, with the assistance of the Parliamentarian. The bill is then printed in its introduced form, which you can read in Bill Text ( See Help for searching examples). If a bill was introduced today, summary information about it can be found in Bill Status Today ( See Help for searching examples).

The U.S. House of Representatives, The Legislative Process—Tying it All Together

An important phase of the legislative process is the action taken by committees. It is during committee action that the most intense consideration is given to the proposed measures; this is also the time when the people are given their opportunity to be heard. Each piece of legislation is referred to the committee that has jurisdiction over the area affected by the measure.

The U.S. House of Representatives, The Legislative Process—Tying it All Together

For more information on this step of the legislative process see Introduction and Reference to Committee of .

The U.S. House of Representatives, The Legislative Process—Tying it All Together

Consideration by Committee

The U.S. House of Representatives, The Legislative Process—Tying it All Together

Public Hearings and Markup Sessions

The U.S. House of Representatives, The Legislative Process—Tying it All Together

Usually the first step in this process is a public hearing, where the committee members hear witnesses representing various viewpoints on the measure. Each committee makes public the date, place and subject of any hearing it conducts. The Committee Meetings scheduled for today are available along with other House Schedules . Public announcements are also published in the Daily Digest portion of the Congressional Record.

The U.S. House of Representatives, The Legislative Process—Tying it All Together

A transcript of the testimony taken at a hearing is made available for inspection in the committee office, and frequently the complete transcript is printed and distributed by the committee.

The U.S. House of Representatives, The Legislative Process—Tying it All Together

After hearings are completed, the bill is considered in a session that is popularly known as the "mark-up" session. Members of the committee study the viewpoints presented in detail. Amendments may be offered to the bill, and the committee members vote to accept or reject these changes.

The U.S. House of Representatives, The Legislative Process—Tying it All Together

This process can take place at either the subcommittee level or the full committee level, or at both. Hearings and markup sessions are status steps noted in the Legislative Action portion of Bill Status. ( See Help for searching examples).

The U.S. House of Representatives, The Legislative Process—Tying it All Together

Committee Action

The U.S. House of Representatives, The Legislative Process—Tying it All Together

At the conclusion of deliberation, a vote of committee or subcommittee Members is taken to determine what action to take on the measure. It can be reported, with or without amendment, or tabled, which means no further action on it will occur. If the committee has approved extensive amendments, they may decide to report a new bill incorporating all the amendments. This is known as a "clean bill," which will have a new number. Votes in committee can be found in Committee Votes.

The U.S. House of Representatives, The Legislative Process—Tying it All Together

If the committee votes to report a bill, the Committee Report is written. This report describes the purpose and scope of the measure and the reasons for recommended approval. House Report numbers are prefixed with "H.Rpt." and then a number indicating the Congress (currently 104).

The U.S. House of Representatives, The Legislative Process—Tying it All Together

For more information on bills and resolutions see Consideration by Committee in .

House Floor Consideration

The U.S. House of Representatives, The Legislative Process—Tying it All Together

Consideration of a measure by the full House can be a simple or very complex operation. In general a measure is ready for consideration by the full House after it has been reported by a committee. Under certain circumstances, it may be brought to the Floor directly.

The U.S. House of Representatives, The Legislative Process—Tying it All Together

The consideration of a measure may be governed by a "rule." A rule is itself a simple resolution, which must be passed by the House, that sets out the particulars of debate for a specific bill -- how much time will allowed for debate, whether amendments can be offered, and other matters.

The U.S. House of Representatives, The Legislative Process—Tying it All Together

Debate time for a measure is normally divided between proponents and opponents. Each side yields time to those Members who wish to speak on the bill. When amendments are offered, these are also debated and voted upon. If the House is in session today, you can see a summary of Current House Floor Proceedings .

The U.S. House of Representatives, The Legislative Process—Tying it All Together

After all debate is concluded and amendments decided upon, the House is ready to vote on final passage. In some cases, a vote to "recommit" the bill to committee is requested. This is usually an effort by opponents to change some portion or table the measure. If the attempt to recommit fails, a vote on final passage is ordered.

Resolving Differences

The U.S. House of Representatives, The Legislative Process—Tying it All Together

After a measure passes in the House, it goes to the Senate for consideration. A bill must pass both bodies in the same form before it can be presented to the President for signature into law.

The U.S. House of Representatives, The Legislative Process—Tying it All Together

If the Senate changes the language of the measure, it must return to the House for concurrence or additional changes. This back-and-forth negotiation may occur on the House floor, with the House accepting or rejecting Senate amendments or complete Senate text. Often a conference committee will be appointed with both House and Senate members. This group will resolve the differences in committee and report the identical measure back to both bodies for a vote. Conference committees also issue reports outlining the final version of the bill.

Final Step

The U.S. House of Representatives, The Legislative Process—Tying it All Together

Votes on final passage, as well as all other votes in the House, may be taken by the electronic voting system which registers each individual Member's response. These votes are referred to as Yea/Nay votes or recorded votes, and are available in House Votes by Bill number, roll call vote number or words describing the reason for the vote.

The U.S. House of Representatives, The Legislative Process—Tying it All Together

Votes in the House may also be by voice vote, and no record of individual responses is available.

The U.S. House of Representatives, The Legislative Process—Tying it All Together

After a measure has been passed in identical form by both the House and Senate, it is considered "enrolled." It is sent to the President who may sign the measure into law, veto it and return it to Congress, let it become law without signature, or at the end of a session, pocket-veto it.

The U.S. House of Representatives, The Legislative Process—Tying it All Together

Prepared by House Information Systems.

The U.S. House of Representatives

U.S. House of Representatives

Committee Jurisdiction

U.S. House of Representatives Committee Jurisdiction

Clause 1 and clauses 2, 3, and 4 of Rule X of the Rules of the House of Representatives establishes the jurisdiction and related functions for each standing committee. Precedent is also used to determine committee jurisdiction.

U.S. House of Representatives Committee Jurisdiction

Clause 1 of Rule X states "all bills, resolutions, and other matters relating to subjects within the jurisdiction of any standing committee as listed in this clause shall (in accordance with and subject to clause 5) be referred to such committees, as follows":

(a) Committee on Agriculture.

U.S. House of Representatives Committee Jurisdiction

(1) Adulteration of seeds, insect pests, and protection of birds and animals in forest reserves.

U.S. House of Representatives Committee Jurisdiction

(2) Agriculture generally.

U.S. House of Representatives Committee Jurisdiction

(3) Agricultural and industrial chemistry.

U.S. House of Representatives Committee Jurisdiction

(4) Agricultural colleges and experiment stations.

U.S. House of Representatives Committee Jurisdiction

(5) Agricultural economics and research.

U.S. House of Representatives Committee Jurisdiction

(6) Agricultural education extension services.

U.S. House of Representatives Committee Jurisdiction

(7) Agricultural production and marketing and stabilization of prices of agricultural products, and commodities (not including distribution outside of the United States).

U.S. House of Representatives Committee Jurisdiction

(8) Animal industry and diseases of animals.

U.S. House of Representatives Committee Jurisdiction

(9) Commodities exchanges.

U.S. House of Representatives Committee Jurisdiction

(10) Crop insurance and soil conservation.

U.S. House of Representatives Committee Jurisdiction

(11) Dairy industry.

U.S. House of Representatives Committee Jurisdiction

(12) Entomology and plant quarantine.

U.S. House of Representatives Committee Jurisdiction

(13) Extension of farm credit and farm security.

U.S. House of Representatives Committee Jurisdiction

(14) Inspection of livestock, and poultry, and meat products, and seafood and seafood products.

U.S. House of Representatives Committee Jurisdiction

(15) Forestry in general, and forest reserves other than those created from the public domain.

(b) Committee on Appropriations.

U.S. House of Representatives Committee Jurisdiction

(1) Appropriation of the revenue for the support of the Government.

U.S. House of Representatives Committee Jurisdiction

(2) Rescissions of appropriations contained in appropriation Acts.

U.S. House of Representatives Committee Jurisdiction

(3) Transfers of unexpended balances.

U.S. House of Representatives Committee Jurisdiction

(4) The amount of new spending authority (as described in the Congressional Budget Act of 1974) which is to be effective for a fiscal year, including bills and resolutions (reported by other committees) which provide new spending authority and are referred to the committee under clause 4(a).

U.S. House of Representatives Committee Jurisdiction

The committee shall include separate headings for 'Rescissions' and 'Transfers of Unexpended Balances' in any bill or resolution as reported from the committee under its jurisdiction specified in subparagraph (2) or (3), with all proposed rescissions and proposed transfers listed therein; and shall include a separate section with respect to such rescissions or transfers in the accompanying committee report. In addition to its jurisdiction under the preceding provisions of this paragraph, the committee shall have the fiscal oversight function provided for in clause 2(b)(3) and the budget hearing function provided for in clause 4(a).

(c) Committee on Banking and Financial Services.

U.S. House of Representatives Committee Jurisdiction

(1) Banks and banking, including deposit insurance and Federal monetary policy.

U.S. House of Representatives Committee Jurisdiction

(2) Bank capital markets activities generally.

U.S. House of Representatives Committee Jurisdiction

(3) Depository institution securities activities generally, including the activities of any affiliates, except for functional regulation under applicable securities laws not involving safety and soundness.

U.S. House of Representatives Committee Jurisdiction

(4) Economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services.

U.S. House of Representatives Committee Jurisdiction

(5) Financial aid to commerce and industry (other than transportation).

U.S. House of Representatives Committee Jurisdiction

(6) International finance.

U.S. House of Representatives Committee Jurisdiction

(7) International financial and monetary organizations.

U.S. House of Representatives Committee Jurisdiction

(8) Money and credit, including currency and the issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar.

U.S. House of Representatives Committee Jurisdiction

(9) Public and private housing.

U.S. House of Representatives Committee Jurisdiction

(10) Urban development.

(d)(1) Committee on the Budget, consisting of the following Members:

U.S. House of Representatives Committee Jurisdiction

(A) Members who are members of other standing committees, including five Members who are members of the Committee on Appropriations, and five Members who are members of the Committee on Ways and Means;

U.S. House of Representatives Committee Jurisdiction

(B) one Member from the leadership of the majority party; and

U.S. House of Representatives Committee Jurisdiction

(C) one Member from the leadership of the minority party.

U.S. House of Representatives Committee Jurisdiction

No Member other than a representative from the leadership of a party may serve as a member of the Committee on the Budget during more than four Congresses in any period of six successive Congresses (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress), except that an incumbent chairman or ranking minority member having served on the committee for four Congresses and having served as chairman or ranking minority member of the committee for not more than one Congress shall be eligible for reelection to the committee as chairman or ranking minority member for one additional Congress.

U.S. House of Representatives Committee Jurisdiction

(2) All concurrent resolutions on the budget (as defined in section 3 of the Congressional Budget Act of 1974), other matters required to be referred to the committee under titles III and IV of that Act, and other measures setting forth appropriate levels of budget totals for the United States Government.

U.S. House of Representatives Committee Jurisdiction

(3) Measures relating to the congressional budget process, generally.

U.S. House of Representatives Committee Jurisdiction

(4) Measures relating to the establishment, extension, and enforcement of special controls over the Federal budget, including the budgetary treatment of off-budget Federal agencies and measures providing exemption from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

U.S. House of Representatives Committee Jurisdiction

(5) The committee shall have the duty:

U.S. House of Representatives Committee Jurisdiction

(A) to report the matters required to be reported by it under titles III and IV of the Congressional Budget Act of 1974;

U.S. House of Representatives Committee Jurisdiction

(B) to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the House on a recurring basis;

U.S. House of Representatives Committee Jurisdiction

(C) to request and evaluate continuing studies of tax expenditures; to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the House on a recurring basis; and

U.S. House of Representatives Committee Jurisdiction

(D) to review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.

(e) Committee on Commerce.

U.S. House of Representatives Committee Jurisdiction

(1) Biomedical research and development.

U.S. House of Representatives Committee Jurisdiction

(2) Consumer affairs and consumer protection.

U.S. House of Representatives Committee Jurisdiction

(3) Health and health facilities, except health care supported by payroll deductions.

U.S. House of Representatives Committee Jurisdiction

(4) Interstate energy compacts.

U.S. House of Representatives Committee Jurisdiction

(5) Interstate and foreign commerce generally.

U.S. House of Representatives Committee Jurisdiction

(6) Measures relating to the exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including all fossil fuels, solar energy, and other unconventional or renewable energy resources.

U.S. House of Representatives Committee Jurisdiction

(7) Measures relating to the conservation of energy resources.

U.S. House of Representatives Committee Jurisdiction

(8) Measures relating to energy information generally.

U.S. House of Representatives Committee Jurisdiction

(9) Measures relating to:

U.S. House of Representatives Committee Jurisdiction

(A) the generation and marketing of power (except by federally chartered or Federal regional power marketing authorities),

U.S. House of Representatives Committee Jurisdiction

(B) the reliability and interstate transmission of, and ratemaking for, all power, and

U.S. House of Representatives Committee Jurisdiction

(C) the siting of generation facilities; except the installation of interconnections between Government waterpower projects.

U.S. House of Representatives Committee Jurisdiction

(10) Measures relating to general management of the Department of Energy, and the management and all functions of the Federal Energy Regulatory Commission.

U.S. House of Representatives Committee Jurisdiction

(11) National energy policy generally.

U.S. House of Representatives Committee Jurisdiction

(12) Public health and quarantine.

U.S. House of Representatives Committee Jurisdiction

(13) Regulation of the domestic nuclear energy industry, including regulation of research and development reactors and nuclear regulatory research.

U.S. House of Representatives Committee Jurisdiction

(14) Regulation of interstate and foreign communications.

U.S. House of Representatives Committee Jurisdiction

(15) Securities and exchanges.

U.S. House of Representatives Committee Jurisdiction

(16) Travel and tourism.

U.S. House of Representatives Committee Jurisdiction

The committee shall have the same jurisdiction with respect to regulation of nuclear facilities and of use of nuclear energy as it has with respect to regulation of nonnuclear facilities and of use of nonnuclear energy. In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight functions under clause 2).

(f) Committee on Economic and Educational Opportunities.

U.S. House of Representatives Committee Jurisdiction

(1) Child labor.

U.S. House of Representatives Committee Jurisdiction

(2) Columbia Institution for the Deaf, Dumb, and Blind; Howard University; Freedmen's Hospital.

U.S. House of Representatives Committee Jurisdiction

(3) Convict labor and the entry of goods made by convicts into interstate commerce.

U.S. House of Representatives Committee Jurisdiction

(4) Food programs for children in schools.

U.S. House of Representatives Committee Jurisdiction

(5) Labor standards and statistics.

U.S. House of Representatives Committee Jurisdiction

(6) Measures relating to education or labor generally.

U.S. House of Representatives Committee Jurisdiction

(7) Mediation and arbitration of labor disputes.

U.S. House of Representatives Committee Jurisdiction

(8) Regulation or prevention of importation of foreign laborers under contract.

U.S. House of Representatives Committee Jurisdiction

(9) United States Employees' Compensation Commission.

U.S. House of Representatives Committee Jurisdiction

(10) Vocational rehabilitation.

U.S. House of Representatives Committee Jurisdiction

(11) Wages and hours of labor.

U.S. House of Representatives Committee Jurisdiction

(12) Welfare of miners.

U.S. House of Representatives Committee Jurisdiction

(13) Work incentive programs.

U.S. House of Representatives Committee Jurisdiction

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(c) with respect to domestic educational programs and institutions, and programs of student assistance, which are within the jurisdiction of other committees.

(g) Committee on Government Reform and Oversight.

U.S. House of Representatives Committee Jurisdiction

(1) The Federal Civil Service, including intergovernmental personnel; the status of officers and employees of the United States, including their compensation, classification, and retirement.

U.S. House of Representatives Committee Jurisdiction

(2) Measures relating to the municipal affairs of th District of Columbia in general, other than appropriations.

U.S. House of Representatives Committee Jurisdiction

(3) Federal paperwork reduction.

U.S. House of Representatives Committee Jurisdiction

(4) Budget and accounting measures, generally.

U.S. House of Representatives Committee Jurisdiction

(5) Holidays and celebrations.

U.S. House of Representatives Committee Jurisdiction

(6) The overall economy, efficiency and management of government operations and activities, including Federal procurement.

U.S. House of Representatives Committee Jurisdiction

(7) National archives.

U.S. House of Representatives Committee Jurisdiction

(8) Population and demography generally, including the Census.

U.S. House of Representatives Committee Jurisdiction

(9) Postal service generally, including the transportation of the mails.

U.S. House of Representatives Committee Jurisdiction

(10) Public information and records.

U.S. House of Representatives Committee Jurisdiction

(11) Relationship of the Federal Government to the States

U.S. House of Representatives Committee Jurisdiction

and municipalities generally.

U.S. House of Representatives Committee Jurisdiction

(12) Reorganizations in the executive branch of the Government.

U.S. House of Representatives Committee Jurisdiction

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its oversight functions under Clause 2(b) (1) and (2)), the Committee shall have the function of performing the duties and conducting the studies which are provided for in Clause 4(c).

(h) Committee on House Oversight.

U.S. House of Representatives Committee Jurisdiction

(1) Appropriations from accounts for committee salaries and expenses (except for the Committee on Appropriations), House Information Systems, and allowances and expenses of Members, House officers and administrative offices of the House.

U.S. House of Representatives Committee Jurisdiction

(2) Auditing and settling of all accounts described in subparagraph (1).

U.S. House of Representatives Committee Jurisdiction

(3) Employment of persons by the House, including clerks for Members and committees, and reporters of debates.

U.S. House of Representatives Committee Jurisdiction

(4) Except as provided in clause 1(q) (11), matters relating to the Library of Congress and the House Library; statuary and pictures; acceptance or purchase of works of art for the Capitol; the Botanic Gardens; management of the Library of Congress; purchase of books and manuscripts.

U.S. House of Representatives Committee Jurisdiction

(5) Except as provided in clause 1(q) (11), matters relating to the Smithsonian Institution and the incorporation of similar institutions.

U.S. House of Representatives Committee Jurisdiction

(6) Expenditure of accounts described in subparagraph (1).

U.S. House of Representatives Committee Jurisdiction

(7) Franking Commission.

U.S. House of Representatives Committee Jurisdiction

(8) Matters relating to printing and correction of the Congressional Record.

U.S. House of Representatives Committee Jurisdiction

(9) Measures relating to accounts of the House generally.

U.S. House of Representatives Committee Jurisdiction

(10) Measures relating to assignment of office space for Members and committees.

U.S. House of Representatives Committee Jurisdiction

(11) Measures relating to the disposition of useless executive papers.

U.S. House of Representatives Committee Jurisdiction

(12) Measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; and Federal elections generally.

U.S. House of Representatives Committee Jurisdiction

(13) Measures relating to services to the House, including the House Restaurant, parking facilities and administration of the House office buildings and of the House wing of the Capitol.

U.S. House of Representatives Committee Jurisdiction

(14) Measures relating to the travel of Members of the House.

U.S. House of Representatives Committee Jurisdiction

(15) Measures relating to the raising, reporting and use of campaign contributions for candidates for office of Representative in the House of Representatives, of Delegate, and of Resident Commissioner to the United States from Puerto Rico.

U.S. House of Representatives Committee Jurisdiction

(16) Measures relating to the compensation, retirement and other benefits of the Members, officers, and employees of the Congress.

U.S. House of Representatives Committee Jurisdiction

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the function of performing the duties which are provided for in clause 4(d).

(i) Committee on International Relations.

U.S. House of Representatives Committee Jurisdiction

(1) Relations of the United States with foreign nations generally.

U.S. House of Representatives Committee Jurisdiction

(2) Acquisition of land and buildings for embassies and legations in foreign countries.

U.S. House of Representatives Committee Jurisdiction

(3) Establishment of boundary lines between the United States and foreign nations.

U.S. House of Representatives Committee Jurisdiction

(4) Export controls, including nonproliferation of nuclear technology and nuclear hardware.

U.S. House of Representatives Committee Jurisdiction

(5) Foreign loans.

U.S. House of Representatives Committee Jurisdiction

(6) International commodity agreements (other than those involving sugar), including all agreements for cooperation in the export of nuclear technology and nuclear hardware.

U.S. House of Representatives Committee Jurisdiction

(7) International conferences and congresses.

U.S. House of Representatives Committee Jurisdiction

(8) International education.

U.S. House of Representatives Committee Jurisdiction

(9) Intervention abroad and declarations of war.

U.S. House of Representatives Committee Jurisdiction

(10) Measures relating to the diplomatic service.

U.S. House of Representatives Committee Jurisdiction

(11) Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.

U.S. House of Representatives Committee Jurisdiction

(12) Measures relating to international economic policy.

(j) Committee on the Judiciary.

U.S. House of Representatives Committee Jurisdiction

(1) The judiciary and judicial proceedings, civil and criminal.

U.S. House of Representatives Committee Jurisdiction

(2) Administrative practice and procedure.

U.S. House of Representatives Committee Jurisdiction

(3) Apportionment of Representatives.

U.S. House of Representatives Committee Jurisdiction

(4) Bankruptcy, mutiny, espionage, and counterfeiting.

U.S. House of Representatives Committee Jurisdiction

(5) Civil liberties.

U.S. House of Representatives Committee Jurisdiction

(6) Constitutional amendments.

U.S. House of Representatives Committee Jurisdiction

(7) Federal courts and judges, and local courts in the Territories and possessions.

U.S. House of Representatives Committee Jurisdiction

(8) Immigration and naturalization.

U.S. House of Representatives Committee Jurisdiction

(9) Interstate compacts, generally.

U.S. House of Representatives Committee Jurisdiction

(10) Measures relating to claims against the United States.

U.S. House of Representatives Committee Jurisdiction

(11) Meetings of Congress, attendance of Members and their acceptance of incompatible offices.

U.S. House of Representatives Committee Jurisdiction

(12) National penitentiaries.

U.S. House of Representatives Committee Jurisdiction

(13) Patents, the Patent Office, copyrights, and trademarks.

U.S. House of Representatives Committee Jurisdiction

(14) Presidential succession.

U.S. House of Representatives Committee Jurisdiction

(15) Protection of trade and commerce against unlawful restraints and monopolies.

U.S. House of Representatives Committee Jurisdiction

(16) Revision and codification of the Statutes of the United States.

(k) Committee on National Security.

U.S. House of Representatives Committee Jurisdiction

(1) Ammunition depots; forts; arsenals; Army, Navy, and Air Force reservations and establishments.

U.S. House of Representatives Committee Jurisdiction

(2) Common defense generally.

U.S. House of Representatives Committee Jurisdiction

(3) Conservation, development, and use of naval petroleum and oil shale reserves.

U.S. House of Representatives Committee Jurisdiction

(4) The Department of Defense generally, including the Departments of the Army, Navy, and Air Force generally.

U.S. House of Representatives Committee Jurisdiction

(5) Interoceanic canals generally, including measures relating to the maintenance, operation, and administration of interoceanic canals.

U.S. House of Representatives Committee Jurisdiction

(6) Merchant Marine Academy, and State Maritime Academies.

U.S. House of Representatives Committee Jurisdiction

(7) Military applications of nuclear energy.

U.S. House of Representatives Committee Jurisdiction

(8) Tactical intelligence and intelligence related activities of the Department of the Defense.

U.S. House of Representatives Committee Jurisdiction

(9) National security aspects of merchant marine, including financial assistance for the construction and operation of vessels, the maintenance of the U.S. shipbuilding and ship repair industrial base, cabotage, cargo preference and merchant marine officers and seamen as these matters relate to the national security.

(l) Committee on Resources.

U.S. House of Representatives Committee Jurisdiction

(1) Fisheries and wildlife, including research, restoration, refuges, and conservation.

U.S. House of Representatives Committee Jurisdiction

(2) Forest reserves and national parks created from the public domain.

U.S. House of Representatives Committee Jurisdiction

(3) Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.

U.S. House of Representatives Committee Jurisdiction

(4) Geological Survey.

U.S. House of Representatives Committee Jurisdiction

(5) International fishing agreements.

U.S. House of Representatives Committee Jurisdiction

(6) Interstate compacts relating to apportionment of waters for irrigation purposes.

U.S. House of Representatives Committee Jurisdiction

(7) Irrigation and reclamation, including water supply for reclamation projects, and easements of public lands for irrigation projects, and acquisition of private lands when necessary to complete irrigation projects.

U.S. House of Representatives Committee Jurisdiction

(8) Measures relating to the care and management of Indians, including the care and allotment of Indian lands and general and special measures relating to claims which are paid out of Indian funds.

U.S. House of Representatives Committee Jurisdiction

(9) Measures relating generally to the insular possessions of the United States, except those affecting the revenue and appropriations.

(m) Committee on Rules.

U.S. House of Representatives Committee Jurisdiction

(1) The rules and joint rules (other than rules or joint rules relating to the Code of Official Conduct), and order of business of the House.

U.S. House of Representatives Committee Jurisdiction

(2) Recesses and final adjournments of Congress.

U.S. House of Representatives Committee Jurisdiction

The Committee on Rules is authorized to sit and act whether or not the House is in session.

(n) Committee on Science.

U.S. House of Representatives Committee Jurisdiction

(1) All energy research, development, and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories.

U.S. House of Representatives Committee Jurisdiction

(2) Astronautical research and development, including resources, personnel, equipment, and facilities.

U.S. House of Representatives Committee Jurisdiction

(3) Civil aviation research and development.

U.S. House of Representatives Committee Jurisdiction

(4) Environmental research and development.

U.S. House of Representatives Committee Jurisdiction

(5) Marine research.

U.S. House of Representatives Committee Jurisdiction

(6) Measures relating to the commercial application of energy technology.

U.S. House of Representatives Committee Jurisdiction

(7) National Institute of Standards and Technology, standardization of weights and measures and the metric system.

U.S. House of Representatives Committee Jurisdiction

(8) National Aeronautics and Space Administration.

U.S. House of Representatives Committee Jurisdiction

(9) National Space Council.

U.S. House of Representatives Committee Jurisdiction

(10) National Science Foundation.

U.S. House of Representatives Committee Jurisdiction

(11) National Weather Service.

U.S. House of Representatives Committee Jurisdiction

(12) Outer space, including exploration and control thereof.

U.S. House of Representatives Committee Jurisdiction

(13) Science Scholarships.

U.S. House of Representatives Committee Jurisdiction

(14) Scientific research, development, and demonstration, and projects therefor.

U.S. House of Representatives Committee Jurisdiction

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b) (1)), the committee shall have the special oversight function provided for in clause 3(f) with respect for all nonmilitary research and development.

(o) Committee on Small Business.

U.S. House of Representatives Committee Jurisdiction

(1) Assistance to and protection of small business, including financial aid, regulatory flexibility and paperwork reduction.

U.S. House of Representatives Committee Jurisdiction

(2) Participation of small-business enterprises in Federal procurement and Government contracts.

U.S. House of Representatives Committee Jurisdiction

In addition to its legislative jurisdiction under the preceding provisions of this paragraph and (its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(g) with respect to the problems of small business.

(p) Committee on Standards of Official Conduct.

U.S. House of Representatives Committee Jurisdiction

(1) Measures relating to the Code of Official Conduct.

U.S. House of Representatives Committee Jurisdiction

In addition to its legislative jurisdiction under the preceding provision of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the functions with respect to recommendations, studies, investigations, and reports which are provided for in clause 4(e), and the functions designated in titles I and V of the Ethics in Government Act of 1978 and sections 7342, 7351, and 7353 of title 5, United States Code.

(q) Committee on Transportation and Infrastructure.

U.S. House of Representatives Committee Jurisdiction

(1) Coast Guard, including lifesaving service, lighthouses, lightships, ocean derelicts, and the Coast Guard Academy.

U.S. House of Representatives Committee Jurisdiction

(2) Federal management of emergencies and natural disasters.

U.S. House of Representatives Committee Jurisdiction

(3) Flood control and improvement of rivers and harbors.

U.S. House of Representatives Committee Jurisdiction

(4) Inland waterways.

U.S. House of Representatives Committee Jurisdiction

(5) Inspection of merchant marine vessels, lights and signals, lifesaving equipment, and fire protection on such vessels.

U.S. House of Representatives Committee Jurisdiction

(6) Navigation and the laws relating thereto, including pilotage.

U.S. House of Representatives Committee Jurisdiction

(7) Registering and licensing of vessels and small boats.

U.S. House of Representatives Committee Jurisdiction

(8) Rules and international arrangements to prevent collisions at sea.

U.S. House of Representatives Committee Jurisdiction

(9) Measures relating to the Capitol Building and the Senate and House office buildings.

U.S. House of Representatives Committee Jurisdiction

(10) Measures relating to the construction or maintenance of roads and post roads, other than appropriations therefor; but it shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road, nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road.

U.S. House of Representatives Committee Jurisdiction

(11) Measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institution.

U.S. House of Representatives Committee Jurisdiction

(12) Measures relating to merchant marine, except for national security aspects of merchant marine.

U.S. House of Representatives Committee Jurisdiction

(13) Measures relating to the purchase of sites and construction of post offices, customhouses, Federal courthouses, and Government buildings within the District of Columbia.

U.S. House of Representatives Committee Jurisdiction

(14) Oil and other pollution of navigable waters, including inland, coastal, and ocean waters.

U.S. House of Representatives Committee Jurisdiction

(15) Marine affairs (including coastal zone management) as they relate to oil and other pollution of navigable waters.

(r) Committee on Veterans' Affairs.

U.S. House of Representatives Committee Jurisdiction

(1) Veterans' measures generally.

U.S. House of Representatives Committee Jurisdiction

(2) Cemeteries of the United States in which veterans of any war or conflict are or may be buried, whether in the United States or abroad, except cemeteries administered by the Secretary of the Interior.

U.S. House of Representatives Committee Jurisdiction

(3) Compensation, vocational rehabilitation, and education of veterans.

U.S. House of Representatives Committee Jurisdiction

(4) Life insurance issued by the Government on account of service in the Armed Forces.

U.S. House of Representatives Committee Jurisdiction

(5) Pensions of all the wars of the United States, general and special.

U.S. House of Representatives Committee Jurisdiction

(6) Readjustment of servicemen to civil life

U.S. House of Representatives Committee Jurisdiction

(7) Soldiers' and sailors' civil relief.

U.S. House of Representatives Committee Jurisdiction

(8) Veterans' hospitals, medical care, and treatment of veterans.

(s) Committee on Ways and Means.

U.S. House of Representatives Committee Jurisdiction

(1) Customs, collection districts, and ports of entry and delivery.

U.S. House of Representatives Committee Jurisdiction

(2) Reciprocal trade agreements.

U.S. House of Representatives Committee Jurisdiction

(3) Revenue measures generally.

U.S. House of Representatives Committee Jurisdiction

(4) Revenue measures relating to the insular possessions.

U.S. House of Representatives Committee Jurisdiction

(5) The bonded debt of the United States (subject to the last sentence of clause 4(g) of this rule).

U.S. House of Representatives Committee Jurisdiction

(6) The deposit of public moneys.

U.S. House of Representatives Committee Jurisdiction

(7) Transportation of dutiable goods.

U.S. House of Representatives Committee Jurisdiction

(8) Tax exempt foundations and charitable trusts.

U.S. House of Representatives Committee Jurisdiction

(9) National social security, except (A) health care and facilities programs that are supported from general revenues as opposed to payroll deductions and (B) work incentive programs.

U.S. House of Representatives Committee Jurisdiction

Prepared by House Information Systems. 1/13/95

**U.S. House of Representatives**

**House Rules**

Rule I: Duties of the Speaker

1. The Speaker shall take the Chair on every legislative day precisely at the hour to which the House shall have adjourned at the last sitting and immediately call the Members to order. The Speaker, having examined the Journal of the proceedings of the last day's sitting and approved the same, shall announce to the House his approval of the Journal, and the Speaker's approval of the Journal shall be deemed to be agreed to subject to a vote on agreeing to the Speaker's approval on the demand of any Member, which vote, if decided in the affirmative, shall not be subject to a motion to reconsider. It shall be in order to offer one motion that the Journal be read only if the Speaker's approval of the Journal is not agreed to, and such motion shall be determined without debate and shall not be subject to a motion to reconsider.

2. He shall preserve order and decorum, and, in case of disturbance or disorderly conduct in the galleries, or in the lobby, may cause the same to be cleared.

3. He shall have general control, except as provided by rule or law, of the Hall of the House, and of the corridors and passages and the disposal of the unappropriated rooms in that part of the Capitol assigned to the use of the House, until further order.

4. He shall sign all acts, addresses, joint resolutions, writs, warrants, and subpoenas of, or issued by order of, the House and decide all questions of order, subject to an appeal by any Member, on which appeal no Member shall speak more than once, unless by permission of the House. The Speaker is authorized to sign enrolled bills whether or not the House is in session.

5. (a) He shall rise to put a question, but may state it sitting; and shall put questions in this form, to wit: 'As many as are in favor (as the question may be), say 'Aye'.'; and after the affirmative voice is expressed, 'As many as are opposed, say 'No'.'; if he doubts, or a division is called for, the House shall divide; those in the affirmative of the question shall first rise from their seats, and then those in the negative. If any Member requests a recorded vote and that request is supported by at least one-fifth of a quorum, such vote shall be taken by electronic device, unless the Speaker in his discretion orders clerks to tell the names of those voting on each side of the question, and such names shall be recorded by electronic device or by clerks, as the case may be, and shall be entered in the Journal together with the names of those not voting. Members shall have not less than fifteen minutes to be counted from the ordering of the recorded vote or the ordering of clerks to tell the vote.

(b)(1) On any legislative day whenever a recorded vote is ordered or the yeas and nays are ordered, or a vote is objected to under clause 4 of rule XV on any of the following questions, the Speaker may, in his discretion, postpone further proceedings on each such question to a designated time or place in the legislative schedule on that legislative day in the case of the question of agreeing to the Speaker's approval of the Journal, or within two legislative days, in the case of the other questions listed herein:

(A) the question of adopting a resolution;

(B) the question of passing a bill;

(C) the question of agreeing to a motion to instruct conferees as provided in clause 1(c) of rule XXVIII: Provided, however, That proceedings shall not resume on said question if the conferees have filed a report in the House;

(D) the question of agreeing to a conference report;

(E) the question of ordering the previous question on a question described in subdivision (A), (B), (C), or (D); and

(F) the question of agreeing to a motion to suspend the rules.

(2) At the time designated by the Speaker for further consideration of proceedings postponed under subparagraph (1), the Speaker shall put each question on which further proceedings were postponed, in the order in which that question was considered.

(3) At any time after the vote has been taken on the first question on which the Speaker has postponed further proceedings under this paragraph, the Speaker may, in his discretion, reduce to not less than five minutes the period of time within which a roll call vote by electronic device on the question may be taken without any intervening business on any or all of the additional questions on which the Speaker has postponed further proceedings under this paragraph.

(4) If the House adjourns before all of the questions on which further proceedings were postponed under this paragraph have been put and determined, then, on the next following legislative day the unfinished business shall be the disposition of all such questions, previously undisposed of, in the order in which the questions were considered.

6. He shall not be required to vote in ordinary legislative proceedings, except where his vote would be decisive, or where the House is engaged in voting by ballot; and in cases of a tie vote the question shall be lost.

7. (a) He shall have the right to name any Member to perform the duties of the Chair, but such substitution shall not extend beyond three legislative days, except that with the permission of the House he may name a Member to act as Speaker pro tempore only to sign enrolled bills and joint resolutions for a period of time specified in the designation, notwithstanding any other provision of this clause: Provided, however, That in case of his illness, he may make such appointment for a period not exceeding ten days, with the approval of the House at the time the same is made; and in his absence and omission to make such appointment, the House shall proceed to elect a Speaker pro tempore to act during his absence.

(b) No person may serve as Speaker for more than four consecutive Congresses, beginning with the One Hundred Fourth Congress (disregarding for this purpose any service for less than a full session in any Congress).

8. He shall have the authority to designate any Member, officer or employee of the House of Representatives to travel on the business of the House of Representatives, as determined by him, within or without the United States, whether the House is meeting, has recessed or has adjourned, and all expenses for such travel may be paid for from the contingent fund of the House on vouchers solely approved and signed by the Speaker. However, expenses may not be paid from the contingent fund for travel of a Member after the date of the general election of Members in which the Member has not been elected to the succeeding Congress, or in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress.

9. (a) He shall devise and implement a system subject to his direction and control for closed circuit viewing of floor proceedings of the House of Representatives in the offices of all Members and committees and in such other places in the Capitol and the House Office Buildings as he deems appropriate. Such system may include other telecommunications functions as he deems appropriate. Any such telecommunications function shall be subject to rules and regulations issued by the Speaker.

(b)(1) He shall devise and implement a system subject to his direction and control for complete and unedited audio and visual broadcasting and recording of the proceedings of the House of Representatives. He shall provide for the distribution of such broadcasts and recordings thereof to news media, the storage of audio and video recordings of the proceedings, and the closed captioning of the proceedings for hearing-impaired individuals.

(2) All television and radio broadcasting stations, networks, services, and systems (including cable systems) which are accredited to the House radio and television correspondents' galleries, and all radio and television correspondents who are accredited to the radio and television correspondents' galleries shall be provided access to the live coverage of the House of Representatives.

(3) No coverage made available under this clause nor any recording thereof shall be used for any political purpose.

(4) Coverage made available under this clause shall not be broadcast with commercial sponsorship except as part of bona fide news programs and public affairs documentary programs. No part of such coverage or any recording thereof shall be used in any commercial advertisement.

(c) He may delegate any of his responsibilities under this clause to such legislative entity as he deems appropriate.

10. There is established in the House of Representatives an office to be known as the Office of the Historian of the House of Representatives.

11. There is established in the House of Representatives an office to be known as the Office of General Counsel for the purpose of providing legal assistance and representation to the House. Legal assistance and representation shall be provided without regard to political affiliation. The Office of General Counsel shall function pursuant to the direction of the Speaker, who shall consult with a Bipartisan Legal Advisory Group, which shall include the majority and minority leaderships. The Speaker shall appoint and set the annual rate of pay for employees of the Office of General Counsel.

12. To suspend the business of the House for a short time when no question is pending before the House, the Speaker may declare a recess subject to the call of the Chair.

Rule II: Election of Officers

There shall be elected by a viva voce vote, at the commencement of each Congress, to continue in office until their successors are chosen and qualified, a Clerk, Sergeant-at-Arms, Chief Administrative Officer, and Chaplain, each of whom shall take an oath to support the Constitution of the United States, and for the true and faithful discharge of the duties of his office to the best of his knowledge and ability, and to keep the secrets of the House; and each shall appoint all of the employees of his department provided for by law. The Clerk, Sergeant-at-Arms, and Chief Administrative Officer may be removed by the House or by the Speaker.

Rule III: Duties of the Clerk

1. The Clerk shall, at the commencement of the first session of each Congress, call the Members to order, proceed to call the roll of Members by States in alphabetical order, and, pending the election of a Speaker or Speaker pro tempore, preserve order and decorum, and decide all questions of order subject to appeal by any member.

2. He shall make and cause to be printed and delivered to each Member, or mailed to his address, at the commencement of every regular session of Congress, a list of the reports which it is the duty of any officer or Department to make to Congress, referring to the act or resolution and page of the volume of the laws or Journal in which it may be contained, and placing under the name of each officer the list of reports required of him to be made.

3. He shall note all questions of order, with the decisions thereon, the record of which shall be printed as an appendix to the Journal of each session; and complete, as soon after the close of the session as possible, the printing and distribution to Members, Delegates, and the Resident Commissioner from Puerto Rico of the Journal of the House, together with an accurate and complete index; retain in the library at his office, for the use of the Members, Delegates, the Resident Commissioner from Puerto Rico and officers of the House, and not to be withdrawn therefrom, two copies of all the books and printed documents deposited there; send, at the end of each session, a printed copy of the Journal thereof to the executive and to each branch of the legislature of every State as may be requested by such State officials; deliver or mail to any Member, Delegate, or the Resident Commissioner from Puerto Rico an extra copy, in binding of good quality, of each document requested by that Member, Delegate, or the Resident Commissioner which has been printed, by order of either House of the Congress, in any Congress in which he served; attest and affix the seal of the House to all writs, warrants, and subpoenas issued by order of the House; and certify to the passage of all bills and joint resolutions.

4. He shall, in case of temporary absence or disability, designate an official in his office to sign all papers that may require the official signature of the Clerk of the House, and to do all other acts except such as are provided for by statute, they may be required under the rules and practices of the House to be done by the Clerk. Such official acts, when so done by the designated official, shall be under the name of the Clerk of the House. The said designation shall be in writing, and shall be laid before the House and entered on the Journal.

5. The Clerk is authorized to receive messages from the President and from the Senate at any time that the House is not in session.

6. He shall supervise the staff and manage any office of a Member who is deceased, has resigned, or been expelled until a successor is elected and shall perform similar duties in the event that a vacancy is declared by the House in any congressional district because of the incapacity of the Member representing such district or other reason. Whenever the Clerk is acting as a supervisory authority over such staff, he shall have authority to terminate employees; and he may appoint, with the approval of the Committee on House Oversight, such staff as is required to operate the office until a successor is elected. He shall maintain on the House payroll and supervise in the same manner staff appointed pursuant to section 800 of Public Law 91-655 (2 U.S.C. 31b-5) for sixty days following the death of a former Speaker.

7. In addition to any other reports required by the Speaker or the Committee on House Oversight, the Clerk shall report to the Committee on House Oversight not later than 45 days following the close of each semiannual period ending on June 30 or on December 31 on the financial and operational status of each function under the jurisdiction of the Clerk. Each report shall include financial statements, a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.

8. The Clerk shall fully cooperate with the appropriate offices and persons in the performance of reviews and audits of financial records and administrative operations.

Rule IV: Duties of the Sergeant-at-Arms

1. It shall be the duty of the Sergeant-at-Arms to attend the House during its sittings, to maintain order under the direction of the Speaker or Chairman, and, pending the election of a Speaker or Speaker pro tempore, under the direction of the Clerk, execute the commands of the House, and all processes issued by authority thereof, directed to him by the Speaker.

2. The symbol of his office shall be the mace, which shall be borne by him while enforcing order on the floor.

3. He shall enforce strictly the rules relating to the privileges of the Hall and be responsible to the House for the official conduct of his employees.

4. He shall allow no person to enter the room over the Hall of the House during its sittings; and fifteen minutes before the hour of the meeting of the House each day he shall see that the floor is cleared of all persons except those privileged to remain, and kept so until ten minutes after adjournment.

5. In addition to any other reports required by the Speaker or the Committee on House Oversight, the Sergeant-at-Arms shall report to the Committee on House Oversight not later than 45 days following the close of each semiannual period ending June 30 or on December 31 on the financial and operational status of each function under the jurisdiction of the Sergeant-at-Arms. Each report shall include financial statements, a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.

6. The Sergeant-at-Arms shall fully cooperate with the appropriate offices and persons in the performance of reviews and audits of financial records and administrative operations.

Rule V: Chief Administrative Officer

1. The Chief Administrative Officer of the House shall have operational and financial responsibility for functions as assigned by the Speaker and the Committee on House Oversight, and shall be subject to the policy direction and oversight of the Speaker and the Committee on House Oversight.

2. In addition to any other reports required by the Speaker or the Committee on House Oversight, the Chief shall report to the Committee on House Oversight not later than 45 days following the close of each semiannual period ending on June 30 or December 31 on the financial and operational status of each function under the jurisdiction of the Chief. Each report shall include financial statements, a description or explanation of current operations, the implementation of new policies and procedures, and future plans for each function.

3. The Chief shall fully cooperate with the appropriate offices and persons in the performance of reviews and audits of financial records and administrative operations.

Rule VI: Office of Inspector General

1. There is established an Office of Inspector General.

2. The Inspector General shall be appointed for a Congress by the Speaker, the majority leader, and the minority leader, acting jointly.

3. Subject to the policy direction and oversight of the Committee on House Oversight, the Inspector General shall be responsible only for -

(a) conducting periodic audits of the financial and administrative functions of the House and joint entities;

(b) informing the Officers or other officials who are the subject of an audit of the results of that audit and suggesting appropriate curative actions;

(c) simultaneously notifying the Speaker, the majority leader, the minority leader, and the chairman and ranking minority party member of the Committee on House Oversight in the case of any financial irregularity discovered in the course of carrying out responsibilities under this rule;

(d) simultaneously submitting to the Speaker, the majority leader, the minority leader, and the chairman and ranking minority party member of the Committee on House Oversight a report of each audit conducted under this rule; and

(e) reporting to the Committee on Standards of Official Conduct information involving possible violations by any Member, officer, or employee of the House of any rule of the House or of any law applicable to the performance of official duties or the discharge of official responsibilities which may require referral to the appropriate Federal or State authorities pursuant to clause 4(e)(1)(C) of rule X.

Rule VII: Duties of the Chaplain

The Chaplain shall attend at the commencement of each day's sitting of the House and open the same with prayer.

Rule VIII: Duties of the Members

1. Every Member shall be present within the Hall of the House during its sittings, unless excused or necessarily prevented; and shall vote on each question put, unless he has a direct personal or pecuniary interest in the event of such question.

2. Pairs shall be announced by the Clerk immediately before the announcement by the Chair of the result of the vote, by the House or Committee of the Whole from a written list furnished him, and signed by the Member making the statement to the Clerk, which list shall be published in the Record as a part of the proceedings, immediately following the names of those not voting. However, pairs shall be announced but once during the same legislative day.

3. (a) A Member may not authorize any other individual to cast his vote or record his presence in the House or Committee of the Whole.

(b) No individual other than a Member may cast a vote or record a Member's presence in the House or Committee of the Whole.

(c) A Member may not cast a vote for any other Member or record another Member's presence in the House or Committee of the Whole.

Rule IX: Questions of Privilege

1. Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; and second, those affecting the rights, reputation, and conduct of Members, individually, in their representative capacity only.

2. (a)(1) A resolution reported as a question of the privileges of the House, or offered from the floor by the majority leader or the minority leader as a question of the privileges of the House, or offered as privileged under clause 1, section 7, article I of the Constitution, shall have precedence of all other questions except motions to adjourn. A resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House shall have precedence of all other questions except motions to adjourn only at a time or place, designated by the Speaker, in the legislative schedule within two legislative days after the day on which the proponent announces to the House his intention to offer the resolution and the form of the resolution.

(2) The time allotted for debate on a resolution offered from the floor as a question of the privileges of the House shall be equally divided between (A) the proponent of the resolution, and (B) the majority leader or the minority leader or a designee, as determined by the Speaker.

(b) A question of personal privilege shall have precedence of all other questions except motions to adjourn.

Rule X: Establishment and Jurisdiction of Standing Committees

The Committees and Their Jurisdiction

1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned to it by this clause and clauses 2, 3, and 4; and all bills, resolutions, and other matters relating to subjects within the jurisdiction of any standing committee as listed in this clause shall (in accordance with and subject to clause 5) be referred to such committees, as follows:

(a) Committee on Agriculture.

(1) Adulteration of seeds, insect pests, and protection of birds and animals in forest reserves.

(2) Agriculture generally.

(3) Agricultural and industrial chemistry.

(4) Agricultural colleges and experiment stations.

(5) Agricultural economics and research.

(6) Agricultural education extension services.

(7) Agricultural production and marketing and stabilization of prices of agricultural products, and commodities (not including distribution outside of the United States).

(8) Animal industry and diseases of animals.

(9) Commodities exchanges.

(10) Crop insurance and soil conservation.

(11) Dairy industry.

(12) Entomology and plant quarantine.

(13) Extension of farm credit and farm security.

(14) Inspection of livestock, and poultry, and meat products, and seafood and seafood products.

(15) Forestry in general, and forest reserves other than those created from the public domain.

(16) Human nutrition and home economics.

(17) Plant industry, soils, and agricultural engineering.

(18) Rural electrification.

(19) Rural development.

(20) Water conservation related to activities of the Department of Agriculture.

(b) Committee on Appropriations.

(1) Appropriation of the revenue for the support of the Government.

(2) Rescissions of appropriations contained in appropriation Acts.

(3) Transfers of unexpended balances.

(4) The amount of new spending authority (as described in the Congressional Budget Act of 1974) which is to be effective for a fiscal year, including bills and resolutions (reported by other committees) which provide new spending authority and are referred to the committee under clause 4(a). The committee shall include separate headings for 'Rescissions' and 'Transfers of Unexpended Balances' in any bill or resolution as reported from the committee under its jurisdiction specified in subparagraph (2) or (3), with all proposed rescissions and proposed transfers listed therein; and shall include a separate section with respect to such rescissions or transfers in the accompanying committee report. In addition to its jurisdiction under the preceding provisions of this paragraph, the committee shall have the fiscal oversight function provided for in clause 2(b)(3) and the budget hearing function provided for in clause 4(a).

(c) Committee on Banking and Financial Services.

(1) Banks and banking, including deposit insurance and Federal monetary policy.

(2) Bank capital markets activities generally.

(3) Depository institution securities activities generally, including the activities of any affiliates, except for functional regulation under applicable securities laws not involving safety and soundness.

(4) Economic stabilization, defense production, renegotiation, and control of the price of commodities, rents, and services.

(5) Financial aid to commerce and industry (other than transportation).

(6) International finance.

(7) International financial and monetary organizations.

(8) Money and credit, including currency and the issuance of notes and redemption thereof; gold and silver, including the coinage thereof; valuation and revaluation of the dollar.

(9) Public and private housing.

(10) Urban development.

(d)(1) Committee on the Budget, consisting of the following Members:

(A) Members who are members of other standing committees, including five Members who are members of the Committee on Appropriations, and five Members who are members of the Committee on Ways and Means;

(B) one Member from the leadership of the majority party; and

(C) one Member from the leadership of the minority party. No Member other than a representative from the leadership of a party may serve as a member of the Committee on the Budget during more than four Congresses in any period of six successive Congresses (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress), except that an incumbent chairman or ranking minority member having served on the committee for four Congresses and having served as chairman or ranking minority member of the committee for not more than one Congress shall be eligible for reelection to the committee as chairman or ranking minority member for one additional Congress.

(2) All concurrent resolutions on the budget (as defined in section 3 of the Congressional Budget Act of 1974), other matters required to be referred to the committee under titles III and IV of that Act, and other measures setting forth appropriate levels of budget totals for the United States Government.

(3) Measures relating to the congressional budget process, generally.

(4) Measures relating to the establishment, extension, and enforcement of special controls over the Federal budget, including the budgetary treatment of off-budget Federal agencies and measures providing exemption from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(5) The committee shall have the duty -

(A) to report the matters required to be reported by it under titles III and IV of the Congressional Budget Act of 1974;

(B) to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the House on a recurring basis;

(C) to request and evaluate continuing studies of tax expenditures; to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the House on a recurring basis; and

(D) to review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.

(e) Committee on Commerce.

(1) Biomedical research and development.

(2) Consumer affairs and consumer protection.

(3) Health and health facilities, except health care supported by payroll deductions.

(4) Interstate energy compacts.

(5) Interstate and foreign commerce generally.

(6) Measures relating to the exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including all fossil fuels, solar energy, and other unconventional or renewable energy resources.

(7) Measures relating to the conservation of energy resources.

(8) Measures relating to energy information generally.

(9) Measures relating to (A) the generation and marketing of power (except by federally chartered or Federal regional power marketing authorities), (B) the reliability and interstate transmission of, and ratemaking for, all power, and (C) the siting of generation facilities; except the installation of interconnections between Government waterpower projects.

(10) Measures relating to general management of the Department of Energy, and the management and all functions of the Federal Energy Regulatory Commission.

(11) National energy policy generally.

(12) Public health and quarantine.

(13) Regulation of the domestic nuclear energy industry, including regulation of research and development reactors and nuclear regulatory research.

(14) Regulation of interstate and foreign communications.

(15) Securities and exchanges.

(16) Travel and tourism.

The committee shall have the same jurisdiction with respect to regulation of nuclear facilities and of use of nuclear energy as it has with respect to regulation of nonnuclear facilities and of use of nonnuclear energy. In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight functions under clause 2(b)(1)), such committee shall have the special oversight functions provided for in clause (3)(h) with respect to all laws, programs, and Government activities affecting nuclear and other energy, and nonmilitary nuclear energy and research and development including the disposal of nuclear waste.

(f) Committee on Economic and Educational Opportunities.

(1) Child labor.

(2) Columbia Institution for the Deaf, Dumb, and Blind; Howard University; Freedmen's Hospital.

(3) Convict labor and the entry of goods made by convicts into interstate commerce.

(4) Food programs for children in schools.

(5) Labor standards and statistics.

(6) Measures relating to education or labor generally.

(7) Mediation and arbitration of labor disputes.

(8) Regulation or prevention of importation of foreign laborers under contract.

(9) United States Employees' Compensation Commission.

(10) Vocational rehabilitation.

(11) Wages and hours of labor.

(12) Welfare of miners.

(13) Work incentive programs.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(c) with respect to domestic educational programs and institutions, and programs of student assistance, which are within the jurisdiction of other committees.

(g) Committee on Government Reform and Oversight.

(1) The Federal Civil Service, including intergovernmental personnel; the status of officers and employees of the United States, including their compensation, classification, and retirement.

(2) Measures relating to the municipal affairs of the District of Columbia in general, other than appropriations.

(3) Federal paperwork reduction.

(4) Budget and accounting measures, generally.

(5) Holidays and celebrations.

(6) The overall economy, efficiency and management of government operations and activities, including Federal procurement.

(7) National archives.

(8) Population and demography generally, including the Census.

(9) Postal service generally, including the transportation of the mails.

(10) Public information and records.

(11) Relationship of the Federal Government to the States and municipalities generally.

(12) Reorganizations in the executive branch of the Government. In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its oversight functions under clause 2(b) (1) and (2)), the committee shall have the function of performing the duties and conducting the studies which are provided for in clause 4(c).

(h) Committee on House Oversight.

(1) Appropriations from accounts for committee salaries and expenses (except for the Committee on Appropriations), House Information Systems, and allowances and expenses of Members, House Officers and administrative offices of the House.

(2) Auditing and settling of all accounts described in subparagraph (1).

(3) Employment of persons by the House, including clerks for Members and committees, and reporters of debates.

(4) Except as provided in clause 1(q)(11), matters relating to the Library of Congress and the House Library; statuary and pictures; acceptance or purchase of works of art for the Capitol; the Botanic Gardens; management of the Library of Congress; purchase of books and manuscripts.

(5) Except as provided in clause 1(q)(11), matters relating to the Smithsonian Institution and the incorporation of similar institutions.

(6) Expenditure of accounts described in subparagraph (1).

(7) Franking Commission.

(8) Matters relating to printing and correction of the Congressional Record.

(9) Measures relating to accounts of the House generally.

(10) Measures relating to assignment of office space for Members and committees.

(11) Measures relating to the disposition of useless executive papers.

(12) Measures relating to the election of the President, Vice President, or Members of Congress; corrupt practices; contested elections; credentials and qualifications; and Federal elections generally.

(13) Measures relating to services to the House, including the House Restaurant, parking facilities and administration of the House Office Buildings and of the House wing of the Capitol.

(14) Measures relating to the travel of Members of the House.

(15) Measures relating to the raising, reporting and use of campaign contributions for candidates for office of Representative in the House of Representatives, of Delegate, and of Resident Commissioner to the United States from Puerto Rico.

(16) Measures relating to the compensation, retirement and other benefits of the Members, officers, and employees of the Congress. In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the function of performing the duties which are provided for in clause 4(d).

(i) Committee on International Relations.

(1) Relations of the United States with foreign nations generally.

(2) Acquisition of land and buildings for embassies and legations in foreign countries.

(3) Establishment of boundary lines between the United States and foreign nations.

(4) Export controls, including nonproliferation of nuclear technology and nuclear hardware.

(5) Foreign loans.

(6) International commodity agreements (other than those involving sugar), including all agreements for cooperation in the export of nuclear technology and nuclear hardware.

(7) International conferences and congresses.

(8) International education.

(9) Intervention abroad and declarations of war.

(10) Measures relating to the diplomatic service.

(11) Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.

(12) Measures relating to international economic policy.

(13) Neutrality.

(14) Protection of American citizens abroad and expatriation.

(15) The American National Red Cross.

(16) Trading with the enemy.

(17) United Nations Organizations.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight functions provided for in clause 3(d) with respect to customs administration, intelligence activities relating to foreign policy, international financial and monetary organizations, and international fishing agreements.

(j) Committee on the Judiciary.

(1) The judiciary and judicial proceedings, civil and criminal.

(2) Administrative practice and procedure.

(3) Apportionment of Representatives.

(4) Bankruptcy, mutiny, espionage, and counterfeiting.

(5) Civil liberties.

(6) Constitutional amendments.

(7) Federal courts and judges, and local courts in the Territories and possessions.

(8) Immigration and naturalization.

(9) Interstate compacts, generally.

(10) Measures relating to claims against the United States.

(11) Meetings of Congress, attendance of Members and their acceptance of incompatible offices.

(12) National penitentiaries.

(13) Patents, the Patent Office, copyrights, and trademarks.

(14) Presidential succession.

(15) Protection of trade and commerce against unlawful restraints and monopolies.

(16) Revision and codification of the Statutes of the United States.

(17) State and territorial boundaries.

(18) Subversive activities affecting the internal security of the United States.

(k) Committee on National Security.

(1) Ammunition depots; forts; arsenals; Army, Navy, and Air Force reservations and establishments.

(2) Common defense generally.

(3) Conservation, development, and use of naval petroleum and oil shale reserves.

(4) The Department of Defense generally, including the Departments of the Army, Navy, and Air Force generally.

(5) Interoceanic canals generally, including measures relating to the maintenance, operation, and administration of interoceanic canals.

(6) Merchant Marine Academy, and State Maritime Academies.

(7) Military applications of nuclear energy.

(8) Tactical intelligence and intelligence related activities of the Department of Defense.

(9) National security aspects of merchant marine, including financial assistance for the construction and operation of vessels, the maintenance of the U.S. shipbuilding and ship repair industrial base, cabotage, cargo preference and merchant marine officers and seamen as these matters relate to the national security.

(10) Pay, promotion, retirement, and other benefits and privileges of members of the armed forces.

(11) Scientific research and development in support of the armed services.

(12) Selective service.

(13) Size and composition of the Army, Navy, Marine Corps, and Air Force.

(14) Soldiers' and sailors' homes.

(15) Strategic and critical materials necessary for the common defense.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(a) with respect to international arms control and disarmament, and military dependents education.

(l) Committee on Resources.

(1) Fisheries and wildlife, including research, restoration, refuges, and conservation.

(2) Forest reserves and national parks created from the public domain.

(3) Forfeiture of land grants and alien ownership, including alien ownership of mineral lands.

(4) Geological Survey.

(5) International fishing agreements.

(6) Interstate compacts relating to apportionment of waters for irrigation purposes.

(7) Irrigation and reclamation, including water supply for reclamation projects, and easements of public lands for irrigation projects, and acquisition of private lands when necessary to complete irrigation projects.

(8) Measures relating to the care and management of Indians, including the care and allotment of Indian lands and general and special measures relating to claims which are paid out of Indian funds.

(9) Measures relating generally to the insular possessions of the United States, except those affecting the revenue and appropriations.

(10) Military parks and battlefields, national cemeteries administered by the Secretary of the Interior, parks within the District of Columbia, and the erection of monuments to the memory of individuals.

(11) Mineral land laws and claims and entries thereunder.

(12) Mineral resources of the public lands.

(13) Mining interests generally.

(14) Mining schools and experimental stations.

(15) Marine affairs (including coastal zone management), except for measures relating to oil and other pollution of navigable waters.

(16) Oceanography.

(17) Petroleum conservation on the public lands and conservation of the radium supply in the United States.

(18) Preservation of prehistoric ruins and objects of interest on the public domain.

(19) Public lands generally, including entry, easements, and grazing thereon.

(20) Relations of the United States with the Indians and the Indian tribes.

(21) Trans-Alaska Oil Pipeline (except ratemaking).

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight functions provided for in clause 3(e) with respect to all programs affecting Indians.

(m) Committee on Rules.

(1) The rules and joint rules (other than rules or joint rules relating to the Code of Official Conduct), and order of business of the House.

(2) Recesses and final adjournments of Congress. The Committee on Rules is authorized to sit and act whether or not the House is in session.

(n) Committee on Science.

(1) All energy research, development, and demonstration, and projects therefor, and all federally owned or operated nonmilitary energy laboratories.

(2) Astronautical research and development, including resources, personnel, equipment, and facilities.

(3) Civil aviation research and development.

(4) Environmental research and development.

(5) Marine research.

(6) Measures relating to the commercial application of energy technology.

(7) National Institute of Standards and Technology, standardization of weights and measures and the metric system.

(8) National Aeronautics and Space Administration.

(9) National Space Council.

(10) National Science Foundation.

(11) National Weather Service.

(12) Outer space, including exploration and control thereof.

(13) Science Scholarships.

(14) Scientific research, development, and demonstration, and projects therefor.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(f) with respect to all nonmilitary research and development.

(o) Committee on Small Business.

(1) Assistance to and protection of small business, including financial aid, regulatory flexibility and paperwork reduction.

(2) Participation of small-business enterprises in Federal procurement and Government contracts.

In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(g) with respect to the problems of small business.

(p) Committee on Standards of Official Conduct.

(1) Measures relating to the Code of Official Conduct.

In addition to its legislative jurisdiction under the preceding provision of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the functions with respect to recommendations, studies, investigations, and reports which are provided for in clause 4(e), and the functions designated in titles I and V of the Ethics in Government Act of 1978 and sections 7342, 7351, and 7353 of title 5, United States Code.

(q) Committee on Transportation and Infrastructure.

(1) Coast Guard, including lifesaving service, lighthouses, lightships, ocean derelicts, and the Coast Guard Academy.

(2) Federal management of emergencies and natural disasters.

(3) Flood control and improvement of rivers and harbors.

(4) Inland waterways.

(5) Inspection of merchant marine vessels, lights and signals, lifesaving equipment, and fire protection on such vessels.

(6) Navigation and the laws relating thereto, including pilotage.

(7) Registering and licensing of vessels and small boats.

(8) Rules and international arrangements to prevent collisions at sea.

(9) Measures relating to the Capitol Building and the Senate and House Office Buildings.

(10) Measures relating to the construction or maintenance of roads and post roads, other than appropriations therefor; but it shall not be in order for any bill providing general legislation in relation to roads to contain any provision for any specific road, nor for any bill in relation to a specific road to embrace a provision in relation to any other specific road.

(11) Measures relating to the construction or reconstruction, maintenance, and care of the buildings and grounds of the Botanic Gardens, the Library of Congress, and the Smithsonian Institution.

(12) Measures relating to merchant marine, except for national security aspects of merchant marine.

(13) Measures relating to the purchase of sites and construction of post offices, customhouses, Federal courthouses, and Government buildings within the District of Columbia.

(14) Oil and other pollution of navigable waters, including inland, coastal, and ocean waters.

(15) Marine affairs (including coastal zone management) as they relate to oil and other pollution of navigable waters.

(16) Public buildings and occupied or improved grounds of the United States generally.

(17) Public works for the benefit of navigation, including bridges and dams (other than international bridges and dams).

(18) Related transportation regulatory agencies.

(19) Roads and the safety thereof.

(20) Transportation, including civil aviation, railroads, water transportation, transportation safety (except automobile safety), transportation infrastructure, transportation labor, and railroad retirement and unemployment (except revenue measures related thereto).

(21) Water power.

(r) Committee on Veterans' Affairs.

(1) Veterans' measures generally.

(2) Cemeteries of the United States in which veterans of any war or conflict are or may be buried, whether in the United States or abroad, except cemeteries administered by the Secretary of the Interior.

(3) Compensation, vocational rehabilitation, and education of veterans.

(4) Life insurance issued by the Government on account of service in the Armed Forces.

(5) Pensions of all the wars of the United States, general and special.

(6) Readjustment of servicemen to civil life.

(7) Soldiers' and sailors' civil relief.

(8) Veterans' hospitals, medical care, and treatment of veterans.

(s) Committee on Ways and Means.

(1) Customs, collection districts, and ports of entry and delivery.

(2) Reciprocal trade agreements.

(3) Revenue measures generally.

(4) Revenue measures relating to the insular possessions.

(5) The bonded debt of the United States (subject to the last sentence of clause 4(g) of this rule).

(6) The deposit of public moneys.

(7) Transportation of dutiable goods.

(8) Tax exempt foundations and charitable trusts.

(9) National social security, except (A) health care and facilities programs that are supported from general revenues as opposed to payroll deductions and (B) work incentive programs.

General Oversight Responsibilities

2. (a) In order to assist the House in -

(1) its analysis, appraisal, and evaluation of (A) the application, administration, execution, and effectiveness of the laws enacted by the Congress, or (B) conditions and circumstances which may indicate the necessity or desirability of enacting new or additional legislation, and

(2) its formulation, consideration, and enactment of such modifications of or changes in those laws, and of such additional legislation, as may be necessary or appropriate, the various standing committees shall have oversight responsibilities as provided in paragraph (b).

(b)(1) Each standing committee (other than the Committee on Appropriations and the Committee on the Budget) shall review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee and the organization and operation of the Federal agencies and entities having responsibilities in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, curtailed, or eliminated. In addition, each such committee shall review and study any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of that committee (whether or not any bill or resolution has been introduced with respect thereto), and shall on a continuing basis undertake future research and forecasting on matters within the jurisdiction of that committee. Each such committee having more than twenty members shall establish an oversight subcommittee, or require its subcommittees, if any, to conduct oversight in the area of their respective jurisdiction, to assist in carrying out its responsibilities under this subparagraph. The establishment of oversight subcommittees shall in no way limit the responsibility of the subcommittees with legislative jurisdiction from carrying out their oversight responsibilities.

(2) The Committee on Government Reform and Oversight shall review and study, on a continuing basis, the operation of Government activities at all levels with a view to determining their economy and efficiency.

(3) The Committee on Appropriations shall conduct such studies and examinations of the organization and operation of executive departments and other executive agencies (including any agency the majority of the stock of which is owned by the Government of the United States) as it may deem necessary to assist it in the determination of matters within its jurisdiction.

(c) Each standing committee of the House shall have the function of reviewing and studying on a continuing basis the impact or probable impact of tax policies affecting subjects within its jurisdiction as described in clauses 1 and 3.

(d)(1) Not later than February 15 of the first session of a Congress, each standing committee of the House shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plans for that Congress. Such plans shall be submitted simultaneously to the Committee on Government Reform and Oversight and to the Committee on House Oversight. In developing such plans each committee shall, to the maximum extent feasible -

(A) consult with other committees of the House that have jurisdiction over the same or related laws, programs, or agencies within its jurisdiction, with the objective of ensuring that such laws, programs, or agencies are reviewed in the same Congress and that there is a maximum of coordination between such committees in the conduct of such reviews; and such plans shall include an explanation of what steps have been and will be taken to ensure such coordination and cooperation;

(B) give priority consideration to including in its plans the review of those laws, programs, or agencies operating under permanent budget authority or permanent statutory authority; and

(C) have a view toward ensuring that all significant laws, programs, or agencies within its jurisdictions are subject to review at least once every ten years.

(2) It shall not be in order to consider any committee expense resolution (within the meaning of clause 5 of rule XI), or any amendment thereto, for any committee that has not submitted its oversight plans as required by this paragraph.

(3) Not later than March 31 in the first session of a Congress, after consultation with the Speaker, the majority leader, and the minority leader, the Committee on Government Reform and Oversight shall report to the House the oversight plans submitted by each committee together with any recommendations that it, or the House leadership group referred to above, may make to ensure the most effective coordination of such plans and otherwise achieve the objectives of this clause.

(e) The Speaker, with the approval of the House, may appoint special ad hoc oversight committees for the purpose of reviewing specific matters within the jurisdiction of two or more standing committees.

Special Oversight Functions

3. (a) The Committee on National Security shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving international arms control and disarmament and the education of military dependents in schools.

(b) The Committee on the Budget shall have the function of -

(1) making continuing studies of the effect on budget outlays of relevant existing and proposed legislation, and reporting the results of such studies to the House on a recurring basis; and

(2) requesting and evaluating continuing studies of tax expenditures, devising methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and reporting the results of such studies to the House on a recurring basis.

(c) The Committee on Economic and Educational Opportunities shall have the function of reviewing, studying, and coordinating, on a continuing basis, all laws, programs, and Government activities dealing with or involving domestic educational programs and institutions, and programs of student assistance, which are within the jurisdiction of other committees.

(d) The Committee on International Relations shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving customs administration, intelligence activities relating to foreign policy, international financial and monetary organizations, and international fishing agreements.

(e) The Committee on Resources shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with Indians.

(f) The Committee on Science shall have the function of reviewing and studying, on a continuing basis, all laws, programs, and Government activities dealing with or involving nonmilitary research and development.

(g) The Committee on Small Business shall have the function of studying and investigating, on a continuing basis, the problems of all types of small business.

(h) The Committee on Commerce shall have the function of reviewing and studying on a continuing basis, all laws, programs and government activities relating to nuclear and other energy, and nonmilitary nuclear energy and research and development including the disposal of nuclear waste.

(i) The Committee on Rules shall have the function of reviewing and studying, on a continuing basis, the congressional budget process, and the committee shall, from time to time, report its findings and recommendations to the House.

Additional Functions of Committees

4. (a)(1)(A) The Committee on Appropriations shall, within thirty days after the transmittal of the Budget to the Congress each year, hold hearings on the Budget as a whole with particular reference to -

(i) the basic recommendations and budgetary policies of the President in the presentation of the Budget; and

(ii) the fiscal, financial, and economic assumptions used as bases in arriving at total estimated expenditures and receipts.

(B) In holding hearings pursuant to subdivision (A), the committee shall receive testimony from the Secretary of the Treasury, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and such other persons as the committee may desire.

(C) Hearings pursuant to subdivision (A), or any part thereof, shall be held in open session, except when the committee, in open session and with a quorum present, determines by roll call vote that the testimony to be taken at that hearing on that day may be related to a matter of national security: Provided, however, That the committee may by the same procedure close one subsequent day of hearing. A transcript of all such hearings shall be printed and a copy thereof furnished to each Member, Delegate, and the Resident Commissioner from Puerto Rico.

(D) Hearings pursuant to subdivision (A), or any part thereof, may be held before joint meetings of the committee and the Committee on Appropriations of the Senate in accordance with such procedures as the two committees jointly may determine.

(2) Whenever any bill or resolution which provides new spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 is reported by a committee of the House and the amount of new budget authority which will be required for the fiscal year involved if such bill or resolution is enacted as so reported exceeds the appropriate allocation of new budget authority reported as described in clause 4(h) in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year, such bill or resolution shall then be referred to the Committee on Appropriations with instructions to report it, with the committee's recommendations and (if the committee deems it desirable) with an amendment limiting the total amount of new spending authority provided in the bill or resolution, within 15 calendar days (not counting any day on which the House is not in session) beginning with the day following the day on which it is so referred. If the Committee on Appropriations fails to report the bill or resolution within such 15-day period, the committee shall be automatically discharged from further consideration of the bill or resolution and the bill or resolution shall be placed on the appropriate calendar.

(3) In addition, the Committee on Appropriations shall study on a continuing basis those provisions of law which (on the first day of the first fiscal year for which the congressional budget process is effective) provide spending authority of permanent budget authority, and shall report to the House from time to time its recommendations for terminating or modifying such provisions.

(b) The Committee on the Budget shall have the duty -

(1) to review on a continuing basis the conduct by the Congressional Budget Office of its functions and duties;

(2) to hold hearings, and receive testimony from Members of Congress and such appropriate representatives of Federal departments and agencies, the general public, and national organizations as it deems desirable, in developing the concurrent resolutions on the budget for each fiscal year;

(3) to make all reports required of it by the Congressional Budget Act of 1974, including the reporting of reconciliation bills and resolutions when so required;

(4) to study on a continuing basis those provisions of law which exempt Federal agencies or any of their activities or outlays from inclusion in the Budget of the United States Government, and to report to the House from time to time its recommendations for terminating or modifying such provisions; and

(5) to study on a continuing basis proposals designed to improve and facilitate methods of congressional budget-making, and to report to the House from time to time the results of such study together with its recommendations.

(c)(1) The Committee on Government Reform and Oversight shall have the general function of -

(A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the House as it deems necessary or desirable in connection with the subject matter of such reports;

(B) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(C) studying intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

(2) In addition to its duties under subparagraph (1), the Committee on Government Reform and Oversight may at any time conduct investigations of any matter without regard to the provisions of clause 1, 2, or 3 (or this clause) conferring jurisdiction over such matter upon another standing committee. The committee's findings and recommendations in any such investigation shall be made available to the other standing committee or committees having jurisdiction over the matter involved (and included in the report of any such other committee when required by clause 2(l)(3) of rule XI).

(d) The Committee on House Oversight shall have the function of -

(1) examining all bills, amendments, and joint resolutions after passage by the House and, in cooperation with the Senate, examining all bills and joint resolutions which shall have passed both Houses to see that they are correctly enrolled, forthwith presenting those which originated in the House to the President of the United States in person after their signature by the Speaker of the House and the President of the Senate and reporting the fact and date of such presentation to the House;

(2) providing policy direction for, and oversight of, the Clerk, Sergeant-at-Arms, Chief Administrative Officer, and Inspector General; and

(3) accepting a gift, other than as otherwise provided by law, if the gift does not involve any duty, burden, or condition, or is not made dependent upon some future performance by the House of Representatives and promulgating regulations to carry out this paragraph.

(e)(1) The Committee on Standards of Official Conduct is authorized: (A) to recommend to the House from time to time such administrative actions as it may deem appropriate to establish or enforce standards of official conduct for Members, officers, and employees of the House, and any letter of reproval or other administrative action of the committee pursuant to an investigation under subdivision (B) shall only be issued or implemented as a part of a report required by such subdivision; (B) to investigate, subject to subparagraph (2) of this paragraph, any alleged violation, by a Member, officer, or employee of the House, of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities, and after notice and hearing (unless the right to a hearing is waived by the Member, officer, or employee), shall report to the House its findings of fact and recommendations, if any, upon the final disposition of any such investigation, and such action as the committee may deem appropriate in the circumstances; (C) to report to the appropriate Federal or State authorities, with the approval of the House, any substantial evidence of a violation, by a Member, officer, or employee of the House, of any law applicable to the performance of his duties or the discharge of his responsibilities, which may have been disclosed in a committee investigation; (D) to give consideration to the request of any Member, officer, or employee of the House for an advisory opinion with respect to the general propriety of any current or proposed conduct of such Member, officer, or employee and, with appropriate deletions to assure the privacy of the individual concerned, to publish such opinion for the guidance of other Members, officers, and employees of the House; and (E) to give consideration to the request of any Member, officer, or employee of the House for a written waiver in exceptional circumstances with respect to clause 4 of rule XLIII.

(2)(A) No resolution, report, recommendation, or advisory opinion relating to the official conduct of a Member, officer, or employee of the House shall be made by the Committee on Standards of Official Conduct, and no investigation of such conduct shall be undertaken by such committee, unless approved by the affirmative vote of a majority of the members of the committee.

(B) Except in the case of an investigation undertaken by the committee on its own initiative, the committee may undertake an investigation relating to the official conduct of an individual Member, officer, or employee of the House of Representatives only -

(i) upon receipt of a complaint, in writing and under oath, made by or submitted to a Member of the House and transmitted to the committee by such Member, or

(ii) upon receipt of a complaint, in writing and under oath, directly from an individual not a Member of the House if the committee finds that such complaint has been submitted by such individual to not less than three Members of the House who have refused, in writing, to transmit such complaint to the committee.

(C) No investigation shall be undertaken by the committee of any alleged violation of a law, rule, regulation, or standard of conduct not in effect at the time of the alleged violation; nor shall any investigation be undertaken by the committee of any alleged violation which occurred before the third previous Congress unless the committee determines that the alleged violation is directly related to any alleged violation which occurred in a more recent Congress.

(D) A member of the committee shall be ineligible to participate, as a member of the committee, in any committee proceeding relating to his or her official conduct. In any case in which a member of the committee is ineligible to act as a member of the committee under the preceding sentence, the Speaker of the House shall designate a Member of the House from the same political party as the ineligible member of the committee to act as a member of the committee in any committee proceeding relating to the official conduct of such ineligible member.

(E) A member of the committee may disqualify himself from participating in any investigation of the conduct of a Member, officer, or employee of the House upon the submission in writing and under oath of an affidavit of disqualification stating that he cannot render an impartial and unbiased decision in the case in which he seeks to disqualify himself. If the committee approves and accepts such affidavit of disqualification, the chairman shall so notify the Speaker and request the Speaker to designate a Member of the House from the same political party as the disqualifying member of the committee to act as a member of the committee in any committee proceeding relating to such investigation.

(F) No information or testimony received, or the contents of a complaint or the fact of its filing, shall be publicly disclosed by any committee or staff member unless specifically authorized in each instance by a vote of the full committee.

(f)(1) Each standing committee of the House shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, insure that appropriations for continuing programs and activities of the Federal Government and the District of Columbia government will be made annually to the maximum extent feasible and consistent with the nature, requirements, and objectives of the programs and activities involved. For the purposes of this paragraph a Government agency includes the organizational units of government listed in clause 7(c) of rule XIII.

(2) Each standing committee of the House shall review, from time to time, each continuing program within its jurisdiction for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefor would be made annually.

(g) Each standing committee of the House shall, on or before February 25 of each year, submit to the Committee on the Budget (1) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year which are within its jurisdiction or functions, and (2) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction which it intends to be effective during that fiscal year. The views and estimates submitted by the Committee on Ways and Means under the preceding sentence shall include a specific recommendation, made after holding public hearings, as to the appropriate level of the public debt which should be set forth in the concurrent resolution on the budget referred to in such sentence and serve as the basis for an increase or decrease in the statutory limit on such debt under the procedures provided by rule XLIX.

(h) As soon as practicable after a concurrent resolution on the budget for any fiscal year is agreed to, each standing committee of the House (after consulting with the appropriate committee or committees of the Senate) shall subdivide any allocations made to it in the joint explanatory statement accompanying the conference report on such resolution, and promptly report such subdivisions to the House, in the manner provided by section 302 or section 602 (in the case of fiscal years 1991 through 1995) of the Congressional Budget Act of 1974.

(i) Each standing committee of the House which is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget, in accordance with the Congressional Budget Act of 1974.

Referral of Bills, Resolutions, and Other Matters to Committees

5. (a) Each bill, resolution, or other matter which relates to a subject listed under any standing committee named in clause 1 shall be referred by the Speaker in accordance with the provisions of this clause.

(b) Every referral of any matter under paragraph (a) shall be made in such manner as to assure to the maximum extent feasible that each committee which has jurisdiction under clause 1 over the subject matter of any provision thereof will have responsibility for considering such provision and reporting to the House with respect thereto. Any precedents, rulings, and procedures in effect prior to the Ninety-Fourth Congress shall be applied with respect to referrals under this clause only to the extent that they will contribute to the achievement of the objectives of this clause.

(c) In carrying out paragraphs (a) and (b) with respect to any matter, the Speaker shall designate a committee of primary jurisdiction; but also may refer the matter to one or more additional committees, for consideration in sequence (subject to appropriate time limitations), either on its initial referral or after the matter has been reported by the committee of primary jurisdiction; or may refer portions of the matter to one or more additional committees (reflecting different subjects and jurisdictions) for the consideration only of designated portions; or may refer the matter to a special ad hoc committee appointed by the Speaker with the approval of the House (with members from the committees having jurisdiction) for the specific purpose of considering that matter and reporting to the House thereon; or may make such other provisions as may be considered appropriate.

Election and Membership of Committees

Chairmen; Vacancies; Select and Conference Committees

6. (a)(1) The standing committees specified in clause 1 shall be elected by the House within the seventh calendar day beginning after the commencement of each Congress, from nominations submitted by the respective party caucuses. It shall always be in order to consider resolutions recommended by the respective party caucuses to change the composition of standing committees.

(2) One-half of the members of the Committee on Standards of Official Conduct shall be from the majority party and one-half shall be from the minority party. No Member shall serve as a member of the Committee on Standards of Official Conduct during more than 3 Congresses in any period of 5 successive Congresses (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress).

(b)(1) Membership on standing committees during the course of a Congress shall be contingent on continuing membership in the party caucus or conference that nominated Members for election to such committees. Should a Member cease to be a member of a particular party caucus or conference, said Member shall automatically cease to be a member of a standing committee to which he was elected on the basis of nomination by that caucus or conference. The chairman of the relevant party caucus or conference shall notify the Speaker whenever a Member ceases to be a member of a party caucus or conference and the Speaker shall notify the chairman of each standing committee on which said Member serves, that in accord with this rule, the Member's election to such committee is automatically vacated.

(2)(A) No Member, Delegate, or Resident Commissioner may serve simultaneously as a member of more than two standing committees or four subcommittees of the standing committees of the House, except that ex officio service by a chairman and ranking minority member of a committee on each of its subcommittees by committee rule shall not be counted against the limitation on subcommittee service. Any other exception to these limitations must be approved by the House upon the recommendation of the respective party caucus or conference.

(B) For the purposes of this subparagraph, the term 'subcommittee' includes any panel (other than a special oversight panel of the Committee on National Security), task force, special subcommittee, or any subunit of a standing committee that is established for a cumulative period longer than six months in any Congress.

(c) One of the members of each standing committee shall be elected by the House, from nominations submitted by the majority party caucus, at the commencement of each Congress, as chairman thereof. No Member may serve as the chairman of the same standing committee, or as the chairman of the same subcommittee thereof, for more than three consecutive Congresses, beginning with the One Hundred Fourth Congress (disregarding for this purpose any service for less than a full session in any Congress). In the temporary absence of the chairman, the member next in rank in the order named in the election of the committee, and so on, as often as the case shall happen, shall act as chairman; and in case of a permanent vacancy in the chairmanship of any such committee the House shall elect another chairman.

(d) No committee of the House shall have more than five subcommittees (except the Committee on Appropriations, which shall have no more than 13; the Committee on Government Reform and Oversight, which shall have no more than seven; and the Committee on Transportation and Infrastructure, which shall have no more than six).

(e) All vacancies in standing committees shall be filled by election by the House from nominations, submitted by the respective party caucus or conference.

(f) The Speaker shall appoint all select and conference committees which shall be ordered by the House from time to time. At any time after an original appointment, the Speaker may remove Members or appoint additional Members to select and conference committees. In appointing members to conference committees the Speaker shall appoint no less than a majority of members who generally supported the House position as determined by the Speaker. The Speaker shall name Members who are primarily responsible for the legislation and shall, to the fullest extent feasible, include the principal proponents of the major provisions of the bill as it passed the House.

(g) Membership on select and joint committees during the course of a Congress shall be contingent on continuing membership in the party caucus or conference the Member was a member of at the time of his appointment to a select or joint committee. Should a Member cease to be a member of that caucus or conference, said Member shall automatically cease to be a member of any select or joint committee to which he is assigned. The chairman of the relevant party caucus or conference shall notify the Speaker whenever a Member ceases to be a member of a party caucus or conference and the Speaker shall notify the chairman of each select or joint committee on which said Member serves, that in accord with this rule, the Member's appointment to such committee is automatically vacated.

(h) The Speaker may appoint the Resident Commissioner from Puerto Rico and Delegates to the House to any select committee and to any conference committee.

Rule XI: Rules of Procedure for Committees in General

1. (a)(1) The Rules of the House are the rules of its committees and subcommittees so far as applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege in committees and subcommittees.

(2) Each subcommittee of a committee is a part of that committee, and is subject to the authority and direction of that committee and to its rules so far as applicable.

(b) Each committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its responsibilities under rule X, and (subject to the adoption of expense resolutions as required by clause 5) to incur expenses (including travel expenses) in connection therewith.

(c) Each committee is authorized to have printed and bound testimony and other data presented at hearings held by the committee. All costs of stenographic services and transcripts in connection with any meeting or hearing of a committee shall be paid from the contingent fund of the House.

(d)(1) Each committee shall submit to the House not later than January 2 of each odd-numbered year, a report on the activities of that committee under this rule and rule X during the Congress ending on January 3 of such year.

(2) Such report shall include separate sections summarizing the legislative and oversight activities of that committee during that Congress.

(3) The oversight section of such report shall include a summary of the oversight plans submitted by the committee pursuant to clause 2(d) of rule X, a summary of the actions taken and recommendations made with respect to each such plan, and a summary of any additional oversight activities undertaken by that committee, and any recommendations made or actions taken thereon.

Committee Rules

Adoption of written rules

2. (a) Each standing committee of the House shall adopt written rules governing its procedure. Such rules -

(1) shall be adopted in a meeting which is open to the public unless the committee, in open session and with a quorum present, determined by roll call vote that all or part of the meeting on that day is to be closed to the public;

(2) shall be not inconsistent with the Rules of the House or with those provisions of law having the force and effect of Rules of the House; and

(3) shall in any event incorporate all of the succeeding provisions of this clause to the extent applicable.

Each committee's rules specifying its regular meeting days, and any other rules of a committee which are in addition to the provisions of this clause, shall be published in the Congressional Record not later than thirty days after the committee is elected in each odd-numbered year. Each select or joint committee shall comply with the provisions of this paragraph unless specifically prohibited by law.

Regular meeting days

(b) Each standing committee of the House shall adopt regular meeting days, which shall be not less frequent than monthly, for the conduct of its business. Each such committee shall meet, for the consideration of any bill or resolution pending before the committee or for the transaction of other committee business, on all regular meeting days fixed by the committee, unless otherwise provided by written rule adopted by the committee.

Additional and special meetings

(c)(1) The Chairman of each standing committee may call and convene, as he or she considers necessary, additional meetings of the committee for the consideration of any bill or resolution pending before the committee or for the conduct of other committee business. The committee shall meet for such purpose pursuant to that call of the chairman.

(2) If at least three members of any standing committee desire that a special meeting of the committee be called by the chairman, those members may file in the offices of the committee their written request to the chairman for that special meeting. Such request shall specify the measure or matter to be considered. Immediately upon the filing of the request, the clerk of the committee shall notify the chairman of the filing of the request. If, within three calendar days after the filing of the request, the chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, a majority of the members of the committee may file in the offices of the committee their written notice that a special meeting of the committee will be held, specifying the date and hour of, and the measure or matter to be considered at, that special meeting. The committee shall meet on that date and hour. Immediately upon the filing of the notice, the clerk of the committee shall notify all members of the committee that such special meeting will be held and inform them of its date and hour and the measure or matter to be considered; and only the measure or matter specified in that notice may be considered at that special meeting.

Vice chairman or ranking majority member to preside in absence of chairman

(d) A member of the majority party on any standing committee or subcommittee thereof designated by the chairman of the full committee shall be vice chairman of the committee or subcommittee, as the case may be, and shall preside at any meeting during the temporary absence of the chairman. If the chairman and vice chairman of the committee or subcommittee are not present at any meeting of the committee or subcommittee, the ranking member of the majority party who is present shall preside at that meeting.

Committee records

(e)(1) Each committee shall keep a complete record of all committee action which shall include -

(A) in the case of any meeting or hearing transcript, a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved; and

(B) a record of the votes on any question on which a rollcall vote is demanded. The result of each such roll call vote shall be made available by the committee for inspection by the public at reasonable times in the offices of the committee. Information so available for public inspection shall include a description of the amendment, motion, order, or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and the names of those Members present but not voting.

(2) All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the Member serving as chairman of the committee; and such records shall be the property of the House and all Members of the House shall have access thereto, except that in the case of records in the Committee on Standards of Official Conduct respecting the conduct of any Member, officer, or employee of the House, no Member of the House (other than a member of such committee) shall have access thereto without the specific, prior approval of the committee.

(3) Each committee shall include in its rules standards for availability of records of the committee delivered to the Archivist of the United States under rule XXXVI. Such standards shall specify procedures for orders of the committee under clause 3(b)(3) and clause 4(b) of rule XXXVI, including a requirement that nonavailability of a record for a period longer than the period otherwise applicable under that rule shall be approved by vote of the committee.

Prohibition against proxy voting

(f) No vote by any member of any committee or subcommittee with respect to any measure or matter may be cast by proxy.

Open meetings and hearings

(g)(1) Each meeting for the transaction of business, including the markup of legislation, of each standing committee or subcommittee thereof shall be open to the public, including to radio, television, and still photography coverage, except as provided by clause 3(f)(2), except when the committee or subcommittee, in open session and with a majority present, determines by roll call vote that all or part of the remainder of the meeting on that day shall be closed to the public because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, would tend to defame, degrade or incriminate any person, or otherwise would violate any law or rule of the House: Provided, however, That no person other than members of the committee and such congressional staff and such departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This paragraph does not apply to open committee hearings which are provided for by clause 4(a)(1) of rule X or by subparagraph (2) of this paragraph.

(2) Each hearing conducted by each committee or subcommittee thereof shall be open to the public, including to radio, television, and still photography coverage, except when the committee or subcommittee, in open session and with a majority present, determines by roll call vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security, would compromise sensitive law enforcement information, or would violate any law or rule of the House of Representatives. Notwithstanding the requirements of the preceding sentence, a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony,

(A) may vote to close the hearing for the sole purpose of discussing whether testimony or evidence to be received would endanger the national security, would compromise sensitive law enforcement information, or violate clause 2(k)(5) of rule XI; or

(B) may vote to close the hearing, as provided in clause 2(k)(5) of rule XI.

No Member may be excluded from nonparticipatory attendance at any hearing of any committee or subcommittee, with the exception of the Committee on Standards of Official Conduct, unless the House of Representatives shall by majority vote authorize a particular committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this subparagraph for closing hearings to the public: Provided, however, That the committee or subcommittee may by the same procedure vote to close one subsequent day of hearing except that the Committee on Appropriations, the Committee on National Security, and the Permanent Select Committee on Intelligence and the subcommittees therein may, by the same procedure, vote to close up to five additional consecutive days of hearings.

(3) The chairman of each committee of the House (except the Committee on Rules) shall make public announcement of the date, place, and subject matter of any committee hearing at least one week before the commencement of the hearing. If the chairman of the committee, with the concurrence of the ranking minority member, determines there is good cause to begin the hearing sooner, or if the committee so determines by majority vote, a quorum being present for the transaction of business, the chairman shall make the announcement at the earliest possible date. Any announcement made under this subparagraph shall be promptly published in the Daily Digest and promptly entered into the committee scheduling service of the House Information Systems.

(4) Each committee shall, insofar as is practicable, require each witness who is to appear before it to file with the committee (in advance of his or her appearance) a written statement of the proposed testimony and to limit the oral presentation at such appearance to a brief summary of his or her argument.

(5) No point of order shall lie with respect to any measure reported by any committee on the ground that hearings on such measure were not conducted in accordance with the provisions of this clause; except that a point of order on that ground may be made by any member of the committee which reported the measure if, in the committee, such point of order was (A) timely made and (B) improperly overruled or not properly considered.

(6) The preceding provisions of this paragraph do not apply to the committee hearings which are provided for by clause 4(a)(1) of rule X.

Quorum for taking testimony and certain other action

(h)(1) Each committee may fix the number of its members to constitute a quorum for taking testimony and receiving evidence which shall be not less than two.

(2) Each committee (except the Committee on Appropriations, the Committee on the Budget, and the Committee on Ways and Means) may fix the number of its members to constitute a quorum for taking any action other than the reporting of a measure or recommendation which shall be not less than one-third of the members.

Limitation on committees' sittings

(i)(1) No committee of the House (except the Committee on Appropriations, the Committee on the Budget, the Committee on Rules, the Committee on Standards of Official Conduct, and the Committee on Ways and Means) may sit, without special leave, while the House is reading a measure for amendment under the five-minute rule. For purposes of this paragraph, special leave will be granted unless 10 or more Members object; and shall be granted upon the adoption of a motion, which shall be highly privileged if offered by the majority leader, granting such leave to one or more committees.

(2) No committee of the House may sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress.

Calling and interrogation of witnesses

(j)(1) Whenever any hearing is conducted by any committee upon any measure or matter, the minority party members on the committee shall be entitled, upon request to the chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.

(2) Each committee shall apply the five-minute rule in the interrogation of witnesses in any hearing until such time as each member of the committee who so desires has had an opportunity to question each witness.

Investigative hearing procedures

(k)(1) The chairman at an investigative hearing shall announce in an opening statement the subject of the investigation.

(2) A copy of the committee rules and this clause shall be made available to each witness.

(3) Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.

(5) Whenever it is asserted that the evidence or testimony at an investigatory hearing may tend to defame, degrade, or incriminate any person,

(A) such testimony or evidence shall be presented in executive session, notwithstanding the provisions of clause 2(g)(2) of this rule, if by a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony, the committee determines that such evidence or testimony may tend to defame, degrade, or incriminate any person; and

(B) the committee shall proceed to receive such testimony in open session only if a majority of the members of the committee, a majority being present, determine that such evidence or testimony will not tend to defame, degrade, or incriminate any person.

In either case the committee shall afford such person an opportunity voluntarily to appear as a witness, and receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

Committee procedures for reporting bills and resolutions

(l)(1)(A) It shall be the duty of the chairman of each committee to report or cause to be reported promptly to the House any measure approved by the committee and to take or cause to be taken necessary steps to bring a matter to a vote.

(B) In any event, the report of any committee on a measure which has been approved by the committee shall be filed within seven calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the committee a written request, signed by a majority of the members of the committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the chairman of the committee notice of the filing of that request. This subdivision does not apply to a report of the Committee on Rules with respect to the rules, joint rules, or order of business of the House or to the reporting of a resolution of inquiry addressed to the head of an executive department.

(2)(A) No measure or recommendation shall be reported from any committee unless a majority of the committee was actually present.

(B) With respect to each rollcall vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the committee report on the measure or matter.

(3) The report of any committee on a measure which has been approved by the committee shall include (A) the oversight findings and recommendations required pursuant to clause 2(b)(1) of rule X separately set out and clearly identified; (B) the statement required by section 308(a)(1) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the measure provides new budget authority (other than continuing appropriations), new spending authority described in section 401(c)(2) of such Act, new credit authority, or an increase or decrease in revenues or tax expenditures, except that the estimates with respect to new budget authority shall include, when practicable, a comparison of the total estimated funding level for the relevant program (or programs) to the appropriate levels under current law; (C) the estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of such Act, separately set out and clearly identified, whenever the Director (if timely submitted prior to the filing of the report) has submitted such estimate and comparison to the committee; and (D) a summary of the oversight findings and recommendations made by the Committee on Government Reform and Oversight under clause 4(c)(2) of rule X separately set out and clearly identified whenever such findings and recommendations have been submitted to the legislative committee in a timely fashion to allow an opportunity to consider such findings and recommendations during the committee's deliberations on the measure.

(4) Each report of a committee on each bill or joint resolution of a public character reported by such committee shall contain a detailed analytical statement as to whether the enactment of such bill or joint resolution into law may have an inflationary impact on prices and costs in the operation of the national economy.

(5) If, at the time of approval of any measure or matter by any committee, other than the Committee on Rules, any member of the committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than three calendar days (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) in which to file such views, in writing and signed by that member, with the clerk of the committee. All such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter. The report of the committee upon that measure or matter shall be printed in a single volume which -

(A) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(B) shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under subdivisions (C) and (D) of subparagraph (3)) are included as part of the report.

This subparagraph does not preclude -

(i) the immediate filing or printing of a committee print unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by this subparagraph; or

(ii) the filing by any such committee of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by that committee upon that measure or matter.

(6) A measure or matter reported by any committee (except the Committee on Rules in the case of a resolution making in order the consideration of a bill, resolution, or other order of business), shall not be considered in the House until the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) on which the report of that committee upon that measure or matter has been available to the Members of the House, or as provided by section 305(a)(1) of the Congressional Budget Act of 1974 in the case of a concurrent resolution on the budget: Provided, however, That it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b) of rule XI, a report from the Committee on Rules specifically providing for the consideration of a reported measure or matter notwithstanding this restriction. If hearings have been held on any such measure or matter so reported, the committee reporting the measure or matter shall make every reasonable effort to have such hearings printed and available for distribution to the Members of the House prior to the consideration of such measure or matter in the House. This subparagraph shall not apply to -

(A) any measure for the declaration of war, or the declaration of a national emergency, by the Congress; or

(B) any decision, determination, or action by a Government agency which would become or continue to be, effective unless disapproved or otherwise invalidated by one or both Houses of Congress.

For the purposes of the preceding sentence, a Government agency includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or the government of the District of Columbia.

(7) If, within seven calendar days after a measure has, by resolution, been made in order for consideration by the House, no motion has been offered that the House consider that measure, any member of the committee which reported that measure may be recognized in the discretion of the Speaker to offer a motion that the House shall consider that measure, if that committee has duly authorized that member to offer that motion.

Power to sit and act; subpoena power

(m)(1) For the purpose of carrying out any of its functions and duties under this rule and rule X (including any matters referred to it under clause 5 of rule X), any committee, or any subcommittee thereof, is authorized (subject to subparagraph (2)(A) of this paragraph) -

(A) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings, and

(B) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary.

The chairman of the committee, or any member designated by such chairman, may administer oaths to any witness.

(2)(A) A subpoena may be authorized and issued by a committee or subcommittee under subparagraph (1)(B) in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present. The power to authorize and issue subpoenas under subparagraph (1)(B) may be delegated to the chairman of the committee pursuant to such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman of the committee or by any member designated by the committee.

(B) Compliance with any subpoena issued by a committee or subcommittee under subparagraph (1)(B) may be enforced only as authorized or directed by the House.

Use of committee funds for travel

(n)(1) Funds authorized for a committee under clause 5 are for expenses incurred in the committee's activities; however, local currencies owned by the United States shall be made available to the committee and its employees engaged in carrying out their official duties outside the United States, its territories or possessions. No appropriated funds, including those authorized under clause 5, shall be expended for the purpose of defraying expenses of members of the committee or its employees in any country where local currencies are available for this purpose; and the following conditions shall apply with respect to travel outside the United States or its territories or possessions:

(A) No member or employee of the committee shall receive or expend local currencies for subsistence in any country for any day at a rate in excess of the maximum per diem set forth in applicable Federal law, or if the Member or employee is reimbursed for any expenses for such day, then the lesser of the per diem or the actual, unreimbursed expenses (other than for transportation) incurred by the Member or employee during that day.

(B) Each member or employee of the committee shall make to the chairman of the committee an itemized report showing the dates each country was visited, the amount of per diem furnished, the cost of transportation furnished, any funds expended for any other official purpose and shall summarize in these categories the total foreign currencies and/or appropriated funds expended. All such individual reports shall be filed no later than sixty days following the completion of travel with the chairman of the committee for use in complying with reporting requirements in applicable Federal law and shall be open for public inspection.

(2) In carrying out the committee's activities outside of the United States in any country where local currencies are unavailable, a member or employee of the committee may not receive reimbursement for expenses (other than for transportation) in excess of the maximum per diem set forth in applicable Federal law, or if the member or employee is reimbursed for any expenses for such day, then the lesser of the per diem or the actual unreimbursed expenses (other than for transportation) incurred, by the member or employee during any day.

(3) A member or employee of a committee may not receive reimbursement for the cost of any transportation in connection with travel outside of the United States unless the member or employee has actually paid for the transportation.

(4) The restrictions respecting travel outside of the United States set forth in subparagraphs (2) and (3) shall also apply to travel outside of the United States by Members, officers, and employees of the House authorized under clause 8 of rule I, clause 1(b) of this rule, or any other provision of these Rules of the House of Representatives.

(5) No local currencies owned by the United States may be made available under this paragraph for the use outside of the United States for defraying the expenses of a member of any committee after -

(A) the date of the general election of Members in which the Member has not been elected to the succeeding Congress; or (B) in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress.

Broadcasting of Committee Hearings and Meetings

3. (a) It is the purpose of this clause to provide a means, in conformity with acceptable standards of dignity, propriety, and decorum, by which committee hearings, or committee meetings, which are open to the public may be covered, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage -

(1) for the education, enlightenment, and information of the general public, on the basis of accurate and impartial news coverage, regarding the operations, procedures, and practices of the House as a legislative and representative body and regarding the measures, public issues, and other matters before the House and its committees, the consideration thereof, and the action taken thereon; and

(2) for the development of the perspective and understanding of the general public with respect to the role and function of the House under the Constitution of the United States as an organ of the Federal Government.

(b) In addition, it is the intent of this clause that radio and television tapes and television film of any coverage under this clause shall not be used, or made available for use, as partisan political campaign material to promote or oppose the candidacy of any person for elective public office.

(c) It is, further, the intent of this clause that the general conduct of each meeting (whether of a hearing or otherwise) covered, under authority of this clause, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, and the personal behavior of the committee members and staff, other Government officials and personnel, witnesses, television, radio, and press media personnel, and the general public at the hearing or other meeting shall be in strict conformity with and observance of the acceptable standards of dignity, propriety, courtesy, and decorum traditionally observed by the House in its operations and shall not be such as to -

(1) distort the objects and purposes of the hearing or other meeting or the activities of committee members in connection with that hearing or meeting or in connection with the general work of the committee or of the House; or

(2) cast discredit or dishonor on the House, the committee, or any Member or bring the House, the committee, or any Member into disrepute.

(d) The coverage of committee hearings and meetings by television broadcast, radio broadcast, or still photography shall be permitted and conducted only in strict conformity with the purposes, provisions, and requirements of this clause.

(e) Whenever a hearing or meeting conducted by any committee or subcommittee of the House is open to the public, those proceedings shall be open to coverage by television, radio, and still photography, except as provided in paragraph (f)(2). A committee or subcommittee chairman may not limit the number of television or still cameras to fewer than two representatives from each medium (except for legitimate space or safety considerations, in which case pool coverage shall be authorized).

(f) Each committee of the House shall adopt written rules to govern its implementation of this clause. Such rules shall include provisions to the following effect:

(1) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(2) No witness served with a subpoena by the committee shall be required against his or her will to be photographed at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any such witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off. This subparagraph is supplementary to clause 2(k)(5) of this rule, relating to the protection of the rights of witnesses.

(3) The allocation among the television media of the positions of the number of television cameras permitted by a committee or subcommittee chairman in a hearing or meeting room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(4) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the committee or the visibility of that witness and that member to each other.

(5) Television cameras shall operate from fixed positions but shall not be placed in positions which obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(6) Equipment necessary for coverage by the television and radio media shall not be installed in, or removed from, the hearing or meeting room while the committee is in session.

(7) Floodlights, spotlights, strobelights, and flashguns shall not be used in providing any method of coverage of the hearing or meeting, except that the television media may install additional lighting in the hearing or meeting room, without cost to the Government, in order to raise the ambient lighting level in the hearing or meeting room to the lowest level necessary to provide adequate television coverage of the hearing or meeting at the then current state of the art of television coverage.

(8) In the allocation of the number of still photographers permitted by a committee or subcommittee chairman in a hearing or meeting room, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests are made by more of the media than will be permitted by a committee or subcommittee chairman for coverage of the hearing or meeting by still photography, that coverage shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(9) Photographers shall not position themselves, at any time during the course of the hearing or meeting, between the witness table and the members of the committee.

(10) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage of the hearing by the other media.

(11) Personnel providing coverage by the television and radio media shall be then currently accredited to the Radio and

Television Correspondents' Galleries.

(12) Personnel providing coverage by still photography shall be then currently accredited to the Press Photographers' Gallery.

(13) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

Privileged Reports and Amendments

4. (a) The following committees shall have leave to report at any time on the matters herein stated, namely: The Committee on Appropriations - on general appropriation bills and on joint resolutions continuing appropriations for a fiscal year if reported after September 15 preceding the beginning of such fiscal year; the Committee on the Budget - on the matters required to be reported by such committee under Titles III and IV of the Congressional Budget Act of 1974; the Committee on House Oversight - on enrolled bills, contested elections, and all matters referred to it of printing for the use of the House or the two Houses, and on all matters of expenditure of the contingent fund of the House, and on all matters relating to preservation and availability of noncurrent records of the House under rule XXXVI; the Committee on Rules - on rules, joint rules, and the order of business; and the Committee on Standards of Official Conduct - on resolutions recommending action by the House of Representatives with respect to an individual Member, officer, or employee of the House of Representatives as a result of any investigation by the committee relating to the official conduct of such Member, officer, or employee of the House of Representatives.

(b) It shall always be in order to call up for consideration a report from the Committee on Rules on a rule, joint rule, or the order of business (except it shall not be called up for consideration on the same day it is presented to the House, unless so determined by a vote of not less than two-thirds of the Members voting, but this provision shall not apply during the last three days of the session), and, pending the consideration thereof, the Speaker may entertain one motion that the House adjourn; but after the result is announced the Speaker shall not entertain any other dilatory motion until the report shall have been fully disposed of. The Committee on Rules shall not report any rule or order which provides that business under clause 7 of rule XXIV shall be set aside by a vote of less than two-thirds of the Members present; nor shall it report any rule or order which would prevent the motion to recommit from being made as provided in clause 4 of rule XVI, including a motion to recommit with instructions to report back an amendment otherwise in order (if offered by the minority leader or a designee), except with respect to a Senate bill or resolution for which the text of a House-passed measure has been substituted.

(c) The Committee on Rules shall present to the House reports concerning rules, joint rules, and order of business, within three legislative days of the time when the bill or resolution involved is ordered reported by the committee. If any such rule or order is not considered immediately, it shall be referred to the calendar and, if not called up by the Member making the report within seven legislative days thereafter, any member of the Rules Committee may call it up as a question of privilege (but only on the day after the calendar day on which such Member announces to the House his intention to do so) and the Speaker shall recognize any member of the Rules Committee seeking recognition for that purpose. If the Committee on Rules makes an adverse report on any resolution pending before the committee, providing for an order of business for the consideration by the House of any public bill or joint resolution, on days when it shall be in order to call up motions to discharge committees it shall be in order for any Member of the House to call up for consideration by the House such adverse report, and it shall be in order to move the adoption by the House of such resolution adversely reported notwithstanding the adverse report of the Committee on Rules, and the Speaker shall recognize the Member seeking recognition for that purpose as a question of the highest privilege.

(d) Whenever the Committee on Rules reports a resolution repealing or amending any of the Rules of the House of Representatives or part thereof it shall include in its report or in an accompanying document -

(1) the text of any part of the Rules of the House of Representatives which is proposed to be repealed; and

(2) a comparative print of any part of the resolution making such an amendment and any part of the Rules of the House of Representatives to be amended, showing by an appropriate typographical device the omissions and insertions proposed to be made.

(e) Whenever the Committee on Rules reports a resolution providing for the consideration of any measure, it shall, to the maximum extent possible, specify in the resolution the object of any waiver of a point of order against the measure or against its consideration.

Committee Expenses

5. (a) Whenever any committee, commission, or other entity (except the Committee on Appropriations) is to be granted authorization for the payment of its expenses (including all staff salaries) for a Congress, such authorization initially shall be procured by one primary expense resolution reported by the Committee on House Oversight. Any such primary expense resolution reported to the House shall not be considered in the House unless a printed report on that resolution has been available to the Members of the House for at least one calendar day prior to the consideration of that resolution in the House. Such report shall, for the information of the House -

(1) state the total amount of the funds to be provided to the committee, commission or other entity under the primary expense resolution for all anticipated activities and programs of the committee, commission or other entity; and

(2) to the extent practicable, contain such general statements regarding the estimated foreseeable expenditures for the respective anticipated activities and programs of the committee, commission or other entity as may be appropriate to provide the House with basic estimates with respect to the expenditure generally of the funds to be provided to the committee, commission or other entity under the primary expense resolution.

(b) After the date of adoption by the House of any such primary expense resolution for any such committee, commission, or other entity for any Congress, authorization for the payment of additional expenses (including staff salaries) in that Congress may be procured by one or more supplemental expense resolutions reported by the Committee on House Oversight, as necessary. Any such supplemental expense resolution reported to the House shall not be considered in the House unless a printed report on that resolution has been available to the Members of the House for at least one calendar day prior to the consideration of that resolution in the House. Such report shall, for the information of the House -

(1) state the total amount of additional funds to be provided to the committee, commission or other entity under the supplemental expense resolution and the purpose or purposes for which those additional funds are to be used by the committee, commission or other entity; and

(2) state the reason or reasons for the failure to procure the additional funds for the committee, commission or other entity by means of the primary expense resolution.

(c) The preceding provisions of this clause do not apply to -

(1) any resolution providing for the payment from committee salary and expense accounts of the House of sums necessary to pay compensation for staff services performed for, or to pay other expenses of, any committee, commission or other entity at any time from and after the beginning of any odd-numbered year and before the date of adoption by the House of the primary expense resolution providing funds to pay the expenses of that committee, commission or other entity for that Congress; or

(2) any resolution providing in any Congress, for all of the standing committees of the House, additional office equipment, airmail and special delivery postage stamps, supplies, staff personnel, or any other specific item for the operation of the standing committees, and containing an authorization for the payment from committee salary and expense accounts of the House of the expenses of any of the foregoing items provided by that resolution, subject to and until enactment of the provisions of the resolution as permanent law.

(d) From the funds made available for the appointment of committee staff pursuant to any primary or additional expense resolution, the chairman of each committee shall ensure that sufficient staff is made available to each subcommittee to carry out its responsibilities under the rules of the committee, and that the minority party is fairly treated in the appointment of such staff.

(e) No primary expense resolution or additional expense resolution of a committee may provide for the payment or reimbursement of expenses incurred by any member of the committee for travel by the member after the date of the general election of Members in which the Member is not elected to the succeeding Congress, or in the case of a Member who is not a candidate in such general election, the earlier of the date of such general election or the adjournment sine die of the last regular session of the Congress.

(f)(1) For continuance of necessary investigations and studies by -

(A) each standing committee and select committee established by these rules; and

(B) except as provided in subparagraph (2), each select committee established by resolution; there shall be paid out of committee salary and expense accounts of the House such amounts as may be necessary for the period beginning at noon on January 3 and ending at midnight on March 31 in each odd-numbered year.

(2) In the case of the first session of a Congress, amounts shall be made available under this paragraph for a select committee established by resolution in the preceding Congress only if -

(A) a reestablishing resolution for such select committee is introduced in the present Congress; and

(B) no resolution of the preceding Congress provided for termination of funding of investigations and studies by such select committee at or before the end of the preceding Congress.

(3) Each committee receiving amounts under this paragraph shall be entitled, for each month in the period specified in subparagraph (1), to 9 per centum (or such lesser per centum as may be determined by the Committee on House Oversight) of the total annualized amount made available under expense resolutions for such committee in the preceding session of Congress.

(4) Payments under this paragraph shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, except as provided in subparagraph (5), and approved by the Committee on House Oversight.

(5) Notwithstanding any provision of law, rule of the House, or other authority, from noon on January 3 of the first session of a Congress, until the election by the House of the committee involved in that Congress, payments under this paragraph shall be made on vouchers signed by -

(A) the chairman of such committee as constituted at the close of the preceding Congress; or

(B) if such chairman is not a Member in the present Congress, the ranking majority party member of such committee as constituted at the close of the preceding Congress who is a Member in the present Congress.

(6)(A) The authority of a committee to incur expenses under this paragraph shall expire upon agreement by the House to a primary expense resolution for such committee.

(B) Amounts made available under this paragraph shall be expended in accordance with regulations prescribed by the Committee on House Oversight.

(C) The provisions of this paragraph shall be effective only insofar as not inconsistent with any resolution, reported by the Committee on House Oversight and adopted after the date of adoption of these rules.

Committee Staffs

6. (a)(1) Subject to subparagraph (2) and paragraph (f), each standing committee may appoint, by majority vote of the committee, not more than thirty professional staff members from the funds provided for the appointment of committee staff pursuant to primary and additional expense resolutions. Each professional staff member appointed under this subparagraph shall be assigned to the chairman and the ranking minority party member of such committee, as the committee considers advisable.

(2) Subject to paragraph (f) of this clause, whenever a majority of the minority party members of a standing committee (except the Committee on Standards of Official Conduct and the Permanent Select Committee on Intelligence) so request, not more than ten persons (or one-third of the total professional committee staff appointed under this clause, whichever is less) may be selected, by majority vote of the minority party members, for appointment by the committee as professional staff members from among the number authorized by subparagraph (1) of this paragraph. The committee shall appoint any persons so selected whose character and qualifications are acceptable to a majority of the committee. If the committee determines that the character and qualifications of any person so selected are unacceptable to the committee, a majority of the minority party members may select other persons for appointment by the committee to the professional staff until such appointment is made. Each professional staff member appointed under this subparagraph shall be assigned to such committee business as the minority party members of the committee consider advisable.

(b)(1) The professional staff members of each standing committee -

(A) may not engage in any work other than committee business during congressional working hours; and

(B) may not be assigned any duties other than those pertaining to committee business.

(2) Subparagraph (1) does not apply to any staff designated by a committee as 'associate' or 'shared' staff who are not paid exclusively by the committee, provided that the chairman certifies that the compensation paid by the committee for any such employee is commensurate with the work performed for the committee, in accordance with the provisions of clause 8 of rule XLIII.

(3) The use of any 'associate' or 'shared' staff by any committee shall be subject to the review of, and to any terms, conditions, or limitations established by, the Committee on House Oversight in connection with the reporting of any primary or additional expense resolution.

(4) The foregoing provisions of this clause do not apply to the Committee on Appropriations.

(c) Each employee on the professional and investigative staff of each standing committee shall be entitled to pay at a single gross per annum rate, to be fixed by the chairman, which does not exceed the maximum rate of pay, as in effect from time to time, under applicable provisions of law.

(d) Subject to appropriations hereby authorized, the Committee on Appropriations may appoint such staff, in addition to the clerk thereof and assistants for the minority, as it determines by majority vote to be necessary, such personnel, other than minority assistants, to possess such qualifications as the committee may prescribe.

(e) No committee shall appoint to its staff any experts or other personnel detailed or assigned from any department or agency of the Government, except with the written permission of the Committee on House Oversight.

(f) If a request for the appointment of a minority professional staff member under paragraph (a) is made when no vacancy exists to which that appointment may be made, the committee nevertheless shall appoint, under paragraph (a), the person selected by the minority and acceptable to the committee. The person so appointed shall serve as an additional member of the professional staff of the committee, and shall be paid from the contingent fund, until such a vacancy (other than a vacancy in the position of head of the professional staff, by whatever title designated) occurs, at which time that person shall be deemed to have been appointed to that vacancy. If such vacancy occurs on the professional staff when seven or more persons have been so appointed who are eligible to fill that vacancy, a majority of the minority party members shall designate which of those persons shall fill that vacancy.

(g) Each staff member appointed pursuant to a request by minority party members under paragraph (a) of this clause, and each staff member appointed to assist minority party members of a committee pursuant to an expense resolution described in paragraph (a) of clause 5, shall be accorded equitable treatment with respect to the fixing of his or her rate of pay, the assignment to him or her of work facilities, and the accessibility to him or her of committee records.

(h) Paragraph (a) shall not be construed to authorize the appointment of additional professional staff members of a committee pursuant to a request under such paragraph by the minority party members of that committee if ten or more professional staff members provided for in paragraph (a)(1) who are satisfactory to a majority of the minority party members, are otherwise assigned to assist the minority party members.

(i) Notwithstanding paragraph (a)(2), a committee may employ nonpartisan staff, in lieu of or in addition to committee staff designated exclusively for the majority or minority party, upon an affirmative vote of a majority of the members of the majority party and a majority of the members of the minority party.

Rule XII: Resident Commissioner and Delegates

The Resident Commissioner to the United States from Puerto Rico and each Delegate to the House shall be elected to serve on standing committees in the same manner as Members of the House and shall possess in such committees the same powers and privileges as the other Members.

Rule XIII: Calendars and Reports of Committees

1. There shall be three calendars to which all business reported from committees shall be referred, viz:

First. A Calendar of the Committee of the Whole House on the state of the Union, to which shall be referred bills raising revenue, general appropriation bills, and bills of a public character directly or indirectly appropriating money or property.

Second. A House Calendar, to which shall be referred all bills of a public character not raising revenue nor directly or indirectly appropriating money or property.

Third. A Calendar of the Committee of the Whole House, to which shall be referred all bills of a private character.

2. All reports of committees, except as provided in clause 4(a) of rule XI, together with the views of the minority, shall be delivered to the Clerk for printing and reference to the proper calendar under the direction of the Speaker, in accordance with the foregoing clause, and the titles or subject thereof shall be entered on the Journal and printed in the Record: Provided, That bills reported adversely shall be laid on the table, unless the committee reporting a bill, at the time, or any Member within three days thereafter, shall request its reference to the calendar, when it shall be referred, as provided in clause 1 of this rule.

3. Whenever a committee reports a bill or a joint resolution repealing or amending any statute or part thereof it shall include in its report or in an accompanying document -

(1) The text of the statute or part thereof which is proposed to be repealed; and

(2) A comparative print of that part of the bill or joint resolution making the amendment and of the statute or part thereof proposed to be amended, showing by stricken-through type and italic, parallel columns, or other appropriate typographical devices the omissions and insertions proposed to be made: Provided, however, That if a committee reports such a bill or joint resolution with amendments or an amendment in the nature of a substitute for the entire bill, such report shall include a comparative print showing any changes in existing law proposed by the amendments or substitute instead of as in the bill as introduced.

4. (a) After a bill has been favorably reported and placed on either the Union or House Calendar, the Speaker may, after consultation with the Minority Leader, file with the Clerk a notice requesting that such bill also be placed upon a special calendar to be known as the 'Corrections Calendar.' On the second and fourth Tuesdays of each month, after the Pledge of Allegiance, the Speaker may direct the Clerk to call the bills in numerical order which have been on the Corrections Calendar for three legislative days.

(b) A bill so called shall be considered in the House, shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the primary committee of jurisdiction reporting the bill, and shall not be subject to amendment except those amendments recommended by the primary committee of jurisdiction or those offered by the chairman of the primary committee or a designee. The previous question shall be considered as ordered on the bill and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

(c) A three-fifths vote of the Members voting shall be required to pass any bill called from the Corrections Calendar but the rejection of any such bill, or the sustaining of any point of order against it or its consideration, shall not cause it to be removed from the Calendar to which it was originally referred.

5. There shall also be a Calendar of Motions to Discharge Committees, as provided in clause 3 of rule XXVII.

6. Calendars shall be printed daily.

7. (a) The report accompanying each bill or joint resolution of a public character reported by any committee shall contain -

(1) an estimate, made by such committee, of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported, and in each of the five fiscal years following such fiscal year (or for the authorized duration of any program authorized by such bill or joint resolution, if less than five years);

(2) a comparison of the estimate of costs described in subparagraph (1) of this paragraph made by such committee with any estimate of such costs made by any Government agency and submitted to such committee; and

(3) when practicable, a comparison of the total estimated funding level for the relevant program (or programs) with the appropriate levels under current law.

(b) It shall not be in order to consider any such bill or joint resolution in the House if the report of the committee which reported that bill or joint resolution does not comply with paragraph (a) of this clause.

(c) For the purposes of subparagraph (2) of paragraph (a) of this clause, a Government agency includes any department, agency, establishment, wholly owned Government corporation, or instrumentality of the Federal Government or the government of the District of Columbia.

(d) The preceding provisions of this clause do not apply to the Committee on Appropriations, the Committee on House Oversight, the Committee on Rules, and the Committee on Standards of Official Conduct, and do not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and included in the report pursuant to clause 2(l)(3)(C) of rule XI.

Rule XIV: Of Decorum and Debate

1. When any Member desires to speak or deliver any matter to the House, he shall rise and respectfully address himself to 'Mr. Speaker', and, on being recognized, may address the House from any place on the floor or from the Clerk's desk, and shall confine himself to the question under debate, avoiding personality. Debate may include references to actions taken by the Senate or by committees thereof which are a matter of public record, references to the pendency or sponsorship in the Senate of bills, resolutions, and amendments, factual descriptions relating to Senate action or inaction concerning a measure then under debate in the House, and quotations from Senate proceedings on a measure then under debate in the House and which are relevant to the making of legislative history establishing the meaning of that measure, but may not include characterizations of Senate action or inaction, other references to individual Members of the Senate, or other quotations from Senate proceedings.

2. When two or more Members rise at once, the Speaker shall name the Member who is first to speak; and no Member shall occupy more than one hour in debate on any question in the House or in committee, except as further provided in this rule.

3. The Member reporting the measure under consideration from a committee may open and close, where general debate has been had thereon; and if it shall extend beyond one day, he shall be entitled to one hour to close, notwithstanding he may have used an hour in opening.

4. If any Member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any Member may, call him to order; in which case he shall immediately sit down, unless permitted, on motion of another Member, to explain, and the House shall, if appealed to, decide on the case without debate; if the decision is in favor of the Member called to order, he shall be at liberty to proceed, but not otherwise; and, if the case requires it, he shall be liable to censure or such punishment as the House may deem proper.

5. If a Member is called to order for words spoken in debate, the Member calling him to order shall indicate the words excepted to, and they shall be taken down in writing at the Clerk's desk and read aloud to the House; but he shall not be held to answer, nor be subject to the censure of the House therefor, if further debate or other business has intervened.

6. No Member shall speak more than once to the same question without leave of the House, unless he be the mover, proposer, or introducer of the matter pending, in which case he shall be permitted to speak in reply, but not until every Member choosing to speak shall have spoken.

7. While the Speaker is putting a question or addressing the House no Member shall walk out of or across the hall, nor, when a Member is speaking, pass between him and the Chair; and during the session of the House no Member shall wear his hat, or remain by the Clerk's desk during the call of the roll or the counting of ballots or smoke upon the floor of the House; and the Sergeant-at-Arms is charged with the strict enforcement of this clause. Neither shall any person be allowed to smoke or to use any personal, electronic office equipment (including cellular phones and computers) upon the floor of the House at any time.

8. It shall not be in order for any Member to introduce to or to bring to the attention of the House during its sessions any occupant in the galleries of the House; nor may the Speaker entertain a request for the suspension of this rule by unanimous consent or otherwise.

9. (a) The Congressional Record shall be a substantially verbatim account of remarks made during the proceedings of the House, subject only to technical, grammatical, and typographical corrections authorized by the Member making the remarks involved.

(b) Unparliamentary remarks may be deleted only by permission or order of the House.

(c) This clause establishes a standard of conduct within the meaning of clause 4(e)(1)(B) of rule X.

Rule XV: On Calls of the Roll and House

1. Subject to clause 5 of this rule, upon every roll call the names of the Members shall be called alphabetically by surname, except when two or more have the same surname, in which case the name of the State shall be added; and if there be two such Members from the same State, the whole name shall be called, and after the roll has been once called, the Clerk shall call in their alphabetical order the names of those not voting. Members appearing after the second call, but before the result is announced, may vote or announce a pair.

2. (a) In the absence of a quorum, fifteen Members, including the Speaker, if there is one, shall be authorized to compel the attendance of absent Members; and those for whom no sufficient excuse is made may, by order of a majority of those present, subject to clause 6(e)(2) of this rule be sent for and arrested, wherever they may be found, by officers to be appointed by the Sergeant-at-Arms for that purpose, and their attendance secured and retained; and the House shall determine upon what condition they shall be discharged. Members who voluntarily appear shall, unless the House otherwise direct, be immediately admitted to the Hall of the House, and they shall report their names to the Clerk to be entered upon the Journal as present.

(b) Subject to clause 5 of this rule, when a call of the House in the absence of a quorum is ordered, the Speaker shall name one or more clerks to tell the Members who are present. The names of those present shall be recorded by such clerks, and shall be entered in the Journal and the absentees noted, but the doors shall not be closed except when so ordered by the Speaker. Members shall have not less than fifteen minutes from the ordering of a call of the House to have their presence recorded.

3. On the demand of any Member, or at the suggestion of the Speaker, the names of Members sufficient to make a quorum in the Hall of the House who do not vote shall be noted by the Clerk and recorded in the Journal, and reported to the Speaker with the names of the Members voting, and be counted and announced in determining the presence of a quorum to do business.

4. Subject to clause 5 of this rule, whenever a quorum fails to vote on any question, and a quorum is not present and objection is made for that cause, unless the House shall adjourn there shall be a call of the House, and the Sergeant-at-Arms shall forthwith proceed to bring in absent Members, and the yeas and nays on the pending question shall at the same time be considered as ordered. The Clerk shall call the roll, and each Member as he answers to his name may vote on the pending question, and, after the rollcall is completed, each Member arrested shall be brought by the Sergeant-at-Arms before the House, whereupon he shall be noted as present, discharged from arrest and given an opportunity to vote and his vote shall be recorded. If those voting on the question and those who are present and decline to vote shall together make a majority of the House, the Speaker shall declare that a quorum is constituted, and the pending question shall be decided as the majority of those voting shall appear. And thereupon further proceedings under the call shall be considered as dispensed with. At any time after the roll call has been completed, the Speaker may entertain a motion to adjourn, if seconded by a majority of those present, to be ascertained by actual count by the Speaker; and if the House adjourns, all proceedings under this section shall be vacated.

5. (a) Unless, in his discretion, the Speaker orders the calling of the names of Members in the manner provided for under the preceding provisions of this rule, upon any roll call or quorum call the names of such Members voting or present shall be recorded by electronic device. In any such case, the Clerk shall enter in the Journal and publish in the Congressional Record, in alphabetical order in each category, a list of names of those Members recorded as voting in the affirmative, of those Members recorded as voting in the negative, and of those Members answering present, as the case may be, as if their names had been called in the manner provided for under such preceding provisions. Members shall have not less than fifteen minutes from the ordering of the roll call or quorum call to have their vote or presence recorded.

(b) The Speaker may, in his discretion, reduce to not less than five minutes the time within which a rollcall vote by electronic device may be taken -

(1) after a rollcall vote has been ordered on a motion for the previous question, on any underlying question that follows without intervening business;

(2) after a rollcall vote has been ordered on an amendment reported from the Committee of the Whole House on the state of the Union, on any subsequent amendment to that bill or resolution reported from the Committee of the Whole; or

(3) after a rollcall vote has been ordered on a motion to recommit a bill, resolution, or conference report thereon, on the question of passage or adoption, as the case may be, of such bill, resolution, or conference report thereon, if the question of passage or adoption follows without intervening business the vote on the motion to recommit.

6. (a) It shall not be in order to make or entertain a point of order that a quorum is not present -

(1) before or during the offering of prayer;

(2) during the administration of the oath of office to the Speaker or Speaker pro tempore or a Member, Delegate, or Resident Commissioner;

(3) during the reception of any message from the President of the United States or the United States Senate; and

(4) during the offering, consideration, and disposition of any motion incidental to a call of the House.

(b) A quorum shall not be required in Committee of the Whole for agreement to a motion that the Committee rise.

(c) After the presence of a quorum is once ascertained on any day on which the House is meeting, a point of order of no quorum may not be made or entertained -

(1) during the reading of the Journal;

(2) during the period after a Committee of the Whole has risen after completing its consideration of a bill or resolution and before the Chairman of the Committee has reported the bill or resolution back to the House; and

(3) during any period of a legislative day when the Speaker is recognizing Members (including a Delegate or Resident Commissioner) to address the House under special orders, with no measure or matter then under consideration for disposition by the House.

(d) When the presence of a quorum is ascertained, a further point of order that a quorum is not present may not thereafter be made or entertained until additional business intervenes. For purposes of this paragraph, the term 'business' does not include any matter, proceeding, or period referred to in paragraph (a), (b), or (c) of this clause for which a quorum is not required or a point of order of no quorum may not be made or entertained.

(e)(1) Except as provided by subparagraph (2), it shall not be in order to make or entertain a point of order that a quorum is not present unless the Speaker has put the pending motion or proposition to a vote.

(2) Notwithstanding subparagraph (1), it shall always be in order for a Member to move a call of the House when recognized for that purpose by the Speaker, and when a quorum has been established pursuant to a call of the House, further proceedings under the call shall be considered as dispensed with unless the Speaker, in his discretion, recognizes for a motion under clause (2)(a) of this rule or for a motion to dispense with further proceedings under the call.

7. The yeas and nays shall be considered as ordered when the Speaker puts the question on final passage or adoption of any bill, joint resolution, or conference report making general appropriations or increasing Federal income tax rates, or on final adoption of any concurrent resolution on the budget or conference report thereon.

Rule XVI: On Motions, Their Precedence, Etc.

1. Every motion made to the House and entertained by the Speaker shall be reduced to writing on the demand of any Member, and shall be entered on the Journal with the name of the Member making it, unless it is withdrawn the same day.

2. When a motion has been made, the Speaker shall state it or (if it be in writing) cause it to be read aloud by the Clerk before being debated, and it shall then be in possession of the House, but may be withdrawn at any time before a decision or amendment.

3. When any motion or proposition is made, the question, Will the House now consider it? shall not be put unless demanded by a Member.

4. When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or postpone indefinitely; which several motions shall have precedence in the foregoing order; and no motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the question. After the previous question shall have been ordered on the passage of a bill or joint resolution one motion to recommit shall be in order, and the Speaker shall give preference in recognition for such purpose to a Member who is opposed to the bill or joint resolution. However, with respect to any motion to recommit with instructions after the previous question shall have been ordered, it always shall be in order to debate such motion for ten minutes before the vote is taken on that motion, except that on demand of the floor manager for the majority it shall be in order to debate such motion for one hour. One half of any debate on such motions shall be given to debate by the mover of the motion and one half to debate in opposition to the motion. It shall be in order at any time during a day for the Speaker, in his discretion, to entertain motions that (1) the Speaker be authorized to declare a recess; and (2) when the House adjourns it stand adjourned to a day and time certain. Either motion shall be of equal privilege with the motion to adjourn provided for in this clause and shall be determined without debate.

5. The hour at which the House adjourns shall be entered on the Journal.

6. On the demand of any Member, before the question is put, a question shall be divided if it includes propositions so distinct in substance that one being taken away a substantive proposition shall remain: Provided, That any motion or resolution to elect the members or any portion of the members of the standing committees of the House and the joint standing committees shall not be divisible, nor shall any resolution or order reported by the Committee on Rules, providing a special order of business be divisible.

7. A motion to strike out and insert is indivisible, but a motion to strike out being lost shall neither preclude amendment nor motion to strike out and insert; and no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

8. Pending a motion to suspend the rules, the Speaker may entertain one motion that the House adjourn; but after the result thereon is announced he shall not entertain any other motion until the vote is taken on suspension.

9. At any time after the reading of the Journal it shall be in order, by direction of the appropriate committees, to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of considering general appropriation bills.

10. No dilatory motion shall be entertained by the Speaker.

Rule XVII: Previous Question

1. There shall be a motion for the previous question, which, being ordered by a majority of Members voting, if a quorum be present, shall have the effect to cut off all debate and bring the House to a direct vote upon the immediate question or questions on which it has been asked and ordered. The previous question may be asked and ordered upon a single motion, a series of motions allowable under the rules, or an amendment or amendments, or may be made to embrace all authorized motions or amendments and include the bill to its passage or rejection. It shall be in order, pending the motion for, or after the previous question shall have been ordered on its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.

2. A call of the House shall not be in order after the previous question is ordered, unless it shall appear upon an actual count by the Speaker that a quorum is not present.

3. All incidental questions of order arising after a motion is made for the previous question, and pending such motion, shall be decided, whether on appeal or otherwise, without debate.

Rule XVIII: Reconsideration

1. When a motion has been made and carried or lost, it shall be in order for any member of the majority, on the same or succeeding day, to move for the reconsideration thereof, and such motion shall take precedence of all other questions except the consideration of a conference report or a motion to adjourn, and shall not be withdrawn after the said succeeding day without the consent of the House, and thereafter any Member may call it up for consideration: Provided, That such motion, if made during the last six days of a session, shall be disposed of when made.

2. No bill, petition, memorial, or resolution referred to a committee, or reported therefrom for printing and recommitment, shall be brought back into the House on a motion to reconsider; and all bills, petitions, memorials, or resolutions reported from a committee shall be accompanied by reports in writing, which shall be printed.

Rule XIX: Of Amendments

When a motion or proposition is under consideration a motion to amend and a motion to amend that amendment shall be in order, and it shall also be in order to offer a further amendment by way of substitute, to which one amendment may be offered, but which shall not be voted on until the original matter is perfected, but either may be withdrawn before amendment or decision is had thereon. Amendments to the title of a bill or resolution shall not be in order until after its passage, and shall be decided without debate.

Rule XX: Of Amendments of the Senate

1. Any amendment of the Senate to any House bill shall be subject to the point of order that it shall first be considered in the Committee of the Whole House on the state of the Union, if, originating in the House, it would be subject to that point: Provided, however, That a motion to disagree with the amendments of the Senate to a House bill or resolution and request or agree to a conference with the Senate, or a motion to insist on the House amendments to a Senate bill or resolution and request or agree to a conference with the Senate, shall always be in order if the Speaker, in his discretion, recognizes for that purpose and if the motion is made by direction of the committee having jurisdiction of the subject matter of the bill or resolution.

2. No amendment of the Senate to a general appropriation bill which would be in violation of the provisions of clause 2 of rule XXI, if said amendment had originated in the House, nor any amendment of the Senate providing for an appropriation upon any bill other than a general appropriation bill, shall be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall be first given by the House by a separate vote on every such amendment.

Rule XXI: On Bills

1. Bills and joint resolutions on their passage shall be read the first time by title and the second time in full, when, if the previous question is ordered, the Speaker shall state, the question to be: Shall the bill be engrossed and read a third time? and, if decided in the affirmative, it shall be read the third time by title, and the question shall then be put upon its passage.

2. (a) No appropriation shall be reported in any general appropriation bill, or shall be in order as an amendment thereto, for any expenditure not previously authorized by law, except to continue appropriations for public works and objects which are already in progress.

(b) No provision changing existing law shall be reported in any general appropriation bill except germane provisions which retrench expenditures by the reduction of amounts of money covered by the bill, which may include those recommended to the Committee on Appropriations by direction of any legislative committee having jurisdiction over the subject matter thereof, and except rescissions of appropriations contained in appropriations Acts.

(c) No amendment to a general appropriation bill shall be in order if changing existing law. Except as provided in paragraph (d), no amendment shall be in order during consideration of a general appropriation bill proposing a limitation not specifically contained or authorized in existing law for the period of the limitation.

(d) After a general appropriation bill has been read for amendment and amendments not precluded by paragraphs (a) or (c) of this clause have been considered, motions that the Committee of the Whole rise and report the bill to the House with such amendments as may have been adopted shall, if offered by the majority leader or a designee, have precedence over motions to further amend the bill. If any such motion is rejected, amendments proposing limitations not specifically contained or authorized in existing law for the period of the limitation or proposing germane amendments which retrench expenditures by reduction of amounts of money covered by the bill may be considered; but after the vote on any such amendment, the privileged motion made in order under this paragraph may be renewed.

(e) No provision shall be reported in any appropriation bill or joint resolution containing an emergency designation for purposes of section 251(b)(2)(D) or section 252(e) of the Balanced Budget and Emergency Deficit Control Act, or shall be in order as an amendment thereto, if the provision or amendment is not designated as an emergency, unless the provision or amendment rescinds budget authority or reduces direct spending, or reduces an amount for a designated emergency.

(f) During the reading of any appropriation bill for amendment in the Committee of the Whole, it shall be in order to consider en bloc amendments proposing only to transfer appropriations among objects in the bill without increasing the levels of budget authority or outlays in the bill. When considered en bloc pursuant to this paragraph, such amendments may amend portions of the bill not yet read for amendment (following the disposition of any points of order against such portions) and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole.

3. A report from the Committee on Appropriations accompanying any general appropriation bill making an appropriation for any purpose shall contain a concise statement describing fully the effect of any provision of the accompanying bill which directly or indirectly changes the application of existing law, and shall contain a list of all appropriations contained in the bill for any expenditure not previously authorized by law (except for classified intelligence or national security programs, projects, or activities).

4. No bill for the payment or adjudication of any private claim against the Government shall be referred, except by unanimous consent, to any other than the following committees, namely: To the Committee on International Relations or to the Committee on the Judiciary.

5. (a) No bill or joint resolution carrying appropriations shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing an appropriation be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

(b) No bill or joint resolution carrying a tax or tariff measure shall be reported by any committee not having jurisdiction to report tax and tariff measures, nor shall an amendment in the House or proposed by the Senate carrying a tax or tariff measure be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on a tax or tariff measure in any such bill, joint resolution, or amendment thereto may be raised at any time.

(c) No bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase shall be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting.

(d) It shall not be in order to consider any bill, joint resolution, amendment, or conference report carrying a retroactive Federal income tax rate increase. For purposes of this paragraph a Federal income tax rate increase is retroactive if it applies to a period beginning prior to the enactment of the provision.

6. No general appropriation bill or amendment thereto shall be received or considered if it contains a provision reappropriating unexpended balances of appropriations; except that this provision shall not apply to appropriations in continuation of appropriations for public works on which work has commenced, and shall not apply to transfers of unexpended balances within the department or agency for which they were originally appropriated, reported by the Committee on Appropriations.

7. No general appropriation bill shall be considered in the House until printed committee hearings and a committee report thereon have been available for the Members of the House for at least three calendar days (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day).

8. At the time any appropriation bill is reported, all points of order shall be considered as reserved.

Rule XXII: Of Petitions, Memorials, Bills, and Resolutions

1. Members having petitions or memorials or bills of a private nature to present may deliver them to the Clerk, endorsing their names and the reference or disposition to be made thereof; and said petitions and memorials and bills of a private nature, except such as, in the judgment of the Speaker, are of an obscene or insulting character, shall be entered on the Journal, with the names of the Members presenting them, and the Clerk shall furnish a transcript of such entry to the official reporters of debates for publication in the Record.

2. (a) No private bill or resolution (including so-called omnibus claims or pension bills), and no amendment to any bill or resolution, authorizing or directing (1) the payment of money for property damages, for personal injuries or death for which suit may be instituted under the Tort Claims Procedure as provided in title 28, United States Code, or for a pension (other than to carry out a provision of law or treaty stipulation); (2) the construction of a bridge across a navigable stream; or (3) the correction of a military or naval record, shall be received or considered in the House.

(b)(1) No bill or resolution, and no amendment to any bill or resolution, establishing or expressing any commemoration may be introduced or considered in the House.

(2) For purposes of this paragraph, the term 'commemoration' means any remembrance, celebration, or recognition for any purpose through the designation of a specified period of time.

3. Any petition or memorial or bill or resolution excluded under this rule shall be returned to the Member from whom it was received; and petitions and private bills which have been inappropriately referred may, by the direction of the committee having possession of the same, be properly referred in the manner originally presented; and an erroneous reference of a petition or private bill under this clause shall not confer jurisdiction upon the committee to consider or report the same.

4. (a) All other bills, memorials, and resolutions may, in like manner, be delivered, indorsed with the names of Members introducing them, to the Speaker, to be by him referred, and the titles and references thereof and of all bills, resolutions, and documents referred under the rules shall be entered on the Journal and printed in the Record of the next day, and correction in case of error of reference may be made by the House, without debate, in accordance with rule X, on any day immediately after the reading of the Journal, by unanimous consent, or on motion of a committee claiming jurisdiction, or on the report of the committee to which the bill has been erroneously referred. Two or more Members may introduce jointly any bill, or resolution to which this paragraph applies.

(b)(1) The name of any Member shall be added as a sponsor of any bill or resolution to which paragraph (a) applies, and shall appear as a sponsor in the next printing of that bill or resolution: Provided, That a request signed by such Member is submitted by the first sponsor to the Speaker (in the same manner as provided in paragraph (a)) no later than the day on which the last committee authorized to consider and report such bill or resolution reports it to the House.

(2) The name of any Member listed as a sponsor of any such bill or resolution may be deleted by unanimous consent, but only at the request of such Member, and such deletion shall be indicated in the next printing of the bill or resolution (together with the date on which such name was deleted). Such consent may be granted no later than the day on which the last committee authorized to consider and report such bill or resolution reports it to the House: Provided, however, That the Speaker shall not entertain a request to delete the name of the first sponsor of any bill or resolution.

(3) The addition of the name of any Member, or the deletion of any name by unanimous consent, of a sponsor of any such bill or resolution shall be entered on the Journal and printed in the Record of that day.

(4) Any such bill or resolution shall be reprinted (A) if the Member whose name is listed as the first sponsor submits to the Speaker a written request that it be reprinted, and (B) if twenty or more Members have been added as sponsors of that bill or resolution since it was last printed.

5. All resolutions of inquiry addressed to the heads of executive departments shall be reported to the House within fourteen legislative days after presentation.

6. When a bill, resolution, or memorial is introduced 'by request', these words shall be entered upon the Journal and printed in the Record.

Rule XXIII: Of Committees of the Whole House

1. (a) In all cases, in forming a Committee of the Whole House, the Speaker shall leave his chair after appointing a Member as Chairman to preside, who shall, in case of disturbance or disorderly conduct in the galleries or lobby, have power to cause the same to be cleared.

(b) After the House has adopted a special order of business resolution reported by the Committee on Rules providing for the consideration of a measure in the Committee of the Whole House on the state of the Union, the Speaker may at any time within his discretion, when no question is pending before the House, declare the House resolved into the committee of the Whole House on the state of the Union for the consideration of that measure without intervening motion, unless the resolution in question provides otherwise.

2. (a) A quorum of a Committee of the Whole shall consist of one hundred Members. The first time that a Committee of the Whole finds itself without a quorum during any day, the Chairman shall invoke the procedure for the call of the roll under clause 5 of rule XV, unless, in his discretion, he orders a call of the Committee to be taken by the procedure set forth in clause 1 or clause 2(b) of rule XV: Provided, That the Chairman may in his discretion refuse to entertain a point of order that a quorum is not present during general debate only. If on such call, a quorum shall appear, the Committee shall continue its business; but if a quorum does not appear, the Committee shall rise and the Chairman shall report the names of the absentees to the House. After the roll has been once called to establish a quorum during such day, the Chairman may not entertain a point of order that a quorum is not present unless the Committee is operating under the five-minute rule and the Chairman has put the pending motion or proposition to a vote; and if the Chairman sustains a point of order that a quorum is not present after putting the question on such a motion or proposition, he may announce that following a regular quorum call conducted pursuant to the previous provisions of this clause, he will reduce to not less than five minutes the period of time within which a recorded vote on the pending question may be taken if such a vote is ordered. If, at any time during the conduct of any quorum call in a Committee of the Whole, the Chairman determines that a quorum is present, he may, in his discretion and subject to his prior announcement, declare that a quorum is constituted. Proceedings under the call shall then be considered as vacated, and the Committee shall not rise but shall continue its sitting and resume its business.

(b) In the Committee of the Whole, the Chair shall order a recorded vote on request supported by at least twenty-five Members.

(c) In the Committee of the Whole, the Chairman may, in his discretion, reduce to not less than five minutes the period of time within which a rollcall vote by electronic device may be taken without any intervening business or debate on any or all pending amendments after the vote has been taken on the first pending amendment.

3. All motions or propositions involving a tax or charge upon the people, all proceedings touching appropriations of money, or bills making appropriations of money or property, or requiring such appropriation to be made, or authorizing payments out of appropriations already made, or releasing any liability to the United States for money or property, or referring any claim to the Court of Claims, shall be first considered in a Committee of the Whole, and a point of order under this rule shall be good at any time before the consideration of a bill has commenced.

4. In Committees of the Whole House business on their calendars may be taken up in regular order, or in such order as the committee may determine, unless the bill to be considered was determined by the House at the time of going into committee, but bills for raising revenue, general appropriation bills, and bills for the improvement of rivers and harbors shall have precedence.

5. (a) When general debate is closed by order of the House, any Member shall be allowed five minutes to explain any amendment he may offer, after which the Member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate thereon, but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to an amendment; and neither an amendment nor an amendment to an amendment shall be withdrawn by the mover thereof unless by the unanimous consent of the committee. Upon the offering of any amendment by a Member, when the House is meeting in the Committee of the Whole, the Clerk shall promptly transmit to the majority committee table five copies of the amendment and five copies to the minority committee table. Further, the Clerk shall deliver at least one copy of the amendment to the majority cloak room and at least one copy to the minority cloak room.

(b) It shall be in order to move in the Committee of the Whole to dispense with the reading of an amendment if the amendment has been printed in the bill as reported from a committee, or if any Member shall have caused the amendment to be printed in the Congressional Record, and to be submitted to the Clerk, or to any responsible staff member designated by the Chairman, of the reporting committee or committees, at least one day prior to floor consideration, and said motion shall be decided without debate.

(c) In the consideration of any measure for amendment in the Committee of the Whole containing any Federal mandate the direct costs of which exceed the threshold in section 424(a)(1) of the Congressional Budget Act of 1974, it shall always be in order, unless specifically waived by terms of a rule governing consideration of that measure, to move to strike such Federal mandate from the portion of the bill then open to amendment.

6. The committee may, by the vote of a majority of the members present, at any time after the five minutes' debate has begun upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph or, at its election, upon the pending amendments only (which motion shall be decided without debate); but this shall not preclude further amendment, to be decided without debate. However, if debate is closed on any section or paragraph under this clause before there has been debate on any amendment which any Member shall have caused to be printed in the Congressional Record after the reporting of the bill by the committee but at least one day prior to floor consideration of such amendment, the Member who caused such amendment to be printed in the Record shall be given five minutes in which to explain such amendment, after which the first person to obtain the floor shall be given five minutes in opposition to it, and there shall be no further debate thereon; but such time for debate shall not be allowed when the offering of such amendment is dilatory. Material placed in the Record pursuant to this provision shall indicate the full text of the proposed amendment, the name of the proponent Member, the number of the bill to which it will be offered and the point in the bill or amendment thereto where the amendment is intended to be offered, and shall appear in a portion of the Record designated for that purpose. All amendments to a specified measure submitted for printing in that portion of the Record shall be given numerical designations in the order printed.

7. A motion to strike out the enacting words of a bill shall have precedence of a motion to amend, and, if carried, shall be considered equivalent to its rejection. Whenever a bill is reported from a Committee of the Whole with an adverse recommendation and such recommendation is disagreed to by the House, the bill shall stand recommitted to the said committee without further action by the House, but before the question of concurrence is submitted it is in order to entertain a motion to refer the bill to any committee, with or without instructions, and when the same is again reported to the House it shall be referred to the Committee of the Whole without debate.

8. At the conclusion of general debate in a Committee of the Whole on any concurrent resolution on the budget pursuant to section 305(a) of the Congressional Budget Act of 1974, the concurrent resolution shall be considered as having been read for amendment. It shall not be in order in the House or in a Committee of the Whole to consider an amendment to a concurrent resolution on the budget, or any amendment to an amendment thereto, unless the concurrent resolution as amended by such amendment or amendments: (a) would be mathematically consistent (except to the extent that the amendment involved is limited by the third sentence of this clause); and (b) would contain all the matter set forth in paragraphs (1) through (5) of section 301(a) of the Congressional Budget Act of 1974. It shall not be in order in the House or in a Committee of the Whole to consider an amendment to a concurrent resolution on the budget, or any amendment to an amendment thereto, which changes the amount of the appropriate level of the public debt set forth in the concurrent resolution as reported; except that the amendments to achieve mathematical consistency which are permitted under section 305(a)(6) of the Congressional Budget Act of 1974 may include an amendment, offered by or at the direction of the Committee on the Budget, to adjust the amount of such level to reflect any changes made in the other figures contained in the resolution.

9. The rules of proceeding in the House shall be observed in Committees of the Whole House so far as they may be applicable.

Rule XXIV: Order of Business

1. The daily order of business shall be as follows:

First. Prayer by the Chaplain.

Second. Reading and approval of the Journal, unless postponed pursuant to the provisions of clause 5(b)(1) of rule I.

Third. The Pledge of Allegiance to the Flag.

Fourth. Correction of reference of public bills.

Fifth. Disposal of business on the Speaker's table.

Sixth. Unfinished business.

Seventh. The morning hour for the consideration of bills called up by committees.

Eighth. Motions to go into Committee of the Whole House on the state of the Union.

Ninth. Orders of the day.

2. Business on the Speaker's table shall be disposed of as follows:

Messages from the President shall be referred to the appropriate committees without debate. Reports and communications from heads of departments, and other communications addressed to the House, and bills, resolutions, and messages from the Senate may be referred to the appropriate committees in the same manner and with the same right of correction as public bills presented by Members; but House bills with Senate amendments which do not require consideration in a Committee of the Whole may be at once disposed of as the House may determine, as may also Senate bills substantially the same as House bills already favorably reported by a committee of the House, and not required to be considered in Committee of the Whole, be disposed of in the same manner on motion directed to be made by such committee.

3. The consideration of the unfinished business in which the House may be engaged at an adjournment, except business in the morning hour, shall be resumed as soon as the business on the Speaker's table is finished, and at the same time each day thereafter until disposed of, and the consideration of all other unfinished business shall be resumed whenever the class of business to which it belongs shall be in order under the rules.

4. After the unfinished business has been disposed of, the Speaker shall call each standing committee in regular order, and then select committees, and each committee when named may call up for consideration any bill reported by it on a previous day and on the House Calendar, and if the Speaker shall not complete the call of the committees before the House passes to other business, he shall resume the next call where he left off, giving preference to the last bill under consideration: Provided, That whenever any committee shall have occupied the morning hour on two days, it shall not be in order to call up any other bill until the other committees have been called in their turn.

5. After one hour shall have been devoted to the consideration of bills called up by committees, it shall be in order, pending consideration or discussion thereof, to entertain a motion to go into Committee of the Whole House on the state of the Union, or, when authorized by a committee, to go into the Committee of the Whole House on the state of the Union to consider a particular bill, to which motion one amendment only, designating another bill, may be made; and if either motion be determined in the negative, it shall not be in order to make either motion again until the disposal of the matter under consideration or discussion.

6. On the first Tuesday of each month after disposal of such business on the Speaker's table as requires reference only, the Speaker shall direct the Clerk to call the bills and resolutions on the Private Calendar. Should objection be made by two or more Members to the consideration of any bill or resolution so called, it shall be recommitted to the committee which reported the bill or resolution, and no reservation of objection shall be entertained by the Speaker. Such bills and resolutions, if considered, shall be considered in the House as in the Committee of the Whole. No other business shall be in order on this day unless the House, by two-thirds vote on motion to dispense therewith, shall otherwise determine. On such motion debate shall be limited to five minutes for and five minutes against said motion.

On the third Tuesday of each month after the disposal of such business on the Speaker's table as requires reference only, the Speaker may direct the Clerk to call the bills and resolutions on the Private Calendar, preference to be given to omnibus bills containing bills or resolutions which have previously been objected to on a call of the Private Calendar. All bills and resolutions on the Private Calendar so called, if considered, shall be considered in the House as in the Committee of the Whole. Should objection be made by two or more Members to the consideration of any bill or resolution other than an omnibus bill, it shall be recommitted to the committee which reported the bill or resolution and no reservation of objection shall be entertained by the Speaker.

Omnibus bills shall be read for amendment by paragraph, and no amendment shall be in order except to strike out or to reduce amounts of money stated or to provide limitations. Any item or matter stricken from an omnibus bill shall not thereafter during the same session of Congress be included in any omnibus bill.

Upon passage of any such omnibus bill, said bill shall be resolved into the several bills and resolutions of which it is composed, and such original bills and resolutions, with any amendments adopted by the House, shall be engrossed, where necessary, and proceedings thereon had as if said bills and resolutions had been passed in the House severally.

In the consideration of any omnibus bill the proceedings as set forth above shall have the same force and effect as if each Senate and House bill or resolution therein contained or referred to were considered by the House as a separate and distinct bill or resolution.

7. On Wednesday of each week no business shall be in order except as provided by clause 4 of this rule unless the House by a two-thirds vote on motion to dispense therewith shall otherwise determine. On such a motion there may be debate not to exceed five minutes for and against. On a call of committees under this rule bills may be called up from either the House or the Union Calendar, excepting bills which are privileged under the rules; but bills called up from the Union Calendar shall be considered in the Committee of the Whole House on the state of the Union. This rule shall not apply during the last 2 weeks of the session. It shall not be in order for the Speaker to entertain a motion for a recess on any Wednesday except during the last 2 weeks of the session: Provided, That not more that 2 hours of general debate shall be permitted on any measure called up on Calendar Wednesday, and all debate must be confined to the subject matter of the bill, the time to be equally divided between those for and against the bill: Provided further, That whenever any committee shall have occupied one Wednesday it shall not be in order, unless the House by a two-thirds vote shall otherwise determine, to consider any unfinished business previously called up by such committee, unless the previous question had been ordered thereon, upon any succeeding Wednesday until the other committees have been called in their turn under this rule: Provided, That when, during any one session of a Congress, all of the committees of the House are not called under the Calendar Wednesday rule, at the next session of that Congress, the call shall commence where it left off at the end of the preceding session.

8. The second and fourth Mondays in each month, after the disposition of motions to discharge committees and after the disposal of such business on the Speaker's table as requires reference only, shall, when claimed by the Committee on Government Reform and Oversight, be set apart for the consideration of such business relating to the District of Columbia as may be presented by said committee.

Rule XXV: Priority of Business

All questions relating to the priority of business shall be decided by a majority without debate.

Rule XXVI: Unfinished Business of the Session

All business before committees of the House at the end of one session shall be resumed at the commencement of the next session of the same Congress in the same manner as if no adjournment had taken place.

Rule XXVII: Change or Suspension of Rules

1. No rule shall be suspended except by a vote of two-thirds of the Members voting, a quorum being present; nor shall the Speaker entertain a motion to suspend the rules except on Mondays and Tuesdays, and during the last six days of a session.

2. When a motion to suspend the rules has been submitted to the House, it shall be in order, before the final vote is taken thereon, to debate the proposition to be voted upon for forty minutes, one-half of such time to be given to debate in favor of, and one-half to debate in opposition to, such proposition; and the same right of debate shall be allowed whenever the previous question has been ordered on any proposition on which there has been no debate.

3. A Member may present to the Clerk a motion in writing to discharge a committee from the consideration of a public bill or resolution which has been referred to it thirty days prior thereto (but only one motion may be presented for each bill or resolution). Under this rule it shall also be in order for a Member to file a motion to discharge the Committee on Rules from further consideration of any resolution providing either a special order of business, or a special rule for the consideration of any public bill or resolution favorably reported by a standing committee, or a special rule for the consideration of a public bill or resolution which has remained in a standing committee thirty or more days without action: Provided, That said resolution from which it is moved to discharge the Committee on Rules has been referred to that committee at least seven days prior to the filing of the motion to discharge. The motion shall be placed in the custody of the Clerk, who shall arrange some convenient place for the signature of Members. A signature may be withdrawn by a Member in writing at any time before the motion is entered on the Journal.

Once a motion to discharge has been filed, the Clerk shall make the signatures a matter of public record. The Clerk shall cause the names of the Members who have signed a discharge motion during any week to be published in a portion of the Congressional Record designated for that purpose on the last legislative day of that week. The Clerk shall make available each day for public inspection in an appropriate office of the House cumulative lists of such names. The Clerk shall devise a means by which to make such lists available to offices of the House and to the public in electronic form. When a majority of the total membership of the House shall have signed the motion, it shall be entered on the Journal, printed with the signatures thereto in the Congressional Record, and referred to the Calendar of Motions to Discharge Committees.

On the second and fourth Mondays of each month, except during the last six days of any session of Congress, immediately after the approval of the Journal, any Member who has signed a motion to discharge which has been on the calendar at least seven days prior thereto, and seeks recognition, shall be recognized for the purpose of calling up the motion, and the House shall proceed to its consideration in the manner herein provided without intervening motion except one motion to adjourn. Recognition for the motions shall be in the order in which they have been entered on the Journal.

When any motion under this rule shall be called up, the bill or resolution shall be read by title only. After twenty minutes' debate, one-half in favor of the proposition and one-half in opposition thereto, the House shall proceed to vote on the motion to discharge. If the motion prevails to discharge the Committee on Rules from any resolution pending before the committee, the House shall immediately consider such resolution, the Speaker not entertaining any dilatory motion except one motion to adjourn, and, if such resolution is adopted, the House shall immediately proceed to its execution. If the motion prevails to discharge one of the standing committees of the House from any public bill or resolution pending before the committee, it shall then be in order for any Member who signed the motion to move that the House proceed to the immediate consideration of such bill or resolution (such motion not being debatable), and such motion is hereby made of high privilege; and if it shall be decided in the affirmative, the bill shall be immediately considered under the general rules of the House, and if unfinished before adjournment of the day on which it is called up it shall remain the unfinished business until it is fully disposed of. Should the House by vote decide against the immediate consideration of such bill or resolution, it shall be referred to its proper calendar and be entitled to the same rights and privileges that it would have had had the committee to which it was referred duly reported same to the House for its consideration: Provided, That when any perfected motion to discharge a committee from the consideration of any public bill or resolution has once been acted upon by the House it shall not be in order to entertain during the same session of Congress any other motion for the discharge from that committee of said measure, or from any other committee of any other bill or resolution substantially the same, relating in substance to or dealing with the same subject matter, or from the Committee on Rules of a resolution providing a special order of business for the consideration of any other such bill or resolution, in order that such action by the House on a motion to discharge shall be res adjudicata for the remainder of that session: Provided further, That if before any one motion to discharge a committee has been acted upon by the House there are on the Calendar of Motions to Discharge Committees other motions to discharge committees from the consideration of bills or resolutions substantially the same, relating in substance to or dealing with the same subject matter, after the House shall have acted on one motion to discharge, the remaining said motions shall be stricken from the Calendar of Motions to Discharge Committees and not acted on during the remainder of that session of Congress.

Rule XXVIII: Conference Reports

1. (a) The presentation of reports of committees of conference shall always be in order, except when the Journal is being read, while the roll is being called, or the House is dividing on any proposition.

(b) The time allotted for debate on any motion to instruct House conferees shall be equally divided between the majority and minority parties, except that if the proponent of the motion and the Member from the other party are both supporters of the motion, one-third of such debate time shall be allotted to a Member who is opposed to said motion.

(c) After House conferees on any bill or resolution in conference between the House and Senate shall have been appointed for twenty calendar days and shall have failed to make a report, it is hereby declared to be a motion of the highest privilege to move to discharge said House conferees and to appoint new conferees, or to instruct said House conferees (but in either case only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion); and, further, during the last six days of any session of Congress, it shall be a privileged motion to move to discharge, appoint, or instruct, House conferees after House conferees shall have been appointed thirty-six hours without having made a report.

(d) Each report made by a committee of conference to the House shall be printed as a report of the House. As so printed, such report shall be accompanied by an explanatory statement prepared jointly by the conferees on the part of the House and the conferees on the part of the Senate. Such statement shall be sufficiently detailed and explicit to inform the House as to the effect which the amendments or propositions contained in such report will have upon the measure to which those amendments or propositions relate.

2. (a) It shall not be in order to consider the report of a committee of conference until the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) after such report and the accompanying statement shall have been filed in the House, and such consideration then shall be in order only if such report and accompanying statement shall have been printed in the daily edition of the Congressional Record for the day on which such report and statement shall have been filed; but the preceding provisions of this sentence do not apply during the last six days of the session. Nor shall it be in order to consider any conference report unless copies of the report and accompanying statement have been available to Members for at least two hours before the beginning of such consideration: Provided, however, That it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b) of rule XI, a report from the Committee on Rules only making in order the consideration of a conference report notwithstanding this restriction. The time allotted for debate in the consideration of any such report shall be equally divided between the majority party and the minority party, except that if the floor manager for the majority and the floor manager for the minority are both supporters of the conference report, one third of such debate time shall be allotted to a Member who is opposed to said conference report.

(b)(1) It shall not be in order to consider any amendment (including an amendment in the nature of a substitute) proposed by the Senate to any measure reported in disagreement between the two Houses by a report of a committee of conference that the committee has been unable to agree, until the third calendar day (excluding Saturdays, Sundays, or legal holidays except when the House is in session on such a day) after such report and accompanying statement shall have been filed in the House, and such consideration then shall be in order only if such report and accompanying statement shall have been printed in the daily edition of the Congressional Record for the day on which such report and statement shall have been filed; but the preceding provisions of this sentence do not apply during the last six days of the session. Nor shall it be in order to consider any such amendment unless copies of the report and accompanying statement, together with the text of such amendment, have been available to Members for at least two hours before the beginning of such consideration: Provided, however, That it shall always be in order to call up for consideration, notwithstanding the provisions of clause 4(b) of rule XI, a report from the Committee on Rules only making in order the consideration of such an amendment notwithstanding this restriction. The time allotted for debate on any such amendment shall be equally divided between the majority party and the minority party, except that if the floor manager for the majority and the floor manager for the minority are both supporters of the original motion offered by the floor manager for the majority to dispose of the amendment, one third of such debate time shall be allotted to a Member who is opposed to said motion.

(2) During consideration of such an amendment to a general appropriation bill, if the original motion offered by the floor manager proposes to change existing law, then pending such original motion and before debate thereon one motion to insist on disagreement to the amendment proposed by the Senate shall be preferential to any other motion to dispose of that amendment if offered by the chairman of a committee having jurisdiction of the subject matter of the amendment or by a designee. Such a preferential motion shall be separately debatable for one hour equally divided between its proponent and the proponent of the original motion. The previous question shall be considered as ordered on such a preferential motion to its adoption without intervening motion.

(c) Any conference report and Senate amendment in disagreement which has been available as provided in paragraphs (a) and (b) of this clause shall be considered as having been read when called up for consideration.

3. Whenever a disagreement to an amendment in the nature of a substitute has been committed to a conference committee it shall be in order for the Managers on the part of the House to propose a substitute which is a germane modification of the matter in disagreement, but the introduction of any language in that substitute presenting a specific additional topic, question, issue, or proposition not committed to the conference committee by either House shall not constitute a germane modification of the matter in disgreement. Moreover, their report shall not include matter not committed to the conference committee by either House, nor shall their report include a modification of any specific topic, question, issue, or proposition committed to the conference committee by either or both Houses if that modification is beyond the scope of that specific topic, question, issue, or proposition as so committed to the conference committee.

4. (a) With respect to any report of a committee of conference called up before the House containing any matter which would be in violation of the provisions of clause 7 of rule XVI if such matter had been offered as an amendment in the House, and which -

(1) is contained in any Senate amendment to that measure (including a Senate amendment in the nature of substitute for the text of that measure as passed by the House) accepted by the House conferees or agreed to by the conference committee with modification; or

(2) is contained in any substitute agreed to by the conference committee; it shall be in order, at any time after the reading of the report has been completed or dispensed with and before the reading of the statement, or immediately upon consideration of a conference report if clause 2(c) of this rule applies, to make a point of order that such nongermane matter, as described above, which shall be specified in the point of order, is contained in the report. For the purposes of this clause, matter which -

(A) is contained in any substitute agreed to by the conference committee;

(B) is not proposed by the House to be included in the measure concerned as passed by the House; and

(C) would be in violation of clause 7 of rule XVI if such matter had been offered in the House as an amendment to the provisions of that measure as so proposed in the form passed by the House; shall be considered in violation of such clause 7.

(b) If such point of order is sustained, it then shall be in order for the Chair to entertain a motion, which is of high privilege, that the House reject the nongermane matter covered by the point of order. It shall be in order to debate such motion for forty minutes, one-half of such time to be given to debate in favor of, and one-half in opposition to, the motion.

(c) Notwithstanding the final disposition of any point of order made under paragraph (a), or of any motion to reject made pursuant to a point of order under paragraph (b), of this clause, it shall be in order to make further points of order on the ground stated in such paragraph (a), and motions to reject pursuant thereto under such paragraph (b), with respect to other nongermane matter in the report of the committee of conference not covered by any previous point of order which has been sustained.

(d) If any such motion to reject has been adopted, after final disposition of all points of order and motions to reject under the preceding provisions of this clause, the conference report shall be considered as rejected and the question then pending before the House shall be -

(1) whether to recede and concur in the Senate amendment with an amendment which shall consist of that portion of the conference report not rejected; or

(2) if the last sentence of paragraph (a) of this clause applies, whether to insist further on the House amendment. If all such motions to reject are defeated, then, after the allocation of time for debate on the conference report as provided in clause 2(a) of this rule, it shall be in order to move the previous question on the adoption of the conference report.

5. (a)(1) With respect to any amendment (including an amendment in the nature of a substitute) which -

(A) is proposed by the Senate to any measure and thereafter -

(i) is reported in disagreement between the two Houses by a committee of conference; or

(ii) is before the House, the stage of disagreement having been reached; and

(B) contains any matter which would be in violation of the provisions of clause 7 of rule XVI if such matter had been offered as an amendment in the House; it shall be in order, immediately after a motion is offered that the House recede from its disagreement to such amendment proposed by the Senate and concur therein and before debate is commenced on such motion, to make a point of order that such nongermane matter, as described above, which shall be specified in the point of order, is contained in such amendment proposed by the Senate.

(2) If such point of order is sustained, it then shall be in order for the Chair to entertain a motion, which is of high privilege, that the House reject the nongermane matter covered by the point of order. It shall be in order to debate such motion for forty minutes, one-half of such time to be given to debate in favor of, and one-half in opposition to, the motion.

(3) Notwithstanding the final disposition of any point of order made under subparagraph (1), or of any motion to reject made pursuant to a point of order under subparagraph (2), of this paragraph, it shall be in order to make further points of order on the ground stated in such subparagraph (1), and motions to reject pursuant thereto under such subparagraph (2), with respect to other nongermane matter in the amendment proposed by the Senate not covered by any previous point of order which has been sustained.

(4) If any such motion to reject has been adopted, after final disposition of all points of order and motions to reject under the preceding provisions of this clause, the motion to recede and concur shall be considered as rejected, and further motions -

(A) to recede and concur in the Senate amendment with an amendment, where appropriate (but the offering of which is not in order unless copies of the language of the Senate amendment, as proposed to be amended by such motion, are then available on the floor when such motion is offered and is under consideration);

(B) to insist upon disagreement to the Senate amendment and request a further conference with the Senate; and

(C) to insist upon disagreement to the Senate amendment; shall remain of high privilege for consideration by the House. If all such motions to reject are defeated, then, after the allocation of time for debate on the motion to recede and concur as provided in clause 2(b) of this rule, it shall be in order to move the previous question on such motion.

(b)(1) With respect to any such amendment proposed by the Senate as described in paragraph (a) of this clause, it shall not be in order to offer any motion that the House recede from its disagreement to such Senate amendment and concur therein with an amendment, unless copies of the language of the Senate amendment, as proposed to be amended by such motion, are then available on the floor when such motion is offered and is under consideration.

(2) Immediately after any such motion is offered and is in order and before debate is commenced on such motion, it shall be in order to make a point of order that nongermane matter, as described in subparagraph (1) of paragraph (a) of this clause, which shall be specified in the point of order, is contained in the language of the Senate amendment, as proposed to be amended by such motion, copies of which are then available on the floor.

(3) If such point of order is sustained, it then shall be in order for the Chair to entertain a motion, which is of high privilege, that the House reject the nongermane matter covered by the point of order. It shall be in order to debate such motion for forty minutes, one-half of such time to be given to debate in favor of, and one-half in opposition to, the motion.

(4) Notwithstanding the final disposition of any point of order under subparagraph (2), or of any motion to reject made pursuant to a point of order under subparagraph (3), of this paragraph, it shall be in order to make further points of order on the ground stated in subparagraph (1) of paragraph (a) of this clause, and motions to reject pursuant thereto under subparagraph (3) of this paragraph, with respect to other nongermane matter in the language of the Senate amendment, as proposed to be amended by the motion described in subparagraph (1) of this paragraph, not covered by any previous point of order which has been sustained.

(5) If any such motion to reject has been adopted, after final disposition of all points of order and motions to reject under the preceding provisions of this paragraph, the motion to recede and concur in the Senate amendment with an amendment shall be considered as rejected, and further motions -

(A) to recede and concur in the Senate amendment with an amendment, where appropriate (but the offering of which is not in order unless copies of the language of the Senate amendment, as proposed to be amended by such motion, are then available on the floor when such motion is offered and is under consideration);

(B) to insist upon disagreement to the Senate amendment and request a further conference with the Senate; and

(C) to insist upon disagreement to the Senate amendment; shall remain of high privilege for consideration by the House. If all such motions to reject are defeated, then, after the allocation of time for debate on the motion to recede and concur in the Senate amendment with an amendment as provided in clause 2(b) of this rule, it shall be in order to move the previous question on such motion.

(c) If, on a division of a motion that the House recede and concur, with or without amendment, from its disagreement to any such Senate amendment as described in paragraph (a)(1) of this clause, the House agrees to recede, then, before debate is commenced on concurring in such Senate amendment, or on concurring therein with an amendment it shall be in order to make and dispose of points of order and motions to reject with respect to such Senate amendment in accordance with applicable provisions of this clause and to effect final determination of these matters in accordance with such provisions.

6. (a) Each conference committee meeting between the House and Senate shall be open to the public except when the House, in open session, has determined by a roll call vote of a majority of those Members voting that all or part of the meeting shall be closed to the public.

(b)(1) After the reading of the report and before the reading of the joint statement, or immediately upon consideration of a conference report if clause 2(c) of this rule applies, a point of order may be made that the committee of conference making the report to the House has failed to comply with paragraph (a) of this clause.

(2) If such point of order is sustained, the conference report shall be considered as rejected, the House shall be considered to have insisted upon its amendment(s) or upon disagreement to the amendment(s) of the Senate, as the case may be, and to have requested a further conference with the Senate, and the Speaker shall be authorized to appoint new conferees without intervening motion.

Rule XXIX: Secret Session

Whenever confidential communications are received from the President of the United States, or whenever the Speaker or any Member shall inform the House that he has communications which he believes ought to be kept secret for the present, the House shall be cleared of all persons except the Members and officers thereof, and so continue during the reading of such communications, the debates and proceedings thereon, unless otherwise ordered by the House.

Rule XXX: Use of Exhibits

When the use of any exhibit in debate is objected to by any Member, it shall be determined without debate by a vote of the House.

Rule XXXI: Hall of the House

The Hall of the House shall be used only for the legislative business of the House and for the caucus meetings of its Members, except upon occasions where the House by resolution agrees to take part in any ceremonies to be observed therein; and the Speaker shall not entertain a motion for the suspension of this rule.

Rule XXXII: Of Admission to the Floor

1. The persons hereinafter named, and none other, shall be admitted to the Hall of the House or rooms leading thereto, viz: The President and Vice President of the United States and their private secretaries, judges of the Supreme Court, Members of Congress and Members-elect, contestants in election cases during the pendency of their cases in the House, the Secretary and Sergeant-at-Arms of the Senate, heads of departments, foreign ministers, governors of States, the Architect of the Capitol, the Librarian of Congress and his assistant in charge of the Law Library, the Resident Commissioner to the United States from Puerto Rico, each Delegate to the House, such persons as have, by name, received the thanks of Congress, the Parliamentarian, elected officers and elected minority employees of the House (other than Members); and ex-Members of the House of Representatives, former Parliamentarians of the House, and former elected officers and elected minority employees of the House, subject to the provisions of clause 3 of this rule; and clerks of committees when business from their committee is under consideration and not more than one person from a Member's staff when that Member has an amendment under consideration, subject to the provisions of clause 4 of this rule; and one attorney to accompany any Member who is the respondent in an investigation undertaken by the Committee on Standards of Official Conduct when the recommendation of such committee is under consideration; and it shall not be in order for the Speaker to entertain a request for the suspension of this rule or to present from the chair the request of any Member for unanimous consent.

2. There shall be excluded at all times from the Hall of the House of Representatives and the cloakrooms all persons not entitled to the privilege of the floor during the session, except that until fifteen minutes of the hour of the meeting of the House persons employed in its service, accredited members of the press entitled to admission to the press gallery, and other persons on request of Members, by card or in writing may be admitted.

3. Ex-Members of the House of Representatives, former Parliamentarians of the House, and former elected officers and former elected minority employees of the House, shall be entitled to the privilege of admission to the Hall of the House and rooms leading thereto only if they do not have any direct personal or pecuniary interest in any legislative measure pending before the House or reported by any committee of the House and only if they are not in the employ of, or do not represent, any party or organization for the purpose of influencing, directly or indirectly, the passage, defeat or amendment of any legislative measure pending before the House, reported by any committee of the House or under consideration in any of its committees or subcommittees. The Speaker shall promulgate such regulations as may be necessary to implement the provisions of this rule and to ensure its enforcement.

4. Persons from Member's staffs admitted to the Hall of the House or rooms leading thereto under clause 1 shall be admitted only upon prior notification to the Speaker. No such person or clerk of a committee so admitted under clause 1 shall engage in efforts in the Hall of the House or rooms leading thereto to influence Members with regard to the legislation being amended. Such persons and clerks shall remain at the desk and are admitted only to advise the Member or committee responsible for their admission. Any such person or clerk who violates this clause may be excluded during the session from the Hall of the House and rooms leading thereto by the Speaker.

Rule XXXIII: Of Admission to the Galleries

The Speaker shall set aside a portion of the west gallery for the use of the President of the United States, the members of his Cabinet, justices of the Supreme Court, foreign ministers and suites, and the members of their respective families, and shall also set aside another portion of the same gallery for the accommodation of persons to be admitted on the card of Members. The southerly half of the east gallery shall be assigned exclusively for the use of the families of Members of Congress, in which the Speaker shall control one bench, and on request of a Member the Speaker shall issue a card of admission to his family, which shall include their visitors, and no other person shall be admitted to this section.

Rule XXXIV: Official and Other Reporters

1. The appointment and removal, for cause, of the official reporters of the House, including stenographers of committees, and the manner of the execution of their duties shall be vested in the Clerk, subject to the direction and control of the Speaker.

2. Such portion of the gallery over the Speaker's chair as may be necessary to accommodate representatives of the press wishing to report debates and proceedings shall be set aside for their use, and reputable reporters and correspondents shall be admitted thereto under such regulations as the Speaker may from time to time prescribe; and the supervision of such gallery, including the designation of its employees, shall be vested in the standing committee of correspondents, subject to the direction and control of the Speaker; and the Speaker may assign one seat on the floor to Associated Press reporters and one to United Press International, and regulate the occupation of the same. And the Speaker may admit to the floor, under such regulations as he may prescribe, one additional representative of each press association.

3. Such portion of the gallery of the House of Representatives as may be necessary to accommodate reporters of news to be disseminated by radio, television, and similar means of transmission, wishing to report debates and proceedings, shall be set aside for their use, and reputable reporters thus engaged shall be admitted thereto under such regulations as the Speaker may from time to time prescribe; and the supervision of such gallery, including the designation of its employees, shall be vested in the Executive Committee of the Radio and Television Correspondents' Galleries, subject to the direction and control of the Speaker; and the Speaker may admit to the floor, under such regulations as he may prescribe, one representative of the National Broadcasting Company, one of the Columbia Broadcasting System, one of the Mutual Broadcasting System, and one of the American Broadcasting Company.

Rule XXXV: Pay of Witnesses

The rule for paying witnesses to appear before the House or any of its committees shall be as follows: For each day a witness shall attend, the same per diem rate as established, authorized, and regulated by the Committee on House Oversight for Members and employees of the House, and actual expenses of travel in coming to or going from the place of examination; but no per diem shall be paid when a witness has been summoned at the place of examination.

Rule XXXVI: Preservation and Availability of Noncurrent Records of the House

1. (a) At the end of each Congress, the chairman of each committee of the House shall transfer to the Clerk any noncurrent records of such committee, including the subcommittees thereof.

(b) At the end of each Congress, each officer of the House elected pursuant to rule II shall transfer to the Clerk any noncurrent records made or acquired in the course of the duties of such officer.

2. The Clerk shall deliver the records transferred pursuant to clause 1 of the rule, together with any other noncurrent records of the House, to the Archivist of the United States for preservation at the National Archives and Records Administration. Records so delivered are the permanent property of the House and remain subject to this rule and the orders of the House.

3. (a) Subject to paragraph (b) of the clause, clause 4 of this rule, and orders of the House, the Clerk shall authorize the Archivist of the United States to make available for public use the records delivered to the Archivist under clause 2 of this rule.

(b)(1) Any record that the House or a committee of the House (or a subcommittee thereof) makes available for public use before such record is delivered to the Archivist under clause 2 of this rule shall be made available immediately.

(2) Any investigative record that contains personal data relating to a specific living individual (the disclosure of which would be an unwarranted invasion of personal privacy), any administrative record with respect to personnel, and any record with respect to a hearing closed pursuant to clause 2(g)(2) of rule XI shall be available if such record has been in existence for 50 years.

(3) Any record for which a time, schedule, or condition for availability is specified by order of the House shall be made available in accordance with that order. Except as otherwise provided by order of the House, any record of a committee for which a time, schedule, or condition for availability is specified by order of the committee (entered during the Congress in which the record is made or acquired by the committee) shall be made available in accordance with the order of the committee.

(4) Any record (other than a record referred to in subparagraph (1), (2), or (3) of this paragraph) shall be made available if such record has been in existence for 30 years.

4. (a) A record shall not be made available for public use under clause 3 of this rule if the Clerk determines that such availability would be detrimental to the public interest or inconsistent with the rights and privileges of the House. The Clerk shall notify in writing the chairman and the ranking minority party Member of the Committee on House Oversight of any determination under the preceding sentence.

(b) A determination of the Clerk under paragraph (a) is subject to later order of the House and, in the case of a record of a committee, later order of the committee.

5. (a) This rule does not supersede rule XLVIII or rule L and does not authorize the public disclosure of any record if such disclosure is prohibited by law or executive order of the President.

(b) The Committee on House Oversight may prescribe guidelines and regulations governing the applicability and implementation of this rule.

(c) A committee may withdraw from the National Archives and Records Administration any record of the committee delivered to the Archivist of the United States under this rule. Such withdrawal shall be on a temporary basis and for official use of the committee.

6. As used in the rule the term 'record' means any official, permanent record of the House, including -

(a) with respect to a committee of the House, an official, permanent record of the committee (including any record of a legislative, oversight, or other activity of such committee or subcommittee thereof); and

(b) with respect to an officer of the House elected pursuant to rule II, an official, permanent record made or acquired in the course of the duties of such officer. Such term does not include a record of an individual Member of the House.

Rule XXXVII: Withdrawal of Papers

No memorial or other paper presented to the House shall be withdrawn from its files without its leave, and if withdrawn therefrom certified copies thereof shall be left in the office of the Clerk; but when an act may pass for the settlement of a claim, the Clerk is authorized to transmit to the officer in charge with the settlement thereof the papers on file in his office relating to such claim, or may loan temporarily to an officer or bureau of the executive departments any papers on file in his office relating to any matter pending before such officer or bureau, taking proper receipt therefor.

Rule XXXVIII: Ballot

In all cases of ballot a majority of the votes given shall be necessary to an election, and where there shall not be such a majority on the first ballot the ballots shall be repeated until a majority be obtained; and in all balloting blanks shall be rejected and not taken into the count in enumeration of votes or reported by the tellers.

Rule XXXIX: Messages

Messages received from the Senate and the President of the United States, giving notice of bills passed or approved, shall be entered in the Journal and published in the Record of that day's proceedings.

Rule XL: Executive Communications

Estimates of appropriations and all other communications from the executive departments, intended for the consideration of any committees of the House, shall be addressed to the Speaker, and by him referred as provided by clause 2 of rule XXIV.

Rule XLI: Qualifications of Officers and Employees

No person shall be an officer or employee of the house, or continue in its employment, who shall be an agent for the prosecution of any claim against the Government or be interested in such claim otherwise than as an original claimant or than in the proper discharge of official duties.

Rule XLII: General Provisions

The rules of parliamentary practice comprised in Jefferson's Manual and the provisions of the Legislative Reorganization Act of 1946, as amended, shall govern the House in all cases to which they are applicable, and in which they are not inconsistent with the standing rules and orders of the House and joint rules of the Senate and House of Representatives.

Rule XLIII: Code of Official Conduct

There is hereby established by and for the House of Representatives the following code of conduct, to be known as the 'Code of Official Conduct':

1. A Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives.

2. A Member, officer, or employee of the House of Representatives shall adhere to the spirit and the letter of the Rules of the House of Representatives and to the rules of duly constituted committees thereof.

3. A Member, officer, or employee of the House of Representatives shall receive no compensation nor shall he permit any compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in the Congress.

4. A Member, officer, or employee of the House of Representatives shall not accept gifts excepted as provided by the provisions of rule LII (Gift Rule).

5. A Member, officer, or employee of the House of Representatives shall accept no honorarium for a speech, writing for publication, or other similar activity.

6. A Member of the House of Representatives shall keep his campaign funds separate from his personal funds. A Member shall convert no campaign funds to personal use in excess of reimbursement for legitimate and verifiable campaign expenditures and shall expend no funds from his campaign account not attributable to bona fide campaign or political purposes.

7. A Member of the House of Representatives shall treat as campaign contributions all proceeds from testimonial dinners or other fund raising events.

8. A Member or officer of the House of Representatives shall retain no one under his payroll authority who does not perform official duties commensurate with the compensation received in the offices of the employing authority. In the case of committee employees who work under the direct supervision of a Member other than a chairman, the chairman may require that such Member affirm in writing that the employees have complied with the preceding sentence (subject to clause 6 of rule XI) as evidence of the chairman's compliance with this clause and with clause 6 of rule XI.

9. A Member, officer, or employee of the House of Representatives shall not discharge or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex (including marital or parental status), handicap, age, or national origin, but may take into consideration the domicile or political affiliation of such individual.

10. A Member of the House of Representatives who has been convicted by a court of record for the commission of a crime for which a sentence of two or more years' imprisonment may be imposed should refrain from participation in the business of each committee of which he is a member and should refrain from voting on any question at a meeting of the House, or of the Committee of the Whole House, unless or until judicial or executive proceedings result in reinstatement of the presumption of his innocence or until he is reelected to the House after the date of such conviction.

11. A Member of the House of Representatives shall not authorize or otherwise allow a non-House individual, group, or organization to use the words 'Congress of the United States', 'House of Representatives', or 'Official Business', or any combination of words thereof, on any letterhead or envelope.

12. (a) Except as provided by paragraph (b), any employee of the House of Representatives who is required to file a report pursuant to rule XLIV shall refrain from participating personally and substantially as an employee of the House of Representatives in any contact with any agency of the executive or judicial branch of Government with respect to nonlegislative matters affecting any nongovernmental person in which the employee has a significant financial interest.

(b) Paragraph (a) shall not apply if an employee first advises his employing 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 Committee on Standards of Official Conduct.

13. Before any Member, officer, or employee of the House of Representatives may have access to classified information, the following oath (or affirmation) shall be executed:

'I do solemnly swear (or affirm) that I will not disclose any classified information received in the course of my service with the House of Representatives, except as authorized by House of Representatives or in accordance with its Rules.'

Copies of the executed oath shall be retained by the Clerk of the House as part of the records of the House.

As used in this Code of Official Conduct of the House of Representatives - (a) the terms 'Member' and 'Member of the House of Representatives' include the Resident Commissioner from Puerto Rico and each Delegate to the House; and (b) the term 'officer or employee of the House of Representatives' means any individual whose compensation is disbursed by the Clerk of the House of Representatives.

Rule XLIV: Financial Disclosure

1. A copy of each report filed with the Clerk under title I of the Ethics in Government Act of 1978 shall be sent by the Clerk within the seven-day period beginning the date on which the report is filed to the Committee on Standards of Official Conduct. By August 1 of each year, the Clerk shall compile all such reports sent to him by Members within the period beginning on January 1 and ending on June 15 of each year and have them printed as a House document, which document shall be made available to the public.

2. For the purposes of this rule, the provisions of title I of the Ethics in Government Act of 1978 shall be deemed to be a rule of the House as it pertains to Members, officers, and employees of the House of Representatives.

(The Pertinent Parts of Title I of the Ethics in Government Act of 1978 (5 U.S.C. App. 6 Sec. 101-111) Read As Follows:) Title I - Financial Disclosure Requirements of Federal Personnel

Persons Required to File

sec. 101. (a) Within thirty days of assuming the position of an officer or employee described in subsection (f), an individual shall file a report containing the information described in section 102(b) unless the individual has left another position described in subsection (f) within thirty days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position. \* \* \*

(c) Within thirty days of becoming a candidate as defined in section 301 of the Federal Campaign Act of 1971, in a calendar year for nomination or election to the office of President, Vice President, or Member of Congress, or on or before May 15 of that calendar year, whichever is later, but in no event later than 30 days before the election, and on or before May 15 of each successive year an individual continues to be a candidate, an individual other than an incumbent President, Vice President, or Member of Congress shall file a report containing the information described in section 102(b). Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

(d) Any individual who is an officer or employee described in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 102(a).

(e) Any individual who occupies a position described in subsection (f) shall, on or before the thirtieth day after termination of employment in such position, file a report containing the information described in section 102(a) covering the preceding calendar year if the report required by subsection (d) has not been filed and covering the portion of the calendar year in which such termination occurs up to the date the individual left such office or position, unless such individual has accepted employment in another position described in subsection (f).

(f) The officers and employees referred to in subsections (a), (d), and (e) are - \* \* \*

(9) a Member of Congress as defined under section 109(12);

(10) an officer or employee of the Congress as defined under section 109(13); \* \* \*

(g) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the supervising ethics office for each branch, but the total of such extensions shall not exceed ninety days.

(h) The provisions of subsections (a), (b), and (e) shall not apply to an individual who, as determined by the designated agency ethics official or Secretary concerned (or in the case of a Presidential appointee under subsection (b), the Director of the Office of Government Ethics), the congressional ethics committees, or the Judicial Conference, is not reasonably expected to perform the duties of his office or position for more than sixty days in a calendar year, except that if such individual performs the duties of his office or position for more than sixty days in a calendar year -

(1) the report required by subsections (a) and (b) shall be filed within fifteen days of the sixtieth day, and

(2) the report required by subsection (e) shall be filed as provided in such subsection.

(i) The supervising ethics office for each branch may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position less than one hundred and thirty days in a calendar year, but only if the supervising ethics office determines that -

(1) such individual is not a full-time employee of the Government,

(2) such individual is able to provide services specially needed by the Government,

(3) it is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and

(4) public financial disclosure by such individual is not necessary in the circumstances.

Contents of Reports

sec. 102. (a) Each report filed pursuant to section 101 (d) and (e) shall include a full and complete statement with respect to the following:

(1)(A) The source, type, and amount or value of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating $200 or more in value and, effective January 1, 1991, the source, date, and amount of payments made to charitable organizations in lieu of honoraria, and the reporting individual shall simultaneously file with the applicable supervising ethics office, on a confidential basis, a corresponding list of recipients of all such payments, together with the dates and amounts of such payments.

(B) The source and type of income which consists of dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds $200 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within:

(i) not more than $1,000,

(ii) greater than $1,000 but not more than $2,500,

(iii) greater than $2,500 but not more than $5,000,

(iv) greater than $5,000 but not more than $15,000,

(v) greater than $15,000 but not more than $50,000,

(vi) greater than $50,000 but not more than $100,000,

(vii) greater than $100,000 but not more than $1,000,000, or

(viii) greater than $1,000,000.

(2)(A) The identity of the source, a brief description, and the value of all gifts aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater, received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of an individual need not be reported, and any gift with a fair market value of $100 or less, as adjusted at the same time and by the same percentage as the minimal value is adjusted, need not be aggregated for purposes of this subparagraph.

(B) The identity of the source and a brief description (including a travel itinerary, dates, and nature of expenses provided) of reimbursements received from any source aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater, and received during the preceding calendar year.

(C) In an unusual case, a gift need not be aggregated under subparagraph (A) if a publicly available request for a waiver is granted.

(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse, or by a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse, or any deposits aggregating $5,000 or less in a personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

(4) The identity and category of value of the total liabilities owed to any creditor other than a spouse, or a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse which exceed $10,000 at any time during the preceding calendar year, excluding -

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds $10,000 as of the close of the preceding calendar year need be reported under this paragraph.

(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year exceeds $1,000 -

(A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or

(B) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

(6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the two-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

(B) If any person, other than the United States Government, paid a nonelected reporting individual compensation in excess of $5,000 in any of the two calendar years prior to the calendar year during which the individual files his first report under this title, the individual shall include in the report -

(i) the identity of each source of such compensation; and

(ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

(b)(1) Each report filed pursuant to subsections (a), (b), and (c) of section 101 shall include a full and complete statement with respect to the information required by -

(A) paragraph (1) of subsection (a) for the year of filing and the preceding calendar year,

(B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than thirty-one days before the filing date, and

(C) paragraphs (6) and (7) of subsection (a) as of the filing date but for periods described in such paragraphs.

(2)(A) In lieu of filling out one or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the supervising ethics office for the branch in which such individual serves or pursuant to a specific written determination by such office for a reporting individual.

(B) In lieu of indicating the category of amount or value of any item contained in any report filed under this title, a reporting individual may indicate the exact dollar amount of such item.

(c) In the case of any individual described in section 101(e), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

(d)(1) The categories for reporting the amount or value of the items covered in paragraphs (3), (4), and (5) of subsection (a) are as follows:

(A) not more than $15,000;

(B) greater than $15,000 but not more than $50,000;

(C) greater than $50,000 but not more than $100,000;

(D) greater than $100,000 but not more than $250,000;

(E) greater than $250,000 but not more than $500,000;

(F) greater than $500,000 but not more than $1,000,000; and

(G) greater than $1,000,000.

(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

(e)(1) Except as provided in the last sentence of this paragraph, each report required by section 101 shall also contain information listed in paragraphs (1) through (5) of subsection (a) of this section respecting the spouse or dependent child of the reporting individual as follows:

(A) The source of items of earned income earned by a spouse from any person which exceed $1,000 and the source and amount of any honoraria received by a spouse, except that, with respect to earned income (other than honoraria), if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

(B) All information required to be reported in subsection (a)(1)(B) with respect to income derived by a spouse or dependent child from any asset held by the spouse or dependent child and reported pursuant to subsection (a)(3).

(C) In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

(D) In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.

(E) In the case of items described in paragraphs (3) through (5) of subsection (a), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

Reports required by subsections (a), (b), and (c) of section 101 shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of -

(A) any qualified blind trust (as defined in paragraph (3));

(B) a trust -

(i) which was not created directly by such individual, his spouse, or any dependent child, and

(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of; or

(C) an entity described under the provisions of paragraph (8), but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust or other entity under subsection (a)(1)(B) of this section.

(3) For purpose of this subsection, the term 'qualified blind trust' includes any trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

(A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is a financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who -

(I) is independent of and not associated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party; and

(II) is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and

(III) is not a relative of any interested party.

(ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust -

(I) is independent of and not associated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;

(II) is not a partner of, or involved in any joint venture or other investment with, any interested party; and

(III) is not a relative of any interested party.

(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.

(C) The trust instrument which establishes the trust provides that -

(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

(iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1) of this section, but such report shall not identify any asset or holding;

(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office.

(E) For purposes of this subsection, 'interested party' means a reporting individual, his spouse, and any minor or dependent child; 'broker' has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and 'investment adviser' includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.

(F) Any trust qualified by a supervising ethics office before the effective date of title II of the Ethics Reform Act of 1989 shall continue to be governed by the law and regulations in effect immediately before such effective date.

(4)(A) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of any applicable conflict of interest statutes, regulations, or rules of the Federal Government (including section 208 of title 18, United States Code), until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

(B)(i) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or the spouse, dependent child, or minor child of such a person, if the supervising ethics office for such reporting individual finds that -

(I) the assets placed in the trust consist of a well-diversified portfolio of readily marketable securities;

(II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual's primary area of responsibility;

(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraphs (3)(C) (iii) and (iv) of this subsection, from making public or informing any interested party of the sale of any securities;

(IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v) of this subsection, to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and

(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust established prior to the effective date of this Act which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A). \* \* \*

(5)(A) The reporting individual shall, within thirty days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of -

(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d) of this section. This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7) of this subsection.

(B) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.

(C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall -

(i) notify his supervising ethics office of such dissolution, and

(ii) file with such office a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (d) of this section of each such asset.

(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 105 and the provisions of that section shall apply with respect to such documents and lists.

(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within five days of the date of the communication.

(6)(A) A trustee of a qualified blind trust shall not knowingly and willfully, or negligently, (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

(B) A reporting individual shall not knowingly and willfully, or negligently, (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection or (ii) fail to file any document required by this subsection.

(C)(i) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $10,000.

(ii) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

(7) Any trust may be considered to be a qualified blind trust if -

(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;

(B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the supervising ethics office, including the category of value of each asset as determined under subsection (d) of this section, are filed with such office and made available to the public as provided under paragraph (5)(D) of this subsection; and

(C) the supervising ethics office determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.

(8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if -

(A)(i) the fund is publicly traded; or

(ii) the assets of the fund are widely diversified; and

(B) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

(h) A report filed pursuant to subsection (a), (d), or (e) of section 101 need not contain the information described in subparagraphs (A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not an officer or employee of the Federal Government.

(i) A reporting individual shall not be required under this title to report -

(1) financial interests in or income derived from -

(A) any retirement system under title 5, United States Code (including the Thrift Savings Plan under subchapter III of chapter 84 of such title); or

(B) any other retirement system maintained by the United States for officers or employees of the United States, including the President, or for members of the uniformed services; or

(2) benefits received under the Social Security Act.

Filing of Reports

sec. 103. (a) Except as otherwise provided in this section, the reports required under this title shall be filed by the reporting individual with the designated agency ethics official at the agency by which he is employed (or in the case of an individual described in section 101(e), was employed) or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official. \* \* \*

(g) Each supervising Ethics Office shall develop and make available forms for reporting the information required by this title.

(h)(1) The reports required under this title shall be filed by a reporting individual with -

(A)(i)(I) the Clerk of the House of Representatives, in the case of a Representative in Congress, a Delegate to Congress, the Resident Commissioner from Puerto Rico, an officer or employee of the Congress whose compensation is disbursed by the Clerk of the House of Representatives, an officer or employee of the Architect of the Capitol, the United States Botanic Gardens, the Congressional Budget Office, the Government Printing Office, the Library of Congress, or the Copyright Royalty Tribunal (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico; \* \* \*

(ii) in the case of an officer or employee of the Congress as described under section 101(f)(10) who is employed by an agency or commission established in the legislative branch after the date of the enactment of the Ethics Reform Act of 1989 -

(I) the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, as designated in the statute establishing such agency or commission; or

(II) if such statute does not designate such committee, the Secretary of the Senate for agencies and commissions established in even numbered calendar years, and the Clerk of the House of Representatives for agencies and commissions established in odd numbered calendar years; \* \* \*

(2) The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such committee.

(i) A copy of each report filed under this title by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk of the House of Representatives or Secretary of the Senate, as the case may be, to the appropriate State officer designated under section 316(a) of the Federal Election Campaign Act of 1971 of the State represented by the Member or in which the individual is a candidate, as the case may be, within the 30-day period beginning on the day the report is filed with the Clerk or Secretary.

(j)(1) A copy of each report filed under this title with the Clerk of the House of Representatives shall be sent by the Clerk to the Committee on Standards of Official Conduct of the House of Representatives within the 7-day period beginning on the day the report is filed. \* \* \*

(k) In carrying out their responsibilities under this title with respect to candidates for office, the Clerk of the House of Representatives and the Secretary of the Senate shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis a complete list of names and addresses of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible.

Failure to File or Filing False Reports

sec. 104. (a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 102. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed $10,000.

(b) The head of each agency, each Secretary concerned, the Director of the Office of Government Ethics, each congressional ethics committee, or the Judicial Conference, as the case may be, shall refer to the Attorney General the name of any individual which such official or committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported.

(c) The President, the Vice President, the Secretary concerned, the head of each agency, the Office of Personnel Management, a congressional ethics committee, and the Judicial Conference of the United States, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of -

(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or

(B) if a filing extension is granted to such individual under section 101(g), the last day of the filing extension period, shall, at the direction of and pursuant to regulations issued by the supervising ethics office, pay a filing fee of $200. All such fees shall be deposited in the miscellaneous receipts of the Treasury. The authority under this paragraph to direct the payment of a filing fee may be delegated by the supervising ethics office in the executive branch to other agencies in the executive branch.

(2) The supervising ethics office may waive the filing fee under this subsection in extraordinary circumstances.

Custody of and Public Access to Reports

sec. 105. (a) Each agency, each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall make available to the public, in accordance with subsection (b), each report filed under this title with such agency or office or with the Clerk or the Secretary of the Senate. \* \* \*

(b)(1) Except as provided in the second sentence of this subsection, each agency, each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall, within thirty days after any report is received under this title by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101(g). The agency, office, Clerk, or Secretary of the Senate, as the case may be may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

(2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating -

(A) that person's name, occupation and address;

(B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

(C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

(c)(1) It shall be unlawful for any person to obtain or use a report -

(A) for any unlawful purpose;

(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed $10,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

(d) Any report filed with or transmitted to an agency or supervising ethics office or to the Clerk of the House of Representatives or the Secretary of the Senate pursuant to this title shall be retained by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be. Such report shall be made available to the public for a period of six years after receipt of the report. After such six-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such reports shall be destroyed one year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation.

Review of Reports

sec. 106. (a)(1) Each designated agency ethics official or Secretary concerned shall make provisions to ensure that each report filed with him under this title is reviewed within sixty days after the date of such filing, except that the Director of the Office of Government Ethics shall review only those reports required to be transmitted to him under this title within sixty days after the date of transmittal.

(2) Each congressional ethics committee and the Judicial Conference shall make provisions to ensure that each report filed under this title is reviewed within sixty days after the date of such filing.

(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, the Secretary concerned, the designated agency ethics official, a person designated by the congressional ethics committee, or a person designated by the Judicial Conference, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

(2) If the Director of the Office of Government Ethics, the Secretary concerned, the designated agency ethics official, a person designated by the congressional ethics committee, or a person designated by the Judicial Conference, after reviewing any report under subsection (a) -

(A) believes additional information is required to be submitted, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.

(3) If the Director of the Office of Government Ethics, the Secretary concerned, the designated agency ethics official, a person designated by a congressional ethics committee, or a person designated by the Judicial Conference, reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official or committee shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official or committee be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate -

(A) divestiture,

(B) restitution,

(C) the establishment of a blind trust,

(D) request for an exemption under section 208(b) of title 18, United States Code, or

(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such rules or regulations as the supervising ethics office may prescribe.

(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position in the executive branch (other than in the Foreign Service or the uniformed services), appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate action.

(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the Foreign Service or the uniformed services, the Secretary concerned shall take appropriate action.

(6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee, the matter shall be referred to the head of the appropriate agency, the congressional ethics committee, or the Judicial Conference, for appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the Director of the Office of Government Ethics shall recommend to the Governors of the Board of Governors of the United States Postal Service the action to be taken.

(7) Each supervising ethics office may render advisory opinions interpreting this title within its respective jurisdiction. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.

Confidential Reports and Other Additional Requirements

sec. 107. (a)(1) Each supervising ethics office may require officers and employees under its jurisdiction (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as the supervising ethics office may prescribe. The information required to be reported under this subsection by the officers and employees of any department or agency shall be set forth in rules or regulations prescribed by the supervising ethics office, and may be less extensive than otherwise required by this title, or more extensive when determined by the supervising ethics office to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 101 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Subsections (a), (b), and (d) of section 105 shall not apply with respect to any such report.

(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

(3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.

(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, rule, or regulation.

Authority of Comptroller General

sec. 108. (a) The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities.

(b) No later than December 31, 1992, and regularly thereafter, the Comptroller General shall conduct a study to determine whether the provisions of this title are being carried out effectively.

Definitions

sec. 109. For the purposes of this title, the term -

(1) 'congressional ethics committees' means the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives;

(2) 'dependent child' means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who -

(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986;

(3) 'designated agency ethics official' means an officer or employee who is designated to administer the provisions of this title within an agency; \* \* \*

(5) 'gift' means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include -

(A) bequest and other forms of inheritance;

(B) suitable mementos of a function honoring the reporting individual;

(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

(D) food and beverages which are not consumed in connection with a gift of overnight lodging;

(E) communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals; or

(F) consumable products provided by home-State businesses to the offices of a reporting individual who is an elected official, if those products are intended for consumption by persons other than such reporting individual;

(6) 'honoraria' has the meaning given such term in section 505 of this Act;

(7) 'income' means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust; \* \* \*

(11) 'legislative branch' includes -

(A) the Architect of the Capitol;

(B) the Botanic Gardens;

(C) the Congressional Budget Office;

(D) the General Accounting Office;

(E) the Government Printing Office;

(F) the Library of Congress;

(G) the United States Capitol Police;

(H) the Office of Technology Assessment; and

(I) any other agency, entity, office, or commission established in the legislative branch;

(12) 'Member of Congress' means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;

(13) 'officer or employee of the Congress' means -

(A) any individual described under subparagraph (B), other than a Member of Congress or the Vice President, whose compensation is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives;

(B)(i) each officer or employee of the legislative branch who, for at least 60 days, occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule; and

(ii) at least one principal assistant designated for purposes of this paragraph by each Member who does not have an employee who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule;

(14) 'personal hospitality of any individual' means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

(15) 'reimbursement' means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are -

(A) provided by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(16) 'relative' means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual; \* \* \*

(18) 'supervising ethics office' means -

(A) the Senate Committee on Ethics of the Senate, for Senators, officers and employees of the Senate, and other officers or employees of the legislative branch required to file financial disclosure reports with the Secretary of the Senate pursuant to section 103(h) of this title;

(B) the Committee on Standards of Official Conduct of the House of Representatives, for Members, officers and employees of the House of Representatives and other officers or employees of the legislative branch required to file financial disclosure reports with the Clerk of the House of Representatives pursuant to section 103(h) of this title;

(C) the Judicial Conference for judicial officers and judicial employees; and

(D) the Office of Government Ethics for all executive branch officers and employees; and

(19) 'value' means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

Notice of Actions Taken to Comply With Ethics Agreements

sec. 110. (a) In any case in which an individual agrees with that individual's designated agency ethics official, the Office of Government Ethics, a Senate confirmation committee, a congressional ethics committee, or the Judicial Conference, to take any action to comply with this Act of any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing the designated agency ethics official, the Office of Government Ethics, the appropriate committee of the Senate, the congressional ethics committee, or the Judicial Conference, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than three months after the date of the agreement, if no date for action is so specified.

(b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with such individual's designated agency ethics official or the appropriate supervising ethics office within the time prescribed in the last sentence of subsection (a).

Administration of Provisions

sec. 111. The provisions of this title shall be administered by \* \* \*

(2) the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives, as appropriate, with regard to officers and employees described in paragraphs (9) and (10) of section 101(f). \* \* \*

Rule XLV: Prohibition of Unofficial Office Accounts

1. No Member may maintain or have maintained for his use an unofficial office account.

2. After the date of adoption of this rule, no funds may be paid into any unofficial office account.

3. Notwithstanding any other provision of this rule, if an amount from the Official Expenses Allowance of a Member is paid into the House Recording Studio revolving fund for telecommunications satellite services, the Member may accept reimbursement from non-political entities in that amount for transmission to the Clerk of the House of Representatives for credit to the Official Expenses Allowance.

4. For purposes of this rule -

(a) the term 'unofficial office account' means an account or repository into which funds are received for the purpose of defraying otherwise unreimbursed expenses allowable under section 162(a) of the Internal Revenue Code of 1954 as ordinary and necessary in the operation of a congressional office, and includes any newsletter fund referred to in section 527(g) of the Internal Revenue Code of 1954; and

(b) the term 'Member' means any Member of, Delegate to, or Resident Commissioner in, the House of Representatives.

Rule XLVI: Limitations on the Use of the Frank

1. Any franked mail which is mailed by a Member under section 3210(d) of title 39, United States Code, shall be mailed at the equivalent rate of postage which assures that such mail will be sent by the most economical means practicable.

2. A Member shall, before making any mass mailing, submit a sample or description of the mail matter involved to the House Commission on Congressional Mailing Standards for an advisory opinion as to whether such proposed mailing is in compliance with applicable provisions of law, rule, or regulation.

3. Any mass mailing which otherwise is frankable by a Member under the provisions of section 3210(e) of title 39, United States Code, shall not be frankable unless the cost of preparing and printing such mass mailing is defrayed exclusively from funds made available in any appropriations Act.

4. A Member may not send any mass mailing outside the congressional district from which the Member was elected.

5. In the case of any Representative in the House of Representatives, other than a Representative at Large, who is a candidate for any statewide public office, any mass mailing shall not be frankable under section 3210 of title 39, United States Code, when the same is delivered to any address which is not located in the area constituting the congressional district from which any such individual was elected.

6. In the case of any Member, any mass mailing shall not be frankable under section 3210 of title 39, United States Code, when the same is postmarked less than sixty days immediately before the date of any primary or general election (whether regular, special, or runoff) in which such Member is a candidate for public office. If mail matter is of a type which is not customarily postmarked, the date on which such matter would have been postmarked if it were of a type customarily postmarked shall apply.

7. For purposes of this rule -

(a) the term 'mass mailing' means, with respect to a session in Congress, any mailing of newsletters or other pieces of mail with substantially identical content (whether such mail is deposited singly or in bulk, or at the same time or different times), totaling more than 500 pieces in that session, except that such term does not include any mailing -

(1) of matter in direct response to a communication from a person to whom the matter is mailed;

(2) from a Member to other Members of Congress, or to Federal, State, or local government officials; or

(3) of a news release to the communications media.

(b) The term 'Member' means any Member of the House of Representatives, a Delegate to the House of Representatives, or the Resident Commissioner in the House of Representatives.

 (c) The term 'Members of Congress' means Senators and Representatives in, and Delegates and Resident Commissioners to, the Congress.

Rule XLVII: Limitations on Outside Employment and Earned Income

1. (a)(1) Except as provided by subparagraph (2), in calendar year 1991 or thereafter, a Member or an officer or employee of the House may not -

(A) 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; or

(B) receive any honorarium.

(2) In the case of any individual who becomes a Member or an officer or employee of the House during calendar year 1991 or thereafter, such individual may not have outside earned income attributable to the portion of that calendar year which occurs after such individual becomes a Member, 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, officer, or employee during such calendar year and the denominator of which is 365.

(3) In calendar year 1991 or thereafter, any payment in lieu of an honorarium which is made to a charitable organization on behalf of a Member, officer or employee of the House may not be received by such individual. 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.

(b)(1) Except as provided by subparagraph (2), in calendar year 1990, a Member may not have outside earned income (including honoraria received in such calendar year) attributable to such calendar year which exceeds 30 percent of the annual pay as a Member to which the Member was entitled in 1989.

(2) In the case of any individual who becomes a Member during calendar year 1990, such individual may not have outside earned income (including honoraria) attributable to the portion of that calendar year which occurs after such individual becomes a Member which exceeds 30 percent of $89,500 multiplied by a fraction the numerator of which is the number of days such individual is a Member during such calendar year and the denominator of which is 365.

2. On or after January 1, 1991, a Member or an officer or employee of the House 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;

(4) serve for compensation as an officer or member of the board of any association, corporation, or other entity; or

(5) receive compensation for teaching, without the prior notification and approval of the Committee on Standards of Official Conduct.

3. A Member, officer, or employee of the House may not -

(1) receive any advance payment on copyright royalties, but this paragraph does not prohibit any literary agent, researcher, or other individual (other than an individual employed by the House or a relative of that Member, officer, or employee) working on behalf of that Member, officer, or employee with respect to a publication from receiving an advance payment of a copyright royalty directly from a publisher and solely for the benefit of that literary agent, researcher, or other individual; or

(2) receive any copyright royalties pursuant to a contract entered into on or after January 1, 1996, unless that contract is first approved by the Committee on Standards of Official Conduct as complying with the requirement of clause 4(e)(5) (that royalties are received from an established publisher pursuant to usual and customary contractual terms).

4. For the purposes of this rule -

(a) The term 'Member' means any Member of the House of Representatives, a Delegate to the House of Representatives, or the Resident Commissioner in the House of Representatives.

(b)(1) Except as provided by paragraph (2), the term 'officer or employee of the House' means any individual (other than a Member) whose pay is disbursed by the Clerk and who is paid at a rate 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, and so employed for more than 90 days in a calendar year.

(2) When used with respect to honoraria, the term 'officer or employee of the House' means any individual (other than a Member) whose salary is disbursed by the Clerk.

(c) The term 'honorarium' means a payment of money or any thing of value for an appearance, speech, or article, by a Member or an officer or employee of the House, 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 any such expenses to the extent that such expenses are not paid or reimbursed.

(d) The term 'travel expenses' means, with respect to a Member or an officer or employee of the House, or a relative of any such individual, the cost of transportation, and the cost of lodging and meals while away from his or her residence or principal place of employment.

(e) The term 'outside earned income' means, with respect to a Member, officer or employee, wages, salaries, fees, and other amounts received or to be received as compensation for personal services actually rendered but does not include -

(1) the salary of such individual as a Member, officer or employee;

(2) any compensation derived by such individual for personal services actually rendered prior to the effective date of this rule or becoming such a Member, officer or employee, whichever occurs later;

(3) any amount paid by, or on behalf of, a Member, officer or employee, to a tax-qualified pension, profit-sharing, or stock bonus plan and received by such individual from such a plan;

(4) in the case of a Member, officer or employee engaged in a trade or business in which the individual or his family holds a controlling interest and in which both personal services and capital are income-producing factors, any amount received by such individual so long as the personal services actually rendered by the individual in the trade or business do not generate a significant amount of income; and

(5) copyright royalties received from established publishers pursuant to usual and customary contractual terms.

Outside earned income shall be determined without regard to any community property law.

(f) The term 'charitable organization' means an organization described in section 170(c) of the Internal Revenue Code of 1986.

Rule XLVIII: Permanent Select Committee on Intelligence

1. (a) There is hereby established a permanent select committee to be known as the Permanent Select Committee on Intelligence (hereinafter in this rule referred to as the 'select committee'). The select committee shall be composed of not more than sixteen Members, of whom not more than nine may be from the same party. The select committee shall include at least one Member from:

(1) the Committee on Appropriations;

(2) the Committee on National Security;

(3) the Committee on International Relations; and

(4) the Committee on the Judiciary.

(b)(1) The Speaker of the House and the minority leader of the House shall be ex officio members of the select committee, but shall have no vote in the committee and shall not be counted for purposes of determining a quorum.

(2) The Speaker and minority leader each may designate a member of their leadership staff to assist them in their capacity as ex officio members, with the same access to committee meetings, hearings, briefings, and materials as if employees of the select committee, and subject to the same security clearance and confidentiality requirements as employees of the select committee under this rule.

(c) No Member of the House other than the Speaker and the minority leader may serve on the select committee during more than four Congresses in any period of six successive Congresses (disregarding for this purpose any service for less than a full session in any Congress), except that the incumbent chairman or ranking minority member having served on the select committee for four Congresses and having served as chairman or ranking minority member for not more than one Congress shall be eligible for reappointment to the select committee as chairman or ranking minority member for one additional Congress.

2. (a) There shall be referred to the select committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(1) The Central Intelligence Agency and the Director of Central Intelligence, and the National Foreign Intelligence Program as defined in section 3(6) of the National Security Act of 1947.

(2) Intelligence and intelligence-related activities of all other departments and agencies of the Government, including, but not limited to the tactical intelligence and intelligence-related activities of the Department of Defense.

(3) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence or intelligence-related activities.

(4) Authorizations for appropriations, both direct and indirect, for the following:

(A) The Central Intelligence Agency, Director of Central Intelligence, and the National Foreign Intelligence Program as defined in section 3(6) of the National Security Act of 1947.

(B) Intelligence and intelligence-related activities of all other departments and agencies of the Government, including, but not limited to, the tactical intelligence and intelligence-related activities of the Department of Defense.

(C) Any department, agency, or subdivision, or program that is a successor to any agency or program named or referred to in subdivision (A) or (B).

(b) Any proposed legislation initially reported by the select committee, except any legislation involving matters specified in subparagraph (1) or (4)(A) of paragraph (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee by the Speaker for its consideration of such matter and be reported to the House by such standing committee within the time prescribed by the Speaker in the referral; and any proposed legislation initially reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of the select committee, be referred by the Speaker to the select committee for its consideration of such matter and be reported to the House within the time prescribed by the Speaker in the referral.

(c) Nothing in this rule shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence or intelligence-related activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee.

(d) Nothing in this rule shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the House to obtain full and prompt access to the product of the intelligence and intelligence-related activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

3. (a) The select committee, for the purposes of accountability to the House, shall make regular and periodic reports to the House on the nature and extent of the intelligence and intelligence-related activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the House or to any other appropriate committee or committees of the House any matters requiring the attention of the House or such other committee or committees. In making such reports, the select committee shall proceed in a manner consistent with clause 7 to protect national security.

(b) The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports shall review the intelligence and intelligence-related activities of the agency or department concerned and the intelligence and intelligence-related activities of foreign countries directed at the United States or its interest. An unclassified version of each report may be made available to the public at the discretion of the select committee. Nothing herein shall be construed as requiring the public disclosure in such reports of the names of individuals engaged in intelligence or intelligence-related activities for the United States or the divulging of intelligence methods employed or the sources of information on which such reports are based or the amount of funds authorized to be appropriated for intelligence and intelligence-related activities.

(c) On or before March 15 of each year, the select committee shall submit to the Committee on the Budget of the House the views and estimates described in section 301(c) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

4. To the extent not inconsistent with the provisions of this rule, the provisions of clauses 1, 2, 3, and 5 (a), (b), (c), and (6) (a), (b), (c) of rule XI shall apply to the select committee, except that, notwithstanding the requirements of the first sentence of clause 2(g)(2) of rule XI, a majority of those present, there being in attendance the requisite number required under the rules of the select committee to be present for the purpose of taking testimony or receiving evidence, may vote to close a hearing whenever the majority determines that such testimony or evidence would endanger the national security.

5. No employee of the select committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the House (including the jurisdiction of the Committee on Standards of Official Conduct and of the select committee as to the security of such information during and after the period of his employment or contractual agreement with such committee); and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

6. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines that national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

7. (a) The select committee may, subject to the provisions of this clause, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this clause, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the select committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this clause.

(b)(1) In any case in which the select committee votes to disclose publicly any information which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President, personally in writing, notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

(3) If the President, personally, in writing, notifies the select committee of his objections to the disclosure of such information as provided in subparagraph (2), such committee may, by majority vote, refer the question of this disclosure of such information with a recommendation thereon to the House for consideration. The committee shall not publicly disclose such information without leave of the House.

(4) Whenever the select committee votes to refer the question of disclosure of any information to the House under subparagraph (3), the chairman shall, not later than the first day on which the House is in session following the day on which the vote occurs, report the matter to the House for its consideration.

(5) If within four calendar days on which the House is in session, after such recommendation is reported, no motion has been made by the chairman of the select committee to consider, in closed session, the matter reported under subparagraph (4), then such a motion will be deemed privileged and may be made by any Member. The motion under this subparagraph shall not be subject to debate or amendment. When made, it shall be decided without intervening motion, except one motion to adjourn.

(6) If the House adopts a motion to resolve into closed session, the Speaker shall then be authorized to declare a recess subject to the call of the Chair. At the expiration of such recess, the pending question, in closed session, shall be, 'Shall the House approve the recommendation of the select committee?'

(7) After not more than two hours of debate on the motion, such debate to be equally divided and controlled by the chairman and ranking minority member of the select committee, or their designees, the previous question shall be considered as ordered and the House, without intervening motion except one motion to adjourn, shall immediately vote on the question, in open session but without divulging the information with respect to which the vote is being taken. If the recommendation of the select committee is not agreed to, the question shall be deemed recommitted to the select committee for further recommendation.

(c)(1) No information in the possession of the select committee relating to the lawful intelligence or intelligence-related 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 paragraphs (a) or (b) of this clause, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the House except as provided in subparagraphs (2) and (3).

(2) The select committee shall, under such regulations as the committee shall prescribe, make any information described in subparagraph (1) available to any other committee or any other Member of the House and permit any other Member of the House to attend any hearing of the committee which is closed to the public. Whenever the select committee makes such information available (other than to the Speaker), the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the House received such information. No Member of the House who, and no committee which, receives any information under this subparagraph, shall disclose such information except in a closed session of the House.

(d) The Committee on Standards of Official Conduct shall investigate any unauthorized disclosure of intelligence or intelligence-related information by a Member, officer, or employee of the House in violation of paragraph (c) and report to the House concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Committee on Standards of Official Conduct 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 Committee on Standards of Official Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the House, it shall report its findings to the House and recommend appropriate action such as censure, removal from committee membership, or expulsion from the House, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

8. The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

9. Subject to the rules of the House, no funds shall be appropriated for any fiscal year, with the exception of a continuing bill or resolution continuing appropriations, or amendment thereto, or conference report thereon, to, or for use of, any department or agency of the United States to carry out any of the following activities, unless such funds shall have been previously authorized by a bill or joint resolution passed by the House during the same or preceding fiscal year to carry out such activity for such fiscal year:

(a) The activities of the Central Intelligence Agency and the Director of Central Intelligence.

(b) The activities of the Defense Intelligence Agency.

(c) The activities of the National Security Agency.

(d) The intelligence and intelligence-related activities of other agencies and subdivisions of the Department of Defense.

(e) The intelligence and intelligence-related activities of the Department of State.

(f) The intelligence and intelligence-related activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

10. (a) As used in this rule, the term 'intelligence and intelligence-related activities' includes (1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement, or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons.

(b) As used in this rule, the term 'department or agency' includes any organization, committee, council, establishment, or office within the Federal Government.

(c) For purposes of this rule, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence or intelligence-related activities now conducted by the department, agency, bureau, or subdivision referred to in this rule.

11. Clause 6(a) of rule XXVIII does not apply to conference committee meetings respecting legislation (or any part thereof) reported from the Permanent Select Committee on Intelligence.

Rule XLIX: Establishment of Statutory Limit on the Public Debt

1. Upon the adoption by the Congress (under section 301 or 304 of the Congressional Budget Act of 1974) of any concurrent resolution on the budget setting forth as the appropriate level of the public debt for the period to which such concurrent resolution relates an amount which is different from the amount of the statutory limit on the public debt that would otherwise be in effect for such period, the enrolling clerk of the House of Representatives shall prepare an engrossment of a joint resolution, in the form prescribed in clause 2, increasing or decreasing the statutory limit on the public debt. The vote by which the conference report on the concurrent resolution on the budget was agreed to in the House (or by which the concurrent resolution itself was adopted in the House, if there is no conference report) shall be deemed to have been a vote in favor of such joint resolution upon final passage in the House of Representatives. Upon the engrossment of such joint resolution it shall be deemed to have passed the House of Representatives and been duly certified and examined; the engrossed copy shall be signed by the Clerk and transmitted to the Senate for further legislative action; and (upon final passage by both Houses) the joint resolution shall be signed by the presiding officers of both Houses and presented to the President for his signature (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

2. The matter after the resolving clause in any joint resolution described in clause 1 shall be as follows: 'That subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof '$', with the blank being filled in with a limitation equal to the appropriate level of the public debt as set forth, pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, in the concurrent resolution on the budget (whether such resolution was adopted under section 301, 304, or 310 of such Act). Only one joint resolution shall be prepared under clause 1 upon the adoption of any concurrent resolution on the budget; and, if the concurrent resolution set forth a different appropriate level of the public debt (pursuant to such section 301(a)(5)) for each of two separate periods, the blank referred to in the preceding sentence shall be filled in with both the limitation which is to apply for the later of the two periods (specifying the date on which that limitation is to take effect) and the limitation which is to apply for the earlier of such periods.

3. The report of the Committee on the Budget of the House of Representatives accompanying any concurrent resolution on the budget under section 301(d) of the Congressional Budget Act of 1974, as well as the joint explanatory statement accompanying the conference report on any concurrent resolution on the budget, shall contain a clear statement of the effect under this rule that the adoption by both the House and the Senate of such concurrent resolution in the form in which it is being reported (and the adoption of the joint resolution thereupon prepared and enrolled under clause 1) would have upon the statutory limit on the public debt. It shall not be in order in the House of Representatives at any time to consider or adopt any concurrent resolution on the budget (or agree to any conference report thereon) if at that time the report accompanying such concurrent resolution (or the joint statement accompanying such conference report) does not comply with the requirements of this clause.

4. Nothing in this rule shall be construed as limiting or otherwise affecting the power of the House of Representatives or the Senate to consider and pass a bill which (without regard to the procedures under clause 1) changes the statutory limit on the public debt most recently established under this rule or otherwise; and the rights of Members and committees of the House with respect to the introduction, consideration, and reporting of any such bill shall be determined as though this rule had not been adopted.

5. As used in this rule, the term 'statutory limit on the public debt' means the maximum face amount of obligations issued under authority of chapter 31 of title 31, United States Code and obligations guaranteed as to principal and interest by the United States (except such guaranteed obligations as may be held by the Secretary of the Treasury), determined under section 3101(b) of title 31 after the application of section 3101(a) of title 31 which may be outstanding at any one time.

Rule L: Procedure for Response to Subpoenas

1. When any Member, officer, or employee of the House of Representatives is properly served with a subpoena or other judicial order directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any documents relating to the official functions of the House, such Member, officer, or employee shall comply, consistently with the privileges and rights of the House, with said subpoena or other judicial order as hereinafter provided, unless otherwise determined pursuant to the provisions of this rule.

2. Upon receipt of a properly served subpoena or other judicial order directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any documents relating to the official functions of the House, such Member, officer, or employee shall promptly notify, in writing, the Speaker of its receipt and such notification shall then be promptly laid before the House by the Speaker, except that during a period of recess or adjournment of longer than three days, no such notification to the House shall be required. However, upon the reconvening of the House, such notification shall then be promptly laid before the House by the Speaker.

3. Once notification has been laid before the House, the Member, officer, or employee shall determine whether the issuance of the subpoena or other judicial order is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House. The Member, officer, or employee shall notify the Speaker prior to seeking judicial determination of these matters.

4. Upon determination whether the subpoena or other judicial order is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House, the Member, officer, or employee shall immediately notify, in writing, the Speaker of such a determination.

5. The Speaker shall inform the House of the determination of whether the subpoena or other judicial order is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House, and shall generally describe the records or information sought, except that during any recess or adjournment of the House for longer than three days, no such notification is required. However, upon the reconvening of the House, such notification shall then be promptly laid before the House by the Speaker.

6. Upon such notification to the House that said subpoena is a proper exercise of the court's jurisdiction, is material and relevant, and is consistent with the privileges and rights of the House, the Member, officer, or employee shall comply with such subpoena or other judicial order by supplying certified copies, unless the House adopts a resolution to the contrary; except that under no circumstances shall any minutes or transcripts of executive sessions, or any evidence of witnesses in respect thereto, be disclosed or copied. Should the House be in recess or adjournment for longer than three days, the Speaker may authorize compliance or take such other action as he deems appropriate under the circumstances during the pendency of such recess or adjournment. And upon the reconvening of the House, all matters having transpired under this clause shall be laid promptly before the House by the Speaker.

7. A copy of this rule shall be transmitted by the Clerk of the House to any of said courts whenever any such subpoena or other judicial order is issued and served on a Member, officer, or employee of the House.

8. Nothing in this rule shall be construed to deprive, condition or waive the constitutional or legal rights applicable or available to any Member, officer, or employee of the House, or of the House itself, or the right of a Member or the House to assert such privilege or right before any court in the United States, or the right of the House thereafter to assert such privilege or immunity before any court in the United States.

Rule LI: Employment Practices

1. The Committee on House Oversight shall have authority to issue rules and regulations applying the rights and protections of the Fair Labor Standards Act in the House, including, but not limited to, determination of exemption categories, permitting the use of compensatory time as compensation under the maximum work week provisions of the Act, describing the recordkeeping requirements and providing that such recordkeeping provisions do not apply with respect to employees exempted pursuant to the Committee's Rules and Regulations.

Nondiscrimination in Employment

2. (a) Personnel actions affecting employment positions in the House of Representatives shall be made free from discrimination based on race, color, national origin, religion, sex (including marital or parental status), disability, or age.

(b) Interpretations under paragraph (a) shall reflect the principles of current law, as generally applicable to employment.

(c) Paragraph (a) does not prohibit the taking into consideration of :

(1) the domicile of an individual with respect to a position under the clerk-hire allowance; or

(2) the political affiliation of an individual with respect to a position under the clerk-hire allowance or a position on the staff of a committee or a position under all support offices, except as otherwise stated in the Rules of the House of Representatives.

Procedure

3. The procedure for consideration of alleged violations of clause 2 consists of three steps as follows:

(a) step I, Counseling and Mediation, as set forth in clause 5;

(b) step II, Formal Complaint, Hearing, and Review by the Office of Fair Employment Practices, as set forth in clause 6; and

(c) step III, Final Review by Review Panel, as set forth in clause 7.

Office of Fair Employment Practices

4. There is established an Office of Fair Employment Practices (hereafter in this rule referred to as the 'Office'), which shall carry out functions assigned under this rule. Employees and Hearing Officers of the Office shall be appointed by, and serve at the pleasure of, the Chairman and the ranking minority party member of the Committee on House Oversight, acting jointly, and shall be under the administrative direction of the Clerk of the House of Representatives. The Office shall be located in the District of Columbia.

Step I: Counseling and Mediation

5. (a) An individual aggrieved by an alleged violation of clause 2 may request counseling by counselors in the Office, who shall provide information with respect to rights and related matters under that clause. A request for counseling shall be made not later than one hundred and eighty days after the alleged violation and may be oral or written, at the option of the individual. The period for counseling is thirty days, unless the employee and the Office agree to reduce the time period. The Office may not notify the employing authority of the counseling before the beginning of mediation or the filing of a formal complaint, whichever occurs first.

(b) If, after counseling, the individual desires to proceed, the Office shall attempt to resolve the alleged violation through mediation between the individual and the employing authority.

Step II: Formal Complaint, Hearing, and Review By the Office of Fair Employment Practices

6. (a) Not later than thirty days after the end of the counseling period, the individual may file a formal complaint with the Office. Not later than ten days after filing the formal complaint, the individual may file with the Office a written request for a hearing on the complaint.

(b) The hearing shall be conducted:

(1) not later than forty days after filing of the written request under paragraph (a);

(2) on the record by a Hearing Officer of the Office appointed under the procedures set forth in clause 4; and

(3) to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 555 and 556 of title 5, United States Code.

(c) Not later than thirty days after the hearing, the Office shall issue a written decision to the parties. The decision shall clearly state the issues raised by the complaint, and shall contain a determination as to whether a violation of clause 2 has occurred.

Step III: Final Review By Review Panel

7. (a) In General. Not later than twenty days after issuance of the decision under clause 6, any party may seek formal review of the decision by filing a written request with the Office. The formal review shall be conducted by a panel constituted at the beginning of each Congress and composed of :

(1) two elected officers or employees of the House of Representatives, appointed by the Speaker;

(2) two employees of the House of Representatives appointed by the minority leader of the House of Representatives;

(3) two members of the Committee on House Oversight (one of whom shall be appointed as chairman of the panel), appointed by the Chairman of that Committee; and

(4) two members of the Committee on House Oversight, appointed by the ranking minority party member of that Committee. If any member of the panel withdraws from a particular review, the appointing authority for such member shall appoint another officer, employee, or Member of the House of Representatives, as the case may be, to be a temporary member of the panel for purposes of that review only.

(b) The review under this clause shall consist of a hearing (conducted in the manner described in clause 6(b)(3)), if such hearing is considered necessary by the panel, and an examination of the record, together with any statements or other documents the panel deems appropriate. A tie vote by the panel is an affirmation of the decision of the Office. The panel shall complete the review and submit a written decision to the parties and to the Committee on House Oversight not later than sixty days after filing of the request under paragraph (a), except that when the House has adjourned sine die, in which case an extension of up to sixty additional days is authorized.

Resolution By Agreement

8. If, after a formal complaint is filed under clause 6, the parties resolve the issues involved, the parties shall enter into a written agreement, which shall be effective:

(1) in the case of a matter under review by the Office under clause 6, if approved by the Office; and

(2) in the case of a matter under review by a panel under clause 7, if approved by the panel.

Remedies

9. The Office or a review panel, as the case may be, may order one or more of the following remedies:

(a) monetary compensation, to be paid from the clerk-hire allowance of a Member, or from personnel finds of a committee of the House or other entity, as appropriate;

(b) monetary compensation, to be paid from the contingent fund of the House of Representatives;

(c) injunctive relief;

(d) costs and attorney fees; and

(e) employment, reinstatement to employment, or promotion (with or without back pay).

Costs of Attending Hearings

10. An individual with respect to whom a hearing is held under this rule shall be reimbursed for actual and reasonable costs of attending the hearing, if the individual resides outside the location of the hearing. Witnesses required to attend the hearings by the Hearing Officer as necessary.

Prohibition of Intimidation

11. Any intimidation of, or reprisal against, any person by an employing authority because of the exercise of a right under this rule is a violation of clause 2.

Closed Hearings and Confidentiality

12. All hearings under this rule shall be closed. All information relating to any procedure under this rule is confidential, except that a decision of the Office under clause 6 or a decision of a review panel under clause 7 shall be published, if the decision constitutes a final disposition of the matter.

Exclusivity of Procedures and Remedies

13. The procedures and remedies under this rule are exclusive except to the extent that the Rules of the House of Representatives and the Rules of the House Committee on Standards of Official Conduct provide for additional procedures and remedies.

Requests for Witnesses and Information

14. The Office of Fair Employment Practices and the Fair Employment Practices Review Panel may issue, and the addressees shall comply with, written requests for the production of documents and the attendance of witnesses, if such requests are necessary and relevant to the proper examination of the issues.

Internal Procedures for Resolution of Possible Violations

15. It is the policy of the House of Representatives to encourage each employing authority to establish internal procedures for examining and resolving possible violations of this rule. To the greatest extent practicable, the Office of Fair Employment Practices shall take such action (consistent with the rights of the parties) as may be necessary to encourage initial use of such procedures.

Definitions

16. As used in this rule:

(a) the term 'employment position' means, with respect to the House of Representatives, a position the pay for which is disbursed by the Clerk of the House of Representatives, or other official designated by the House of Representatives, and any employment position in a legislative service organization or other entity that is paid through funds derived from the clerk-hire allowance;

(b) the term 'employing authority' means, the Member of the House of Representatives or elected officer of the House of Representatives, or the Director of the Congressional Budget Office, with the power to appoint the employee;

(c) the term 'Member of the House of Representatives' means a Representative in, or a Delegate or Resident Commissioner to, the Congress; and

(d) the term 'elected officer of the House of Representatives' means an elected officer of the House of Representatives (other than the Speaker and the Chaplain)

Rule LII: Gift Rule

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

(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.

(c) The restrictions in paragraph (a) shall not apply to the following:

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

(2) A contribution, as defined in section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, a lawful contribution for election to a State or local government office, 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 in Government Act of 1978 (Public Law 95-521).

(4)(A) Anything 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 gave the gift also at the same time gave the same or similar gifts to other Members, officers, or employees.

(5) Except as provided in clause 3(c), 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 in accordance with the restrictions and disclosure requirements of the Committee on Standards of Official Conduct.

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

(7) Food, refreshments, lodging, transportation, 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 public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

(12) 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 House of Representatives.

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

(14) 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.

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

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

(17) Free attendance at a widely attended event permitted pursuant to paragraph (d).

(18) 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 discriminates 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.

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

(20) Anything for which, in an unusual case, a waiver is granted by the Committee on Standards of Official Conduct.

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

(22) 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.

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

(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 :

(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 subparagraph

(1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual.

(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 the event.

(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.

(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 paragraph (c)(4) unless the Committee on Standards of Official Conduct issues a written determination that such exception applies. No determination under this paragraph is required for gifts given on the basis of the family relationship exception.

(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.

2. (a)(1) A reimbursement (including payment in kind) to a Member, officer, or employee from a private source other than a registered lobbyist or agent 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 House of Representatives and not a gift prohibited by this rule, if the Member, officer, or employee:

(A) in the case of an employee, receives advance authorization, from the Member or officer under whose direct supervision the employee works, to accept reimbursement, and

(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Clerk of the House of Representatives within 30 days after the travel is completed.

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

(b) 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) Each disclosure made under paragraph (a)(1) 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:

(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 paragraph (d); and

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

(d) For the purposes of this clause, the term 'necessary transportation, lodging, and related expenses':

(1) includes reasonable expenses that are necessary for travel for a period not exceeding 4 days within the United States or 7 days exclusive of travel time outside of the United States unless approved in advance by the Committee on Standards of Official Conduct;

(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 subparagraph (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.

(e) The Clerk of the House of Representatives shall make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to paragraph

(a) as soon as possible after they are received.

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

(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.

(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 clause 4.

(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.

(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.

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 paragraph (b)

(b) A Member, officer, or employee who designates or recommend a contribution to a charitable organization in lieu of honoraria described in paragraph (a) shall report within 30 days after such designation or recommendation to the Clerk of the House of Representatives:

(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 Clerk of the House of Representatives shall make public information received pursuant to this paragraph as soon as possible after it is received.

5. For purposes of this rule:

(a) the term 'registered lobbyist' means a lobbyist registered under the Federal Regulation of Lobbying Act or any successor statute; and

(b) the term 'agent of a foreign principal' means an agent of a foreign principal registered under the Foreign Agents Registration Act.

6. All the provisions of this rule shall be interpreted and enforced solely by the Committee on Standards of Official Conduct. The Committee on Standards of Official Conduct is authorized to issue guidance on any matter contained in this rule.

Ethics Manual for Members, Officers, and

Employees of the U.S. House of Representatives

Please note: This document is to be used for reference purposes only.

The printed manual is the official version.

The Committee on Standards of Official Conduct

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Ethics Manual the Code of Official Conduct House Rule XLIII

1. A Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives.

2. A Member, officer, or employee of the House of Representatives shall adhere to the spirit and the letter of the Rules of the House of Representatives and to the rules of duly constituted committees thereof.

3. A Member, officer, or employee of the House of Representatives shall receive no compensation nor shall he permit any compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in the Congress.

4. A Member, officer, or employee of the House of Representatives shall not accept gifts (other than personal hospitality of an individual or with a fair market value of $100 or less) \* \* \* in any calendar year aggregating more than \* \* \* $250, \* \* \* directly or indirectly, from any person (other than from a relative) except to the extent permitted by written waiver granted in exceptional circumstances by the Committee on Standards of Official Conduct pursuant to clause 4(e)(1)(E) of rule X.

5. A Member, officer, or employee of the House of Representatives, shall accept no honorarium for a speech, writing for publication, or other similar activity.

6. A Member of the House of Representatives shall keep his campaign funds separate from his personal funds. A Member shall convert no campaign funds to personal use in excess of reimbursement for legitimate and verifiable campaign expenditures and shall expend no funds from his campaign account not attributable to bona fide campaign or political purposes.

7. A Member of the House of Representatives shall treat as campaign contributions all proceeds from testimonial dinners or other fund raising events.

8. A Member or officer of the House of Representatives shall retain no one under his payroll authority who does not perform official duties commensurate with the compensation received in the offices of the employing authority. In the case of committee employees who work under the direct supervision of a Member other than a chairman, the chairman may require that such Member affirm in writing that the employees have complied with the preceding sentence (subject to clause 6 of rule XI) as evidence of the chairman's compliance with this clause and with clause 6 of rule XI.

9. A Member, officer, or employee of the House of Representatives shall not discharge or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex (including marital or parental status), age, or national origin, but may take into consideration the domicile or political affiliation of such individual.

10. A Member of the House of Representatives who has been convicted by a court of record for the commission of a crime for which a sentence of two or more years' imprisonment may be imposed should refrain from participation in the business of each committee of which he is a member and should refrain from voting on any question at a meeting of the House, or of the Committee of the Whole House, unless or until judicial or executive proceedings result in reinstatement of the presumption of his innocence or until he is reelected to the House after the date of such conviction.

11. A Member of the House of Representatives shall not authorize or otherwise allow a non-House individual, group, or organization to use the words "Congress of the United States", "House of Representatives", or "Official Business", or any combination of words thereof, on any letterhead or envelope.

12. (a) Except as provided by paragraph (b), any employee of the House of Representatives who is required to file a report pursuant to rule XLIV shall refrain from participating personally and substantially as an employee of the House of Representatives in any contact with any agency of the executive or judicial branch of Government with respect to nonlegislative matters affecting any nongovernmental person in which the employee has a significant financial interest.

(b) Paragraph (a) shall not apply if an employee first advises his employing 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 Committee on Standards of Official Conduct. \* \* \*

Ethics Manual Code of Ethics for Government Service

Resolved by the House of Representatives {the Senate concurring}, That it is the sense of the Congress that the following Code of Ethics should be adhered to by all Government employees, including officeholders:

Code of Ethics for Government Service

Any person in Government service should:

1. Put loyalty to the highest moral principals and to country above loyalty to Government persons, party, or department.

2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

7. Engage in no business with the Government, either directly or indirectly which is inconsistent with the conscientious performance of his governmental duties.

8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

9. Expose corruption wherever discovered.

10. Uphold these principles, ever conscious that public office is a public trust.

(Passed July 11, 1958.)

Chapter 1: General Ethical Standards

Highlights

Members, officers, and employees of the House should:

• conduct themselves at all times in a manner that reflects creditably on the House;

• abide by the spirit as well as the letter of the House rules; and

• adhere to the broad ethical standards expressed in the Code of Ethics for Government Service.

They should not seek private gain from public office. Nor should they attempt to circumvent any House rule or standard of conduct.

Employees must observe any additional rules, regulations, standards, or practices established by their employing Members.

The Committee on Standards of Official Conduct urges Members, officers, and employees of the House to call or to write with any questions regarding the propriety of any current or proposed conduct. The Committee's Office of Advice and Education will provide confidential, informal advice over the telephone, and the Committee will provide confidential, formal written opinions to any Member, officer, or employee with a question within its jurisdiction.

Introduction

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.

The Federalist No. 51 (James Madison).

That "public office is a public trust" has long been a guiding principle of government.1 To uphold this trust, Congress has bound itself to abide by certain standards of conduct, expressed in the Code of Official Conduct (House Rule 43)2 and the Code of Ethics for Government Service.3 These Codes exhort Members, officers, and employees to conduct themselves in a manner that will reflect creditably on the House, to work earnestly and thoughtfully for their salary, not to seek to profit by virtue of their public office or to allow themselves to be improperly influenced, and never to discriminate unfairly by the dispensing of special favors. These codes are set forth at the front of this Manual. Other rules, regulations, and statutes that bear upon the standards governing official conduct are set forth in the appendices. This chapter discusses the overarching principles that inform both codes, the penalties for violating their provisions, and the history and procedures of the Committee on Standards of Official Conduct.

Appropriate standards of conduct enhance the legislative process and build citizen confidence. "Ethics rules, if reasonably drafted and reliably enforced, increase the likelihood that legislators (and other officials) will make decisions and policies on the basis of the merits of issues, rather than on the basis of factors (such as personal gain) that should be irrelevant."4 Members, officers, and employees should, at a minimum, familiarize themselves with the Code of Official Conduct. Not only does it state aspirational goals for public officials, it may also provide the basis for disciplinary action against those who violate its terms. As Aristotle observed long ago, "With regard to excellence, it is not enough to know, but we must try to have and use it."5

Violations of Ethical Standards

Violations of ethical standards may lead to various penalties. The U.S. Constitution authorizes each House of Congress to punish its Members for disorderly behavior and, with the concurrence of two thirds, to expel a Member.6 Precedents show that the House may also punish a Member by censure, reprimand, condemnation, reduction of seniority, or fine.7

A House rule specifically authorizes the House Committee on Standards of Official Conduct to enforce standards of conduct for Members, officers, and employees; to investigate alleged violations of any law, rule, or regulation pertaining to official conduct; and to make recommendations to the House for further action. This same rule recognizes the Committee's authority to issue letters of reproval and to take other administrative action. With the approval of the House, the Committee may also report substantial evidence of violation of law by a Member, officer, or employee to the appropriate law enforcement authorities.8

Some standards of conduct derive from criminal law. Violations of these standards may lead to a fine or imprisonment, or both. In some instances, such as conversion of Government funds or property to one's own use or false claims concerning expenses or allowances, the Department of Justice may seek restitution.

Even where no specific penalties are provided, employees of the House may be removed from their positions for misconduct at the discretion of the employing Member9 or committee10 or by a supervising officer.11

Charges of unethical conduct can be evaluated only on a case-by-case basis. As the Committee has noted, "it was for the very purpose of evaluating particular situations against existing standards, and of weeding out baseless charges from legitimate ones, that this committee was created."12

History of the Committee

The first recorded instance of the House of Representatives attempting to take disciplinary action against a Member occurred in 1798. On January 30th, Matthew Lyon (of Vermont) spat upon Roger Griswold (of Connecticut) during a vote. A letter of apology was sent; nevertheless, the Committee of the Whole heard the evidence and recommended expulsion. The vote fell two short of the two-thirds majority necessary to expel a Member.13

From 1798 until 1967, the House undertook disciplinary action against Members over twenty-five times, with no standardized approach. The offenses ranged from dueling to inserting obscene material in the Congressional Record. Some cases were handled directly on the House floor without Committee action, others through the creation of select investigating committees. In at least one case, the accused Member was not allowed to speak on his own behalf or to present any defense.14 There were even attempts to punish former Members who had resigned.15

In the late 1940's and early 1950's, Senators Wayne Morse and Paul Douglas and Representative Charles Bennett began to advocate the enactment of financial disclosure requirements and rules of conduct. In 1958, the Code of Ethics for Government Service was approved.16 In 1964, following the investigation of Bobby Baker, Secretary to the Majority in the Senate, the Senate created a Select Committee on Standards of Conduct.

During the 89th Congress, two different events prompted the creation of the House Committee on Standards of Official Conduct. In 1965, the Joint Committee on the Organization of Congress held hearings in which considerable testimony addressed the ethical conduct of Members, the need for codes of conduct and financial disclosure regulations, and the need for an ethics committee. In its final report, the Joint Committee's recommendations included the creation of a House Committee on Standards and Conduct.17

The other event involved an investigation by the Special Subcommittee on Contracts of the Committee on House Administration into the expenditures of the Committee on Education and Labor and the conduct of its chairman, Representative Adam Clayton Powell, Jr., of New York. The Subcommittee's report concluded that the chairman and certain employees had deceived House authorities as to travel expenses and also noted strong evidence that the chairman had directed certain illegal salary payments to his wife.18 No formal action was taken during the 89th Congress against Representative Powell. He was removed from his chairmanship, then excluded from the 90th Congress, however,19 and in the, then 91st Congress, he was denied his seniority and fined.20

Against this backdrop, a Select Committee on Standards and Conduct was established in the closing days of the 89th Congress. The Select Committee's authority was limited to (1) recommending additional rules or regulations to ensure that Members, officers, and employees of the House adhere to proper standards of conduct in the discharge of their official duties; and (2) reporting violations of any law to the proper Federal and state authorities.21

The Select Committee's term was limited.22 On April 13, 1967, the House established the Committee on Standards of Official Conduct, to be composed of six members of the majority party and six members of the minority party. The Committee was directed to recommend such changes in laws, rules, and regulations as necessary to establish and to enforce standards of official conduct for Members, officers, and employees.23 One year later, the House Rules were amended to include a Code of Conduct (Rule 43) and an annual financial disclosure requirement (Rule 44).24 At the same time, the Committee was made a permanent standing committee with authority to investigate alleged violations of the Code and to issue advisory opinions interpreting its provisions.25

Three ad hoc groups have influenced the Committee's work: The Commission on Administrative Review (generally known as the Obey Commission), the Select Committee on Ethics, and the Bipartisan Task Force on Ethics. The Obey Commission was established in July 1976 (95th Congress) and directed to make recommendations to the House concerning ethical practices, financial accountability, and administrative operations of the House. These recommendations were set forth in a report entitled Financial Ethics26 and a resolution, H. Res. 287. The House's adoption, on March 2, 1977, of H. Res. 287 changed the House rules governing financial disclosure, outside earned income, acceptance of gifts, unofficial office accounts, franking privileges, and travel. The Commission also recommended the creation of a select committee with legislative jurisdiction over these areas.

Following the Commission's recommendation, the House established the Select Committee on Ethics in March 1977 to provide guidelines and interpretations concerning House Rules 43, 44, 45, 46, and 47, and to report legislation. The Select Committee and the Committee on Standards of Official Conduct operated simultaneously, with different jurisdictions. During the two years of the Select Committee's existence, it issued 13 formal Advisory Opinions interpreting the new House rules and recommended that House Rules 44 (financial disclosure) and 46 (franking) be enacted into law, which occurred in 1978.27 When the Select Committee completed its task, it issued a Final Report,28 and its records and materials were transferred to the Committee on Standards of Official Conduct to assist the latter in rendering advisory opinions and interpreting House rules relating to financial ethics and standards of conduct.

On February 2, 1989, the Speaker and the Republican Leader of the 101st Congress appointed a Bipartisan Task Force on Ethics to conduct a comprehensive review of House ethics rules and regulations. Co-chaired by Representatives Vic Fazio and Lynn Martin, the Task Force looked anew at the rules concerning gifts, honoraria, outside earned income, financial disclosure, and the use of official resources, as well as considering issues relating to ethics committee procedures and the compensation of Members and other senior government officials. After four public hearings and much internal study, the Task Force issued a report29 and a bill, H.R. 3660. This bill became the Ethics Reform Act of 1989, signed into law on November 30, 1989.30 The Ethics Reform Act enacted a total ban on honoraria, revisions to the outside earned income limits, new post-employment restrictions, changes to the gift and travel limits, and financial disclosure revisions.

Moreover, the Ethics Reform Act contained several provisions affecting the Committee on Standards of Official Conduct. In 1990, a separate Office of Advice and Education was established within the Committee to provide confidential advice to Members, officers, and employees. A statute of limitations of three terms was enacted for investigations of alleged violations. In 1991, the Committee's membership increased from 12 to 14, and it adopted procedures ensuring that the same members do not both recommend charges and sit in judgment of those charges.

Committee Procedures

The Rules of the Committee on Standards of Official Conduct31 were totally rewritten in the 102d Congress to reflect changes in Committee structure and procedures mandated by the Ethics Reform Act, as well as experience under prior Rules. The new rules thus provide for the establishment of a separate Office of Advice and Education and the bifurcation of the Committee investigatory and disciplinary process. The rules also govern the issuance of advisory opinions, the receipt of complaints, and the conduct of Committee investigations (termed Preliminary Inquiries).

Committee rules now set forth the following requirements for complaints filed with the Committee:

• A complaint must be in writing, under oath, and dated.

• A Member of the House may file a complaint directly, or may forward the complaint of an individual not a Member for the purpose of initiating a Preliminary Inquiry.

• If three Members refuse in writing to forward the complaint of someone not a Member, acknowledging that this may cause the Committee to initiate a Preliminary Inquiry, then the individual may file the Complaint directly with the Committee. An exact copy of the complaint filed must be attached to each refusal letter.

• The complaining party must provide a copy of the complaint to the respondent (the person against whom the complaint is filed) or the Committee will not accept it.

• Complaints filed within 60 days of an election in which the respondent is a candidate will not be accepted.

• The respondent will be notified if a complaint is returned, as well as if it is accepted by the Committee as properly filed.

• The respondent will be afforded an opportunity to provide information in response to a complaint.

• The Committee generally will not undertake an investigation of an alleged violation that occurred before the third previous Congress.

• If a Member, officer, or employee is convicted of a crime for which a sentence of one or more years may be imposed, a Preliminary Inquiry must be undertaken after sentencing, though the Committee may act sooner.32

Upon receipt of a complaint, the Committee first determines if it complies with clause 4(e)(2)(B) of Rule 10 of the Rules of the House of Representatives as well as Committee Rule 14. If the Committee determines that the complaint is in proper form, the matter is within its jurisdiction, and the complaint merits further inquiry, it may initiate a Preliminary Inquiry upon an affirmative vote of at least eight of its fourteen members. Once a Preliminary Inquiry is voted, the Chairman and Ranking Minority Member will select four or six Members to comprise an Investigative Subcommittee.33

The Investigative Subcommittee reviews the evidence and determines whether there is reason to believe that an offense within the Committee's jurisdiction was committed. If so, the Investigative Subcommittee notifies the Respondent of its determination and files with the full Committee a Statement of Alleged Violation, asserting specific charges in separate accounts.34

The Chairman then designates the remaining eight or ten Committee members to serve as an Adjudicatory Subcommittee to conduct a Disciplinary Hearing where evidence and sworn testimony is received. At the conclusion of the Disciplinary Hearing, the subcommittee determines if any count contained in the Statement of Alleged Violation is proved by clear and convincing evidence.35 If so, all Members of the Committee hold a Sanction Hearing to determine what punishment, if any, to recommend to the House of Representatives.36

The Committee may recommend one or more of the following sanctions to the House of Representatives:

(1) expulsion from the House of Representatives;

(2) censure;

(3) reprimand;

(4) fine;

(5) denial or limitation of any right, power, privilege, or immunity of the Member that the Constitution permits the House of Representatives to limit or deny;

(6) any other sanction determined by the Committee to be appropriate.37

Alternatively, the Committee may send a Letter of Reproval to the Respondent without recommending further action by the full House.38

In the entire history of the House of Representatives, only four Members have been expelled, three of them for conduct traitorous to the Union in the Civil War era, and one for bribery. Since the establishment of this Committee, four Members have been censured by the House after Committee investigations, and seven have been reprimanded. In addition, the Committee has issued three public letters of reproval, without recommending action by the full House, and has noted infractions not meriting sanction by five Members. Ten Members left the House after charges were brought by the Committee or court convictions were returned but before House action could be concluded.

Conduct Reflecting Creditably on the House

A Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives.

—House Rule 43, clause 1.

Members, officers, and employees of the House must observe the broad ethical standards articulated in the Code of Official Conduct (Rule 43) of the Rules of the House of Representatives. The most comprehensive provision of the code, Clause 1, states that "a Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives."

In interpreting Clause 1 of the Code when first adopted, the Select Committee on Standards of Official Conduct of the 90th Congress noted that this standard was included within the Code to deal with "flagrant" violations of the law that reflect on "Congress as a whole," and that might otherwise go unpunished.39 During floor debate preceding the adoption of the Code, however, Representative Price of Illinois, Chairman of the Select Committee on Standards of Official Conduct, rejected the notion that violations of law are simultaneous violations of the Code:

The committee endeavored to draft a code that would have a deterrent effect against improper conduct and at the same time be capable of enforcement if violated. Initially the committee considered making violations of law simultaneous violations of the code, but such a direct tie-in eventually was ruled out for the reason that it might open the door to stampedes for investigation of every minor complaint or purely personal accusation made against a Member. At the same time there was a need for retaining the ability to deal with any given act or accumulation of acts which, in the judgment of the committee, are severe enough to reflect discredit on the Congress. Stated purposefully in subjective language, this standard [clause 1] provides both assurances.40

Later in the floor discussion, another member of the Select Committee, Representative Arends of Illinois, emphasized that the committee intended the proposed rules to focus on official, rather than personal, conduct:

[T]he Congress has the constitutional right to determine its own rules. And this right, too, has its limitations. The rules are applicable only in connection with the operation of the Congress itself. Somehow a line must be drawn as between what is personal conduct and what is official conduct.41

To date, the Committee or the House has invoked Rule 43, clause 1, in investigating or disciplining Members for:

• failure to report campaign contributions42 and making false statements to the Committee43 in connection with the Korean Influence Investigation;44

• criminal convictions for bribery45 or accepting illegal gratuities;46

• inflating the salaries of congressional employees in order to enable them to pay the Member's personal, political, or congressional expenses;47

• accepting gifts from persons with interest in legislation in violation of the then gift rule (Rule 43, clause 4);48

• engaging in sexual relationships with House pages;49

• making improper sexual advances to a Peace Corps volunteer;50

• writing a misleading memorandum that could have influenced a personal associate's probation and arranging for the improper administrative dismissal of parking tickets.51

A review of these cases indicates that the Committee has historically viewed clause 1 as encompassing violations of law and abuses of official position .52

The Spirit and the Letter of the Rules

A Member, officer, or employee of the House of Representatives shall adhere to the spirit and the letter of the Rules of the House of Representatives and to the rules of duly constituted committees thereof.

—House Rule 43, clause 2.

House Rule 43, clause 2, provides that Members, officers, and employees shall adhere to the spirit and the letter of House and committee rules. The Select Committee on Standards of Official Conduct of the 90th Congress recommended this provision in part to emphasize "the importance of the precedents of decorum and consideration that have evolved in the House over the years."53

Beyond this genteel goal, however, the drafters did assume that the rule would provide a basis for congressional discipline. As summarized by Chairman Price:

This standard was drafted also in general terms rather than attempting to deal more specifically with such things as unfair and dilatory legislative tactics. It did not appear practicable to the committee to attempt to regulate these areas more closely. This standard should provide the House the means to deal with infractions that rise to trouble it without burdening it with defining specific charges that would be difficult to state with precision.54

The practical effect of Clause 2 of the Code has been to provide a device for construing other provisions of the Code and House rules. It has been interpreted to mean that Members, officers, and employees may not do indirectly what they would be barred from doing directly. Individuals should thus read House rules broadly. The Select Committee on Ethics of the 95th Congress cited this provision to show that a narrow technical reading of a House rule should not overcome its "spirit" and the intent of the House in adopting that and other rules of conduct.55

In addition to using Clause 2 as an aid to interpreting other House rules, this Committee cited its violation in recommending expulsion for two Members convicted in separate cases of bribery in the 96th and 97th Congresses and one Member convicted of accepting illegal gratuities in the 100th Congress.56

Refraining From Legislative Activity After Conviction

On April 16, 1975, the House adopted an amendment to the Code of Official Conduct pertaining to convictions. That provision, now Clause 10 of Rule 43, states that a Member of the House who pleads guilty to, or is convicted of, a crime for which the sentence could be two or more years imprisonment should refrain from voting in the House until judicial or executive proceedings reinstate the Member's presumption of innocence or until he is reelected to the House after his conviction.

This Committee's report on the measure noted that the Committee will not, as a rule, take action on a complaint of a statutory violation by a Member while the authorities charged with the statute's enforcement are pursuing the case. However, where the case raises allegations of abuse of official position or where law enforcement authorities do not appear to be acting "expeditiously," the Committee may choose not to defer:

[W]here an allegation is that one has abused his direct representational or legislative position—or his "official conduct" has been questioned—the committee concerns itself forthwith, because there is no other immediate avenue of remedy. But where an allegation involves a possible violation of statutory law, and the committee is assured that the charges are known to and are being expeditiously acted upon by the appropriate authorities, the policy has been to defer action until the judicial proceedings have run their course. This is not to say the committee abandons concern in statutory matters—rather, it feels it normally should not undertake duplicative investigations pending judicial resolution of such cases.57

Even if the judicial process has not entirely run its course, such as when appeals are pending, the House may take notice of guilty pleas or verdicts against a Member, since the Member cannot at that point claim the presumption of innocence. As the Committee report noted:

For the House to withhold any action whatever until ultimate disposition of a judicial proceeding could mean, in effect, the barring of any legislative branch action, since the appeals processes often do, or can be made to, extend over a period longer than the two-year term of the Member.

Since Members of Congress are not subject to recall…public opinion could well interpret inaction as indifference on the part of the House.

The Committee recognizes a very distinguishable link in the chain of due process—that is, the point at which the defendant no longer has claim to the presumption of innocence. This point is reached in a criminal prosecution upon a plea of guilty or upon conviction by a jury or by a judge (or judges) if jury trial is waived. It is to this condition, and only to this condition, that the proposed resolution is directed.58

Thus the Committee's rules authorize it to commence an investigation when "a Member, officer, or employee is convicted in a Federal, State, or local court of a criminal offense for which a sentence of one or more years' imprisonment may be imposed."59 While the Committee may act prior to conviction, Committee rules mandate that an inquiry be undertaken after sentencing.60 Where the gravamen of the charges is abuse of official position, the full House may choose to take disciplinary action against a Member even though all appeals in the criminal process have not been exhausted.61

Code of Ethics for Government Service

The Code of Ethics for Government Service articulates broad ethical guidelines for "all Government employees, including officeholders." The 85th Congress adopted this Code in 1958.62 Among other things, the Code stresses that any person in Government service should:

• adhere to the highest moral principles;

• give a full day's labor for a full day's pay;

• never discriminate unfairly by dispensing special favors;

• never accept favors or benefits that might be construed as influencing the performance of governmental duties;

• make no private promises binding on the duties of office;

• engage in no business with the Government inconsistent with the performance of governmental duties; and

• never use information received confidentially in the performance of governmental duties for making private profit.

The Code of Ethics for Government Service was adopted as a Concurrent Resolution expressing the "sense of Congress,"63 rather than as a statute. This Committee has concluded, however, that the ethical precepts set forth in this Code "represent continuing traditional standards of ethical conduct to be observed by Members of the House at all times."64

Formal charges may be brought against Members of the House for violating this Code. In one instance, the House reprimanded a Member based on charges concerning his use of official position for financial gain and receipt of benefits under circumstances that might have been construed as influencing official duties. There the Member took official actions that enhanced the value of his personal financial holdings.65 In another case, the House reprimanded a Member found responsible for permitting official resources to be diverted to his former law partner (by allowing him use of Government furniture, photocopy services, supplies, and long distance telephone service over a nine year period) in violation of paragraph 5 of the Code of Ethics for Government Service and 31 U.S.C. sec.1301(a) ("[a]ppropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law").66

Rules of Members, Officers, Supervisors, and Committees

The standards enforced by this Committee constitute a "floor" of minimally acceptable behavior. Individual Members or supervisors may set more rigorous standards in their own offices. Therefore, employees of the House should ensure that their behavior complies with any additional rules, regulations, or practices that apply to the specific office or unit where they work.

Advisory Opinions

The Committee on Standards of Official Conduct urges individuals to call or to write with any questions regarding the appropriateness of contemplated activity. House rules authorize the Committee "to give consideration to the request of any Member, officer, or employee of the House for an advisory opinion with respect to the general propriety of any current or proposed conduct of such Member, officer, or employee."67 The Ethics Reform Act of 1989 guarantees that no one may be put in jeopardy by making such a request. Anyone who acts in good faith in accordance with a written advisory opinion from the Committee may not then be investigated by the Committee based on the conduct addressed in the opinion,68 and courts will consider reliance on such an opinion a defense to prosecution by the Justice Department.69 All such inquiries and their responses will be kept confidential by the Committee.

Chapter 2: Gifts, Travel, Entertainment, and Favors

Highlights

Members, officers, and employees of the House may not accept gifts totaling more than $250 in a calendar year from any person or organization. The following do not count towards the $250 limit:

• gifts of personal hospitality,

• gifts worth $100 or less,

• gifts from relatives (including fiances), and

• local meals.

The Committee may grant waivers in exceptional circumstances.

In addition, Members, officers, and employees may not accept

• any gift from a foreign government worth more than $200 unless specifically approved by Congress; or

• any bribe or illegal gratuity, that is, anything of value in return for, or as a reward for, official action.

The Code of Ethics for Government Service admonishes all Federal officials never to accept favors or benefits in circumstances that might create the appearance of influencing the performance of official duties.

Members, officers, and employees may accept travel expenses from private sources when necessary to enable them to give a speech or otherwise to participate substantially in an event or to conduct fact-finding. A spouse or one other family member may accompany the traveler at the sponsor's expense. Unless this Committee grants prior written approval, the traveler may not accept expenses for more than:

• 4 days (96 hours), including travel time, if the destination lies within the 48 contiguous states, or

• 7 days, exclusive of travel days, if the destination lies elsewhere.

The traveler may, however, extend the trip at his or her own expense and on his or her own time.

Members of the House may not treat receipts from fundraisers or testimonials as unrestricted personal gifts but rather must treat such receipts as campaign contributions, which may not be used for personal or official congressional purposes.

Members, officers, and employees may not solicit anything of value from anyone who:

• seeks official action from the House,

• does business with the House,

• or has interests that may be substantially affected by the performance of official duties, except as expressly permitted by this Committee.

Gifts to a spouse or dependent do count towards the Member, officer or employee's gift limit unless the gift is totally independent of the recipient's relationship to the official.

Members and certain House employees must file annual financial disclosure reports, discussed in detail in Chapter 4, which reveal the source and value of gifts received.

Chapter 2: Gifts, Travel, Entertainment, and Favors

Considering the representative nature of congressional offices, it is natural that pressures will be exerted upon Members and employees by concerned constituents. In addition, interest groups will exercise their powers of political persuasion, explanation, or argument on the merits of issues to further their particular positions. When, however, those with special interests bestow gifts, entertainment, and favors upon decision-makers and their advisers, ethical and legal concerns arise.

In a 1951 report entitled Ethical Standards in Government, a Senate subcommittee headed by Senator Paul H. Douglas highlighted some of these concerns:

When is it proper to offer [gifts to] public officials and what is it proper for them to receive? A cigar, a box of candy, a modest lunch…? Is any one of these improper? It is difficult to believe so. They are usually a courteous gesture, an expression of good will, or a simple convenience, symbolic rather than intrinsically significant. Normally they are not taken seriously by the giver nor do they mean very much to the receiver. At the point at which they do begin to mean something, however, do they not become improper? Even small gratuities can be significant if they are repeated and come to be expected….

Expensive gifts, lavish or frequent entertainment, paying hotel or travel costs, valuable services, inside advice as to investments, discounts and allowances in purchasing are in an entirely different category. They are clearly improper…. The difficulty comes in drawing the line between the innocent or proper and that which is designing or improper. At the moment a doubt arises as to propriety, the line should be drawn.1

Congress has recognized that "public office is a public trust."2 Members of Congress hold office to represent the interests of their constituents and the public at large. Members are assisted in these efforts by officers and employees who are paid from United States Treasury funds. The public has a right to expect Members, officers, and employees to exercise impartial judgment in performing their duties.3 The receipt of gifts, entertainment, or favors from certain persons or special interests may interfere with this impartial judgment.

In the first place, the recipient will naturally feel grateful and the giver may expect favorable treatment or consideration in return.4 Certain gifts, moreover, may create a financial conflict of interest for the recipient. A gift of stock, for example, to a Member, employee, spouse, or dependent child may favorably influence the official towards a business or industry on account of the personal holding.5 As noted in a study of congressional ethics: "The giver's purpose is usually to create a situation in which the Member has a personal economic stake in common with the giver. Self-interest can then take its course."6

The House Bipartisan Task Force on Ethics (101st Congress) noted its concern that gifts to Members may create an appearance of impropriety that may undermine the public's faith in government:

Regardless of any actual corruption or undue influence upon a Member or employee of Congress, the receipt of gifts or favors from private interests may affect public confidence in the integrity of the individual and in the institution of the Congress. Legitimate concerns of favoritism or abuse of public position may be raised by disclosure of frequent or expensive gifts from representatives of special interests, or valuable gifts from anyone other than a relative or personal friend.7

Thus, Members and employees of the House should always exercise caution concerning the acceptance of gifts, favors, or entertainment from persons who are not relatives. They should be particularly sensitive to the source and value of a gift, the frequency of gifts from one source, and possible motives of the donor.

Members and employees should never "discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not," and never accept favors or benefits for themselves or their families "under circumstances which might be construed by reasonable persons as influencing the performance of [their] governmental duties."8 In this context, officials should consider the nature, source, and amount of the favor or benefit and possible conflicts of interest with official duties.9 Members and employees should be wary of accepting any gift, favor, or benefit that would not have been offered "but for" the individual's position in Congress. This Committee has cautioned all Members "to avoid situations in which even an inference might be drawn suggesting improper action."10

The Gift Rule

A Member, officer, or employee of the House of Representatives shall not accept gifts (other than the personal hospitality of an individual or with a fair market value of $100 or less, as adjusted under section 102(a)(2)(A) of the Ethics in Government Act of 1978) 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, directly or indirectly from any person (other than from a relative), except to the extent permitted by written waiver granted in exceptional circumstances by the Committee on Standards of Official Conduct pursuant to clause 4(e)(1)(E) of rule X.

—House Rule 43, clause 4.11

Until 1990, House Rule 43, clause 4 (the section of the Code of Official Conduct that is commonly known as the "gift rule") prohibited gifts to Members, officers, and employees from persons with a direct interest in legislation. The Bipartisan Task Force on Ethics found that standard to be subjective and unworkable: "It is often impractical, if not impossible, for Members to ascertain whether a donor has a direct interest in legislation, particularly in cases where the Member and donor have a long-standing personal relationship."12 The Ethics Reform Act of 1989, as amended by the Legislative Branch Appropriations Act for fiscal year 1992,13 amended the gift rule to eliminate the need to make this determination.

Therefore, as of January 1, 1992, Rule 43, clause 4, forbids a Member, officer, or employee from accepting gifts worth a total of more than $250 from any one source in any one year. The rule exempts gifts of personal hospitality, gifts worth $100 or less, and gifts from relatives (including fiances).14 The $250 cap is linked to the cap set under the Foreign Gifts and Decorations Act.15 That act allows Members, officers, and employees to accept gifts of "minimal value" from foreign governments. "Minimal value," currently $200, is adjusted triannually by the General Services Administration. Once the minimal value figure rises above $250, the gift limit under the House gift rule will automatically rise along with it, as will the reporting threshold mandated by the financial disclosure provisions of the Ethics in Government Act of 1978. Similarly, the $100 threshold for gifts that count under the gift rule will rise in tandem with the threshold (now also $100) for counting gifts.16

The $250 figure is an aggregate. Thus, the value of all unexempted gifts from a single source in a calendar year must be tallied. Once the tally reaches $250, all further unexempted gifts from that source in that year must be declined. Alternatively, the recipient may "buy down" the value of an otherwise excessive gift to bring it within acceptable limits. A Member, officer, or employee who chooses to "buy down" the value of a gift must pay for his or her share prior to or reasonably contemporaneous with receipt of the gift.

Example 1.

Over the course of one year, company Z offers Member A the following gifts: in January, theater tickets worth $80; in April, a set of leather desk accessories worth $130; in September, a case of wine worth $120; and in December, a set of crystal stemware worth $200. The theater tickets do not count towards the $250 aggregate because they are worth less than $100. All the other gifts count. If Member A accepts the desk accessories and the wine, he must return the stemware to avoid exceeding the gift limit.

Example 2.

An acquaintance of Member B has two theater tickets, worth a total of $300, that he is unable to use. He offers them to Member B. She cannot accept them as an outright gift because they are worth more than $250. By paying him $50 for the tickets, however, she may "buy down" to $250 the value of the gift to her, and (assuming no prior gifts to her from that source that year) she may then accept the tickets.

Other provisions restrict the circumstances under which gifts may be accepted. The Code of Official Conduct bans a Member, officer, or employee from receiving any benefit "by virtue of influence improperly exerted from his position in the Congress."17 Similarly, the Code of Ethics for Government Service (paragraph 5) admonishes every Government employee: "Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for [oneself] or [one's] family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties."

What is a Gift?

The Select Committee on Ethics of the 95th Congress adopted the following basic definition of the term gift:

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 by the donor.18

The language of the rule and several Select Committee advisory opinions set out a number of exceptions.

Exceptions

In recommending changes to the Code of Official Conduct in the 95th Congress, the Commission on Administrative Review noted that exceptions were provided to "identify items which do not cause conflicts of interest and/or which impose unreasonably stringent limitations if not excluded."19 Thus gifts valued at $10020 or less do not count toward the $250 aggregate. Certain other categories of gifts are similarly exempt.

Personal Hospitality

"Personal hospitality of an individual" may be accepted under the rule. The Commission on Administrative Review stated with respect to this exemption:

[T]he Commission understands personal hospitality to mean hospitality for a non-business purpose by an individual, not a corporation or organization, on property or facilities owned by that individual or his family.21

The Bipartisan Task Force reemphasized these criteria, adding that none of the costs associated with the "personal hospitality" could be deducted as business expenses if this exemption were to apply.22

If a Member or staffer is offered hospitality for more than four days or three nights consecutively from a single source, then the Member or staffer must make a documented effort to determine whether the hospitality in fact meets the criteria for the exemption. The Member or staffer should prepare a memorandum indicating, e.g., that someone checked with the host, and that the host confirmed that the hospitality was being offered on the host's premises, that the host was not being reimbursed for any expenses by another source, and that no business deduction would be taken for the expenses associated with the visit.23 The guest should then file the memorandum in his own files and may accept the hospitality. It is not necessary to send a copy of the memorandum to the Committee.

In any event, no Member, officer, or employee may accept more than 30 days of personal hospitality in a calendar year without a prior written waiver from the Committee. The Task Force suggested that such a "waiver might be granted, for example, in the case of a Member who customarily stays overnight in a friend's house whenever he visits his congressional district."24 Note that the hospitality exemption covers food and lodging. It does not extend to travel expenses or entertainment outside of the home.

Example 3.

Mr. and Mrs. Z invite Member A and spouse to spend the weekend with them at their home. The Member may accept.

Example 4.

Member B receives an invitation to spend a week at an individual's vacation home. The Member should verify (1) that the home belongs to the host personally (as opposed to a corporate employer), (2) that the costs of the visit will not be reimbursed by an employer or deducted from taxes as a business expense, and (3) that the visit has a non-business purpose. The Member should then write a memo for his files so stating and may accept the hospitality.

Example 5.

Mr. X invites Member C to spend the weekend with him at his condominium in Aspen. X offers to fly C out on his private plane and to pay for C's ski rentals and lift tickets. While C may accept the weekend lodging, the travel and ski expenses are separately subject to the gift rule and may only be accepted, absent a waiver, if their total value (combined with any other unexempted gifts from X to C that year) is $250 or less.

Local Meals

The Ethics Reform Act, in section 801(e), further directed the Committee to exempt from coverage under the gift rule "gifts of food and beverages consumed not in connection with gifts of lodging." The Bipartisan Task Force indicated that "[t]he intent of this exemption is to allow Members, officers, and employees to accept meals and beverage in the Washington, D.C. area without regard to the cost, and thus relieve them of the burden of keeping account of the cost of their portion of a restaurant meal as someone's guest."25 This exemption also applies to meals in other cities, as long as the host does not provide travel expenses. The Task Force noted: "The exemption applies only to meals and beverage provided for immediate consumption. It would not extend, for example, to a gift of a case of imported wine or other consumable items that are not intended for immediate consumption."26

This exemption assumes that the host will be present at the meal. It does not include offers to pay the bill for a Member, officer, or employee dining alone or with his or her spouse. In addition, like the personal hospitality exemption, it does not generally include entertainment. Where a substantial meal is a significant part of an event that also includes entertainment (e.g., dinner with a floor show), then no part of the cost is considered a gift. Where the entertainment is separate (e.g., theater after a meal), or the meal is not substantial (e.g., a hot dog at a ball game), the entertainment should be considered a gift subject to the limit.

Gifts from Relatives

Gifts from relatives are exempt from the gift rule, regardless of value. House Rule 43 defines relative as:

[A]n individual who is related as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of such Member, officer, or employee, and shall be deemed to include the fiance or fiancee of the Member, officer, or employee.

Fiances are now included in this definition as a result of an amendment made by the Ethics Reform Act. Thus engagement rings and other tokens exchanged by engaged couples are exempt.

Items Not Intended To Be Covered

The Select Committee found—on the basis of the language of Rule 43, clause 4, its legislative history, the absence of conflict of interest issues, and/or public policy considerations—that certain items were not intended to be covered. The following items are generally not gifts for the purposes of the rule:

(1) Bequests and other forms of inheritance;

(2) Loans made in a commercially reasonable manner (including requirements that the loan be repaid and that a reasonable rate of interest be paid);

(3) Political contributions as defined by the Federal Election Commission and otherwise reported as required by law;

(4) Food, lodging, transportation, and entertainment provided on an official basis by Federal, state, and local governments or political subdivisions thereof;

(5) Food, lodging, transportation and entertainment provided by a foreign government within a foreign country;

(6) Informational materials sent to a Member's offices in Washington and his district, including subscriptions to newspapers, magazines, and other periodicals;

(7) Bona fide awards presented in recognition of public service and available to others besides House Members and employees;

(8) Suitable mementos of a function honoring the Member, officer, or employee;

(9) Consumable products provided to a Member's office by a home-state business that are primarily intended for consumption by persons other than the Member and his staff; and

(10) Food and beverages consumed at banquets, receptions, or similar events.27

In some instances, however, the donation of certain of these items to a Member or employee may fall under the gift rule. For example, the "subscription" exemption is intended to ensure Members access to information sources or reference tools useful in the conduct of official duties. However, an additional courtesy copy of a publication, sent to a Member's home, would be deemed a gift because the Member would be receiving a benefit not generally available to the public.

The gift rule was not intended to prohibit Members, officers, and employees from accepting offers made to the general public. However, an offer targeted specifically at House Members or employees (including, e.g., a sale of property at less than market value) would be viewed as a gift.

Example 6.

Member A plays and wins the lottery. She may accept her winnings without violating the gift rule because the lottery is open to the general public.

Example 7.

Staffer B accumulates sufficient "frequent flyer" miles on personal travel to receive complimentary airfare to Europe. He may accept the award because the "frequent flyer" program is available to all travelers.

Example 8.

A hotel chain offers a discounted "government rate" to all Federal employees, whether they are on official trips or not. House employees may take advantage of the reduced rate.

Example 9.

A charitable foundation sponsors a celebrity golf tournament featuring athletes, actors, and business leaders, along with a few Members. The foundation offers to all participants a package consisting of $400 worth of golf accessories. The Members may each accept only $250 worth of these items.

Example 10.

A Member participates in a golf tournament and wins $500 for achieving the lowest score. Since the award is based on the Member's skill and performance, it is considered earned income, not subject to the gift rule's limits, but subject to the outside earned income cap.

Members, officers, and employees should be wary of accepting any gift where it appears that the motivation of the donor is primarily to curry favor or to influence official action.

Waivers

In proposing its amendments to the gift rule, the Bipartisan Task Force did not intend to "interfere with normal social relationships or the customary gift-giving between personal friends."28 Therefore, the amended rule authorizes the Committee to grant waivers in exceptional circumstances. The Task Force anticipated that such waivers would be available only "in cases where there is no potential conflict of interest or appearance of impropriety…. As a general rule, it is intended that such exceptions from the gifts prohibition would be appropriate in the case of gifts from individuals who have a long-standing personal or social relationship with the Member or employee, where it is clear that it is those relationships that are the motivating factors of the gift, rather than the fact of the individual's office or position in the Congress."29

The rule directs the Committee to grant waivers only in exceptional circumstances. Even a gift from a long-time personal friend may not be approved in all instances. If a House employee is offered a gift of more than minimal value from someone other than a close personal friend, the Committee may require approval of the employing Member as a condition of granting a waiver. As is true anytime a Member, officer, or employee seeks guidance from the Committee, a request for a waiver from the gift rule and the Committee's response will be held confidential.

Example 11.

Staffer A becomes engaged and receives from her fiance a ring worth more than $250. No waiver is required for the ring. If, however, the couple expects that they may receive wedding gifts worth more than $250 from persons who are not relatives (as defined in Rule 43), the staffer should write to the Committee and request a waiver from the gift rule to allow her to accept such gifts. Alternatively, she may wait until she receives her wedding gifts, and if any appear to exceed the gift limit, she may write the Committee reasonably contemporaneously for permission to keep them.

Gifts to a Spouse or Dependents

House Rule 43, clause 4, prohibits Members, officers, and employees from receiving, either "directly or indirectly," gifts worth more than minimal value. The term "indirectly" refers mainly to gifts to the spouse or dependents of a House official. As the Select Committee on Ethics observed: "The issue is not simply one of preventing circumvention of the gifts provision, but also a common sense recognition that assets and holdings of a spouse and dependents are generally considered to be shared by the partner, i.e., the Member, officer, or employee."30 Therefore, a gift to an official's spouse or dependent is considered an indirect gift to that official unless circumstances make it clear that the gift is truly independent of the spouse's or dependent's relationship to the Member or employee. When the gift is truly independent, considerations of privacy and equal rights control, and the gift rule does not apply. Similarly, job-related benefits (e.g., insurance coverage) provided to a spouse and members of the spouse's family without regard to their identity are not gifts.31 Since they are not gifts, they may be accepted and need not be reported on financial disclosure forms.32 "However, when it is apparent that the gift may not have been offered but for the donee's relation to a Member, officer, or employee, such a gift would constitute an indirect gift to the Member, officer, or employee."33

Example 12.

Member A is throwing a Sweet 16 party for her daughter. Lawyer Z, who does not know A's daughter but represents a trade association, offers to buy the daughter a convertible. The car is an excessive, indirect gift to the Member and must be declined.

Example 13.

Member B's wife is a lawyer with a private law firm. Every year the firm invites all of its lawyers and their spouses to a weekend retreat at a resort hotel. The value of the weekend's food and lodging exceeds $250 per person. This retreat would be offered to Mrs. B regardless of the identity of her spouse. Therefore, Mrs. B may accept. Since the weekend is a job-related benefit offered to Member B only because of and through his wife, he may also accept.

Example 14.

Staffer C's spouse works as a flight attendant for an airline that offers free travel to all employees and their immediate families to the extent that seats are available. Staffer C may accept the free flights.

Simultaneous Gifts

A spouse does not have a $250 gift limit apart from that of the Member. Either a gift to a Member's spouse is truly independent, in which case it does not count at all for purposes of the gift rule, or it is deemed an indirect gift to the Member and counts against the Member's $250 cap. However, simultaneous gifts, such as tickets to a sporting or theatrical event, to a Member (or employee) and spouse or dependents, are treated as separate gifts. Thus, for example, tickets with a face value of $60 apiece offered to a Member and spouse would be considered two $60 gifts (falling under the $100 exemption) rather than one $120 gift.

In order for simultaneous gifts to be treated separately, the donor must choose the recipients. An unrestricted gift of several items is valued at its total worth.

Example 15.

Lobbyist Z offers Staffer A four tickets to the Capital Centre, each with a face value of $30, saying, "Here are four tickets to the hockey game for you and Staffer B and your spouses." The lobbyist has made four separate simultaneous gifts, each worth $30. The two staffers and their spouses may accept.

Example 16.

Lobbyist Z offers Staffer C four tickets to the Capital Centre, each with a face value of $30, saying, "Here are four tickets to the hockey game. Take whomever you like, and have a good time." The lobbyist has made one gift worth $120 to Staffer C. Staffer C may accept only if the tickets will not bring the total amount that she has received from Z in that calendar year to more than $250.

Example 17.

Lobbyist Y offers Staffer D two tickets to the premiere of a musical, saying, "Here are two tickets for you and your wife." Each ticket has a face value of $150. Even though the tickets are treated as simultaneous gifts to Mr. and Mrs. D, each gift is worth more than $100, and the gift to Mrs. D is considered an indirect gift to D. Therefore, D may not accept both tickets unless he buys down their total value to $250 (assuming no previous nonexempt gifts from Y to D that year).

Travel

Members, officers, and employees may accept travel expenses from private sources in connection with "substantial participation" events or fact-finding.

Substantial Participation

By definition, compensation for services rendered is not a gift. The Select Committee on Ethics reasoned that transportation, food, and lodging provided to enable a Member or employee to attend a conference or similar event would not be considered gifts if the Member or employee substantially participated in the event. Accordingly, the Member or employee must provide services of roughly equivalent value to the expenses received, by, for example, addressing an audience or participating on a panel. The services must be more than perfunctory. Merely visiting a site would not be viewed as "equal consideration."34 Moreover, the payor must be directly associated with the event. Thus the Committee found a violation of the gift rule where a Member accepted travel expenses from an organization that was not the sponsor of his speaking engagements.35 The Member or employee may also accept travel expenses for a spouse or one other family member.36

As long as the Member or employee is providing substantial services to the sponsor, he or she may accept expenses to travel anywhere, including the home district (providing acceptance of the travel is otherwise consistent with Rule 4537 ). The Select Committee, in its Final Report, noted that the payment of travel expenses and waiver of an entrance fee for a Member of the House to participate as a celebrity in a golf tournament would not be considered a gift "since the Member is, in effect, rendering a service on behalf of the foundation sponsoring the tournament."38 As of January 1, 1991, however, no Member may accept any payment beyond travel expenses or a registration fee waiver for any speech or appearance since any additional payment would be construed as a banned honorarium.39

Example 18.

Charitable Foundation Z invites Member A to be a celebrity participant in its golf tournament in California. A will be listed in the tournament's program and promotional materials as one of the featured players with whom other golfers may play if they make the requisite donation to the charity. Since A's participation is helping the charity to raise funds, A may accept up to 4 days' expenses from the sponsoring foundation to attend.

Example 19.

Charitable Foundation Y holds a golf tournament featuring athletes and actors, but no Members of Congress, as the celebrity draws. Corporation X makes a substantial donation to the foundation and invites Member B to be X's guest at the tournament. X offers to pay B's airfare and all expenses for the weekend of the tournament. X's offer represents a potential gift to B and must be declined to the extent its value (together with that of previous nonexempt gifts to B from X that year) exceeds $250.

Fact-Finding

The Select Committee on Ethics also determined that necessary expenses (not entertainment) for a "fact-finding" tour, even when no services are rendered by a Member or employee, would not be a prohibited gift if the trip is taken for educational purposes directly related to official duties. Such an event must not be for the personal pleasure or entertainment of Members or employees, but rather, to allow them "to become better informed regarding subject matters closely related to their official duties."40 The Select Committee noted that a fact-finding event for educational purposes might include an oil company sponsoring "an inspection tour of its offshore oil drilling platform," a lumber company arranging "a demonstration of new logging methods in a remote area," or a foreign foundation inviting Members to attend a program "designed to promote better understanding and improve U.S. relations with that country."41

While the responsibility rests with the Member or employee to determine whether a particular event or activity is directly related to official duties, the Select Committee emphasized that "fact-finding event" is intended to be interpreted narrowly in light of the "spirit" of the House rules. The Select Committee determined that travel expenses provided by representatives of the maritime industry to attend a ship-launching42 and inaugural flights of airline routes,43 for example, would not be considered fact-finding, and thus would be gifts under Rule 43, clause 4. Consistent with these interpretations, and in keeping with the letter and spirit of the Rule,44 the sponsor of a fact-finding trip should be directly and immediately associated with the event or location being visited.45

Since official allowances are provided to cover district travel expenses of both Members and their staff, one ordinarily cannot accept expenses for private fact-finding trips to or within one's own district. An exception exists where the Member or employee is traveling as part of a larger delegation. In that situation, the rules do not require the official to separate from the group to avoid going into the district.

This Committee has also interpreted fact-finding travel in light of House Rule 45, which prohibits the infusion of private subsidies—whether in-kind services or monetary—into the operation of a congressional office. Rule 45 applies to committees of the House, as well as individual Member offices. The purpose of fact-finding, as noted above, is to explore matters directly related to official duties. If, on the other hand, the purpose of an undertaking is to perform official duties, such as general oversight activities within a committee's jurisdiction, the cost should be borne by the committee or congressional office itself. Rule 45 precludes private subsidies of official activities. Thus, in the 99th Congress, this Committee found that a Member violated Rule 45 when he accepted free flights on corporate aircraft for official travel.46 The Member reimbursed the corporation.

Time Limits

The Ethics Reform Act amended the policy on travel expenses related to privately-funded substantial participation and fact-finding events to "prohibit the acceptance of such expenses for more than 4 consecutive days in the case of domestic travel and 7 consecutive days (excluding travel days) in the case of foreign travel."47

The Bipartisan Task Force recommended these limitations out of concern for "the public perception that such trips often may amount to paid vacations for the Member and his family at the expense of special interest groups."48 In keeping with the spirit of these changes, the Committee, while empowered to grant waivers from these time limits, only does so in truly exceptional cases. That a particular conference happens to last longer than 4 or 7 days will ordinarily not suffice as grounds for a waiver. An example of a situation that would warrant a waiver would be where the Member's destination was so remote as to receive air service only once every ten days.

The rule limits days, not dollars. Barring a waiver, congressional travelers may not accept expenses for more than the 4 or 7 days, regardless of the value of the excess. Thus, accepting expenses for the 5th or 8th day is flatly banned, even if the extra expenses total less than $250.

The Select Committee on Ethics emphasized that only "necessary" expenses may be accepted.49 As long as the travel falls within the specified limits, however, it is the responsibility of the Member, in conjunction with the sponsor, to determine how many days are necessary to accomplish the trip's goals and what type of transportation and lodging are appropriate. The traveler may generally accept expenses to or from Washington, D.C. or another duty station. The traveler may not accept additional expenses for stopovers that are unrelated to the purpose of the trip.

Example 20.

Member A, from the Midwest, is invited to give a speech in Boston at the beginning of a District Work Period. She may accept airfare from Washington to Boston and then from Boston back to her district. She may not accept additional airfare to return home by way of Los Angeles since that is not the normal route.

The 4-day limit on "domestic" travel applies only to travel within the contiguous 48 states. All other locations, including Alaska and Hawaii, are governed by the 7-day rule.50 Four days means four 24-hour periods. Thus the traveler must begin his or her return trip (or stop accepting expenses) within 96 hours of setting out. For trips outside the contiguous 48 states, the Act allows 7 days exclusive of travel days. If part of a day is spent in transit to the foreign locale, that whole day does not count towards the seven. Once the traveler has arrived, however, additional travel within the foreign destination or between close countries does not extend the limit.

Example 21.

Staffer B, who advises his employing Member on environmental issues, is invited by an oil company to inspect its offshore drilling facilities and pollution control preparedness. The company proposes to have the staffer fly from Washington to Alaska on Monday, tour facilities on Tuesday through Saturday, and fly back on Sunday. Assuming that the Member agrees that this trip is directly related to the staffer's official duties, the staffer may accept expenses for himself and his spouse.

Example 22.

A private foundation invites Member C on a fact-finding trip to Eastern Europe. The itinerary includes cities in several different countries. Although some time will thus be spent in transit from one city to another, C may accept expenses for no more than 7 days in Eastern Europe, starting the day after C arrives at her first destination and continuing until the day before she departs.

Example 23.

Member D begins a fact-finding trip to Chicago at 3 p.m. on Monday. D starts back to Washington on Friday, but, due to bad weather, his plane is still sitting on the runway at O'Hare Airport at 3 p.m. Since he began his return trip within 96 hours of setting out for Chicago, he has complied with the relevant time limits under the gift rule.

The Bipartisan Task Force indicated that "the duration limits could not be circumvented in the case of different sponsoring organizations providing expenses for a single conference or meeting at one location. However, in some circumstances, it would be acceptable for a Member or employee to attend separate events with different sponsors at the same location and stay beyond the four-day limit."51 The Committee will only allow such "stacking" where the two events are truly independent. The applicable time limit commences with the beginning of each separate event with a separate host and independent invitation. The traveler in any event may only accept actual and necessary expenses. Thus an individual traveling alone may not accept reimbursement covering two round-trip tickets for two consecutive events in the same location. Similarly, an individual may not accept 8 days of lodging for giving 2 speeches in the same domestic city on the same day. Travelers may, however, extend trips at their own expense and on their own time and still accept return transportation. They may not accept additional reimbursements to cover the costs of personal travel.

Example 24.

Organization Y invites Member E to speak in Miami on Tuesday. Organization Z invites Member E to participate in a conference in Miami from Thursday through Saturday. Member E may fly to Miami and stay over from Monday through Wednesday at Y's expense and accept expenses from Z for Thursday through Saturday night and her flight home on Sunday.

Example 25.

A private university invites Staffer F to participate in a five day conference in Taiwan. After the conference ends, E wishes to take a week's vacation in Hong Kong. F may accept reimbursement from the university for his expenses in Taiwan and for the cost of round trip airfare to and from Taiwan. E may then continue his travels at his own expense.

The 4- and 7-day limits apply to all privately-funded travel, including, for example, that sponsored by charitable organizations, for fact-finding or substantial participation purposes. The limits do not apply to publicly-funded trips, that is, travel expenses paid from a committee account or a Member's personal office account or paid by a unit of Federal, state, or local government. The limits also do not apply to campaign-related travel or other travel that is totally unrelated to the traveler's official duties or position with Congress.

Example 26.

Staffer G's son is a Boy Scout. The Boy Scouts of America offer G an all expense paid week-long trip to the Grand Canyon if G will chaperone the scouts. Even though the trip exceeds 4 days, G may accept because the trip has nothing to with G's official duties or position.

Travel Expenses for Family Members

The Ethics Reform Act further permits "the acceptance of travel expenses for the spouse or other family member in connection with any substantial participation event or fact-finding activity."52 The clear intent of this provision is to allow the traveling Member, officer, or employee to bring one relative (as defined in House Rule 43) at the sponsor's expense on a fact-finding or substantial participation trip. An aide must be independently fact-finding or participating. Expenses for additional family members must be paid for out of personal funds or they will be deemed gifts, subject to the $250 limit.

Example 27.

Member A is invited by organization Y to give a speech in Dallas on Saturday. Organization Z issues a totally unrelated invitation to Member A to address its members in Dallas on Sunday. Each group offers to pay expenses for A and one family member. A may bring only one family member to Dallas at the sponsors' expense. She may not bring her husband at the expense of organization Y and her child at the expense of organization Z because such would evade the one-relative restriction of the Ethics Reform Act.

Example 28.

Member B is invited to give a speech. The sponsoring organization offers the Member and his wife first class airfare. The Member would like to bring his two children as well. He may not trade in the two first class tickets for four coach tickets. Any expenses for the children that are paid by the sponsor will be deemed gifts subject to the $250 limit. Even if the sponsor would pay less for the four coach tickets than for the two first class tickets, to allow the Member to accept expenses for his wife and children would violate the spirit of the Ethics Reform Act.

Gifts From Foreign Governments

Special rules apply to gifts from foreign governments. The United States Constitution prohibits Government officials, including Members and employees of Congress from receiving "any present…of any kind whatever" from a foreign state or a representative of a foreign government without the consent of the Congress.53 Congress has consented, through the vehicles of the Foreign Gifts and Decorations Act (FGDA)54 and the Mutual Educational and Cultural Exchange Act (MECEA)55 to the acceptance of certain gifts from foreign governments. The texts of both of these statutes are set out in the appendices to this Manual.

The FGDA authorizes acceptance of a gift of minimal value56 (currently $200) when tendered as a souvenir or mark of courtesy. It further allows a Member or employee to accept (but not to retain) a gift of more than minimal value when refusal of the gift would cause offense or embarrassment or otherwise adversely affect United States foreign relations.57 Such gifts, however, are deemed to be accepted on behalf of the United States. Within 60 days of acceptance, the recipient must turn the gift over to the United States for use or disposal.58 Additionally, a Member or employee may accept a gift of an educational scholarship or medical treatment from a foreign government.59

Both the FGDA and MECEA permit the acceptance of travel expenses under certain limited circumstances. A Member, officer, or employee may accept travel expenses from a unit of foreign government only under one of these two statutory grants of authority. An official may also accept expenses for foreign travel from private organizations, unaffiliated with any government, subject to the limitations of the gift rule as described above. Rule 43's time limits do not apply to travel authorized under the FGDA or MECEA.

The FGDA stipulates that the travel must take place totally outside of the United States, must be consistent with the interests of the United States, and must be permitted by the Committee on Standards. The intent of this provision, as noted in the Committee's regulations authorizing acceptance of such travel, is to allow an individual who is already overseas (as on a CODEL) to take advantage of fact-finding opportunities offered by the host country.60 Therefore, under the FGDA, the Member or employee may not accept expenses for transportation from the United States to the foreign destination or back home again. Nor may this rule be circumvented by having a foreign government pay for transportation to or from a point just outside the United States border.

This Committee has issued regulations governing the acceptance of gifts under the FGDA.61 These regulations state that any such travel must relate "directly to the official duties of the Member, officer, or employee."62 The regulations also allow the acceptance of travel expenses by an accompanying spouse or dependents. Travel or expenses "may not be accepted merely for the personal benefit, pleasure, enjoyment or financial enrichment of the individual or individuals involved."63 A gift of travel permitted under the FGDA and accepted by a Member or employee must be disclosed within 30 days after leaving the host country.64 The Committee provides forms for this purpose. Tangible gifts of more than minimal value must be disclosed at the time of deposit of the gift with the Government.65 The FGDA and the Committee's implementing regulations also cover gifts from "quasi-governmental" organizations closely affiliated with, or funded by, a foreign government, as well as any international or multinational organizations with membership comprised of foreign governments.

The Mutual Educational and Cultural Exchange Act authorizes the Director of the United States Information Agency to approve cultural exchange programs that finance "visits and interchanges between the United States and other countries of leaders, experts in fields of specialized knowledge or skill, and other influential or distinguished persons."66 A Member or employee of the House may accept travel expenses from a foreign government in order to participate in an approved MECEA program.67 Expenses for MECEA trips are not considered gifts, either for the purposes of the House gift rule or the FGDA. Under MECEA, however, the traveling Member or employee may not accept travel expenses for a spouse or family member.68

Example 29.

A private foundation invites Member A on a fact-finding trip to China. Member A may accept expenses for travel to and from China and up to 7 days' food and lodging within China for himself and his wife, under the gift rule. He must disclose the trip under the category of Reimbursements on his annual Financial Disclosure form.69

Example 30.

The Chinese Agricultural Ministry invites the Members of the Agriculture Committee on a ten day tour of Chinese farm cooperatives. The tour is not part of an approved cultural exchange program. The Members may, consistent with the FGDA, accept expenses for themselves and their spouses while they are in China, but they may not accept airfare to and from China from the Chinese government. They must disclose the receipt of expenses for themselves and their spouses on an FGDA reporting form within 30 days of leaving China. They need not repeat the disclosure on their annual Financial Disclosure forms.

Example 31.

A public university in China invites Member B to attend a two week seminar and discussion series with Chinese leaders at the school. This program has been approved by the United States Information Agency, under MECEA. Member B may accept expenses for travel to and from China and related expenses for her two week stay. If she wishes to bring her husband, she must do so at personal expense. She must disclose the trip under the category of reimbursements on her annual Financial Disclosure form.

Fundraisers and Testimonials

House Rule 43, clause 7, requires that Members treat the proceeds of any testimonial dinners or other fundraising events as campaign contributions, subject to all the restrictions on campaign funds. Such funds must be disclosed as required by Federal Election Commission regulations70 and used by the Member only for bona fide campaign or political purposes.71 The money may not be treated as unrestricted personal gifts. House rules prohibit the conversion of campaign funds either to personal use or to official congressional purposes.72

The restriction of Rule 43, clause 7, derives from H. Res. 287, 95th Congress, 1st Session (1977). The rule formerly allowed Members to use such proceeds for other than campaign purposes if advance notice had been given to the donors. In recommending the change, the Commission on Administrative Review stated: "Proceeds from testimonial dinners should not be converted to funds for personal use under any circumstances."73

The House Select Committee on Ethics determined that a direct mail solicitation by a Member or a Member's spouse constituted a "fund-raising event" for the purposes of Rule 43, clause 7. Proceeds from such a solicitation must be treated as campaign contributions that may not be converted to personal use by the Member. In reaching this decision, the Select Committee noted that a major purpose of revisions to the Code of Official Conduct was to prevent Members from "cashing in" on their official positions in Congress:

In the age of computerized mass mailings, it is unnecessary for people to gather together in a common place on a particular date to constitute a "fund-raising event." \* \* \* \*

A major thrust of the provisions contained in the new House Rules adopted March 2, 1977, was to severely limit the potential for Members to "cash in" on their positions of influence for personal gain. Therefore, a limitation on outside earned income was proposed and adopted. A proposal to abolish unofficial office accounts was offered and adopted. A proposal to prohibit the conversion of political funds to personal use was adopted. And the proposal discussed above to treat all proceeds from fund-raising events as campaign contributions was also adopted. Therefore, it would appear that a proposal to solicit funds for personal use would be contrary to the "spirit" of the House Rules adopted pursuant to H. Res. 287.74

The Select Committee on Ethics also found that a Member may not accept for unrestricted personal use the proceeds of a fundraiser conducted by a group independent of the Member: "[I]t is irrelevant whether the Member himself solicits these funds, or whether the Member accepts funds for personal use that are solicited on his behalf by an independent committee."75

Legal Defense Funds

The Committee on Standards has determined that Members may use campaign funds to defend legal actions arising out of their campaign, election, or the performance of their official duties.76 The Committee deems the protection of a Member's reputation and presumption of innocence to be a valid political purpose. These funds remain campaign contributions, however, subject to all the restrictions on other campaign contributions, including the reporting requirements, contribution limits, and prohibitions on corporate, labor union, and government contractor contributions.

Alternatively, a Member, officer, or employee may choose to set up a "legal defense fund" independent of any campaign fund. (Officers and employees obviously do not have the option of using campaign funds and would have to resort to separate legal defense funds for actions arising out of their official duties.) The Select Committee on Ethics established an exemption to Rule 43, clause 7, such that funds raised specifically for legal defense are not deemed to be campaign contributions.77 Such legal defense funds are, however, subject to the gift rule.

Under the gift rule, a Member, officer, or employee must get a prior written waiver from the Committee in order to accept contributions to a legal defense fund of more than $250 a year from any source other than a relative. The Committee will consider a waiver request where the fund complies with certain general guidelines: The fund should be set up as a trust, to be administered by an independent trustee who will oversee fundraising. The trustee may not have any family, business, or employment relationship with the trust's beneficiary. Trust funds may be used only for legal expenses, except that any excess funds must be returned to contributors on a pro rata basis or donated to charity. Under no circumstances may the beneficiary of a legal defense trust fund convert the funds to any other purpose. No individual or organization may contribute more than $5,000 in a single year.

Any individual who files a financial disclosure report must disclose as a gift any contribution to his legal defense fund of more than $250 in a calendar year from a single source, unless the Committee grants a publicly available waiver from the financial disclosure requirement. Contributions to legal defense funds do not count towards limits on outside earned income.

Solicitation

As part of the Ethics Reform Act of 1989, Congress enacted a new, government-wide ban on solicitation, codified at 5 U.S.C. sec. 7353. This new provision for the first time limited not only what government officials could accept but also that for which they could ask.

Section 7353 states, in pertinent part:

(a) Except as permitted by subsection (b), no Member of Congress or officer or employee of the executive, legislative, or judicial branch shall solicit or accept anything of value from a person—

(1) seeking official action from, doing business with, or…conducting activities regulated by, the individual's employing agency; or

(2) whose interests may be substantially affected by the performance or nonperformance of the individual's official duties.

These statutory restrictions extend to "anything of value," regardless of whether the official receives a personal benefit. Subsection (b) authorizes this Committee to issue implementing rules or regulations for the House, "providing for such reasonable exceptions as may be appropriate." The House gift rule defines that which Members, officers, and employees may accept. In defining that which they may solicit, the Committee has been guided by other preexisting laws, rules, and regulations. For example, a highly developed body of law regulates campaign financing. The Committee does not construe 5 U.S.C. sec. 7353 to prevent a Member, officer, or employee of the House from raising campaign funds or soliciting other items to the extent their acceptance is permitted under applicable laws, rules, or regulations, provided that no individual solicits, directly or through others, any personal or financial benefit unless the Committee grants prior written approval in exceptional circumstances.

Members are often asked to assist charities in their fund-raising efforts. The Committee has determined that Members, officers, and employees of the House may solicit funds on behalf of charitable organizations qualified under sec. 170(c) of the Internal Revenue Code,78 provided that no official resources are used, no official endorsement is implied, and no direct personal benefit results. No solicitation may bear official letterhead, the Great Seal, or the terms "Congress of the United States," "House of Representatives," or "official business."79 Moreover, regulations of the House Office Building Commission prohibit soliciting and other nongovernmental activities in facilities of the House of Representatives.80 Questions regarding solicitations on behalf of entities that are not charities qualified under sec. 170(c) should be addressed to the Committee.

A Member, officer, or employee may serve as a member or chairman of the board of directors of a charitable organization. Members and senior staffers (those earning above the GS-15 level, that is, an annual salary of $77,080 in 1992) may not be compensated for such service.81 The name of the Member, officer, or employee may appear on the organization's letterhead and the official may sign letters on the organization's behalf, provided that these letters do not convey the impression that the United States Congress is endorsing the organization.82 A Member may use the title Representative, Congressman or Congresswoman, or Member of Congress in this context. The official should discourage any suggestion that donors will receive favorable consideration in official matters.

Example 32.

The United Way asks Member A to be honorary chair of its annual federal campaign. Member A may be listed on The United Way's stationery as "The Honorable A, Member of Congress," and may sign solicitation letters on United Way stationery, without seeking special permission from the Committee. Member A may not assign congressional staff to assist in United Way fundraising on official time. Staff may choose to volunteer on their own time.

Example 33.

Member B is asked to help raise funds for families in the district who have lost their homes in a hurricane. The fundraising effort is not qualified under sec. 170(c) of the tax code. Member B must seek permission from the Committee before soliciting funds for this purpose.

Example 34.

Staffer C hears that Lobbyist Z often has tickets to Redskins games that he hands out in various congressional offices. C may not call up Z and ask for free tickets, since this would be solicitation for personal benefit.

Example 35.

Staffer D would like to throw a party in honor of D's employing Member's birthday. D may not call up lobbyists to solicit contributions to pay for the party.

Bribery

Section 7353 generally bars solicitation and acceptance of gifts, except as permitted by the Committee on Standards. Where the solicitation or acceptance is tied to an official act, however, the U.S. Criminal Code comes into play. The Federal bribery statute makes it a crime for a public official, including a Member or employee of the House, to ask for or receive gifts, money, or other things of value in connection with the performance of official duties. Bribery occurs when a Federal official "directly, or indirectly, corruptly" receives or asks for "anything of value personally or for any other person or entity, in return for…being influenced in the performance of any official act."83 An illegal gratuity results when an official directly or indirectly seeks or receives personally anything of value other than "as provided by law…for or because of any official act performed or to be performed."84 The United States Court of Appeals for the District of Columbia Cir

The bribery section makes necessary an explicit quid pro quo which need not exist if only an illegal gratuity is involved; the briber is the mover or producer of the official act, but the official act for which the gratuity is given might have been done without the gratuity, although the gratuity was produced because of the official act.85

Both clauses require as an element of the offense that the thing of value be related in some manner to an official act, that is, the thing of value must be offered or requested either "in return for being influenced in" or "for or because of" an official act. This element—that the thing of value relate to an official act—distinguishes a bribe or illegal gratuity from a mere gift. A gift, as generally defined, is a "voluntary transfer" of property, made "without consideration."86 A bribe induces an official act; an illegal gratuity rewards an official act; a gift has no connection to any official act.

While responsibility for enforcing this statute rests with the Justice Department, in the view of this Committee, these provisions do not extend to token gifts of appreciation or goodwill, intended as courtesy, and consisting of either:

• perishable items (e.g., candy or flowers) that the Member or employee shares with staff and constituents or donates to charity, or

• decorative items that are displayed in the office or donated to charity.

This view is similar to that proposed in regulations of the executive branch's Office of Government Ethics.87

Example 36.

Lobbyist Z offers Member A a substantial campaign contribution if A will introduce certain legislation. Z has violated the bribery law, as will A if A accepts.

Example 37.

Member B introduces H.R. 007 and manages the bill through passage solely because B believes the legislation will be good for the country. Lobbyist Y also favors the legislation because it will benefit his clients. Lobbyist Y sends Member B a color television set, with a note saying, "In appreciation for your good work on H.R. 007." Member B must send the television back as it is an illegal gratuity.

Example 38.

In mid-December, a trade association sends a basket of fruit to Member C's office, with a note saying, "Season's Greetings to Member C and staff." The fruit is an acceptable gift.

Example 39.

Caseworker D helps E, a new immigrant to the district, get a "green card." The following week, D receives a crystal vase, with a note from E saying, "I'll never be able to repay you for what you've done for me." D must return the vase; it is an illegal gratuity.

Example 40.

Caseworker F helps constituent G with her social security claim. In gratitude, G brings a box of home-baked cookies to the office for F and the rest of the staff. F may accept the cookies.

Example 41.

Representative H's office helps constituent J with a Medicare claim. In gratitude, J embroiders H's name on a small piece of fabric, for H to display in the office. H may accept the embroidery as a token decorative item.

Example 42.

A citizens' group sends Member K a lamp, with a note saying, "Thank you for being a responsible voice for good government." Since the gift is not tied to any specific official act, Member K may accept it as long as its value comports with the gift limit.

A person found guilty of bribery may be fined up to 3 times the value of the bribe, imprisoned for up to 15 years, and disqualified from holding any Federal office.88 A person found guilty of seeking or receiving an illegal gratuity may be fined and/or imprisoned for up to two years.89 Violation of these laws may also lead to disciplinary action by the House.

In the 1980's, the Committee on Standards conducted a number of investigations into allegations that Members of Congress accepted bribes or illegal gratuities. In the most recent case, the Member was alleged to have received not cash, but free vacation trips from a creditor of a government contractor on whose behalf the Member had intervened with local authorities.90 In the 96th and 97th Congresses, the Committee investigated three Members on charges, arising out of the Department of Justice's "ABSCAM" probe, that they had accepted money in exchange for promising to aid purported wealthy foreigners seeking to immigrate to the United States.91 Also in the 96th Congress, the Committee investigated a Member for allegedly receiving payments, either directly or through an assistant, from a series of individuals over a five year period, in exchange for agreements to attempt to influence various Government agencies.92 These cases resulted in one expulsion93 an

In addition to the bribery and illegal gratuities statute, several other provisions of the Federal Criminal Code restrain Members and staffers from accepting private compensation in matters of Federal concern. Section 203 of title 18 prohibits House Members and employees from accepting compensation for representing anyone before a Federal department, agency, officer, or court in any particular matter in which the United States is a party or has a direct and substantial interest. Even if Members and employees are acting properly and within their official capacities, they may not receive compensation, other than their congressional salaries, for acts before a unit of Federal government.94 Nor may an individual solicit or receive anything of value (including campaign contributions) in return for supporting someone for, or using influence to obtain for someone, a Federal job.95 A Member, officer, or employee should, therefore, be wary of accepting any gifts, favors, contributions, or

Gifts to Superiors

Federal law bars Government employees from giving gifts to their official superiors.96 This statute similarly precludes soliciting contributions from other employees for gifts to superiors, making donations as gifts to superiors, and accepting gifts from employees making less pay than oneself. The Ethics Reform Act (section 301) amended this law to authorize supervising ethics offices (the Committee on Standards for the House) to implement and create exceptions to the law. The amended law specifically notes the possibility of "exempting voluntary gifts or contributions that are given or received for special occasions such as marriage or retirement or under other circumstances in which gifts are traditionally given or exchanged."97 In addition to marriage and retirement, the Committee also recognizes birthdays, anniversaries, the birth of children, holidays, and other like events as occasions when gifts are traditionally given and this statute would not apply. Of course, House Me

Valuation of Certain Gifts

Generally, for the purpose of the gift rule, items are valued at their fair market value, and at their retail, rather than wholesale prices. Often an item may be priced differently at different stores. In determining whether a particular gift is acceptable, a Member, officer, or employee may use the lowest price at which the item is available to the general public.

The Select Committee on Ethics offered guidelines in its Final Report with respect to the valuation of certain gifts. For example, the gift of a ticket to a charitable or political fundraising dinner would be valued at the cost of the dinner rather than the cost of the ticket to the purchaser. The value of a courtesy pass to an amusement park would be determined by the number of times the pass was actually used. Similarly, an honorary membership to a country club is valued according to its actual use. Thus, if the membership were never used, it would have no value. However, if the Member or employee and family regularly enjoyed the benefits of the country club, the membership gift would be valued at the rate of normal dues and initiation fees for that club. On the other hand, a gift of a season ticket to an athletic event or the theater is generally valued at the cost of the ticket, regardless of actual use, "since it is readily transferable."98

A gift of transportation on a private aircraft is generally valued at the lowest commercial first class rate between the two cities. If there is no first class rate, then the standard (coach) rate is used. If there is no regularly scheduled air service, then the value of the gift is the cost of chartering the same or a similar aircraft.

The gift rule limits the value of gifts "from any person." If a group of individuals jointly gives a present to a Member, officer, or employee, the gift's total value is apportioned among the group. An organization, however, may not circumvent the gift limit by purporting to give an item on behalf of its employees or members.

Example 43.

Ten friends of Member A chip in $30 apiece to buy A a birthday present. Although the total value is $300, this is considered a gift worth $30 from each person and is within the gift limit.

Example 44.

A trade association with 100 employees offers Member B a gift worth $1000, with a note saying, "From the employees of Association Z." Member B may not accept.

In construing this principle, as always, Members, officers, and employees must observe both the letter and the spirit of the gift rule.99 Gifts may not be artificially broken down, either by donors (as in the trade association example above) or in substance. Thus, a set of golf clubs is valued at the price of the set, even if it is given one club at a time. Similarly, a Member or employee could accept a theater ticket with a face value of $95 without counting it toward the $250 cap; accepting a $95 ticket from the same source every week, however, would violate the spirit of the rule.

Members and staff frequently receive invitations to receptions and parties, some of which are held in their honor. As long as the identity of the sponsor (that is, the payor) is made clear to all participants (e.g., on the invitations), a party nominally "in honor of" a Member or group of Members is not generally considered a gift to the honoree(s). Food and beverages enjoyed at these functions are considered to benefit all those attending. The Members being recognized should not identify themselves as hosts, however, or receive any particular advantage from the party. If they do, the cost of the entire event could be viewed as a gift. So, for example, a Member with a strong record on environmental issues might be honored at a reception hosted by a lobbying group interested in those issues without raising questions under the gift rule. If the same Member were an amateur photographer, however, and the event was set up to provide the Member with a forum for selling his or her photographs of wildlife, the C

Sometimes a Member will receive a gift the unusual nature of which makes valuation difficult. Examples have ranged from works of art to antiques to items emblematic of the donor's cultural group. It is these unusual gifts, of artistic value, that Members often feel most awkward about rejecting. The gift may represent the personal efforts of an individual or may be symbolic of the unique esteem of a constituent group. Where such a gift exceeds $250 in value, a Member may under certain circumstances accept it for the sole purpose of donating it, for example, to a museum in the home district or to the Architect of the Capitol for display in Washington. The Committee on House Administration also houses a Fine Arts Board, which accepts art work of less established value. Donations of these kinds may be loaned back to the Member, on a temporary basis, for display in the Member's office. The Committee on Standards recommends that any Member with a question about a particular gift write

Financial Disclosure

Under the Ethics in Government Act of 1978, as detailed in Chapter 4, Members and certain employees of the House must disclose information on annual financial statements, including the donor, description and value of all gifts aggregating $250 or more from a single source in a single year.100 Additional information on certain gifts received by the spouse or dependent of the Member or employee may also need to be filed.101 Further, as noted above, tangible gifts of over minimal value that may be received from foreign governments must be disclosed at the time such gifts are required to be turned over to the United States, that is, within 60 days of receipt; and gifts from foreign governments of travel or expenses for travel outside the United States must be reported within 30 days of departure from the host country.102

Appendices to Chapter 2

Travel Guidelines

MEMORANDUM OF MARCH 5, 19901

TO: All Members, Officers, and Employees of the U.S. House of Representatives

FROM: Committee on Standards of Official Conduct Julian C. Dixon, Chairman John T. Myers, Ranking Minority Member

Since the enactment of the Ethics Reform Act of 1989, the Committee on Standards of Official Conduct has received an increased number of inquiries regarding travel and travel restrictions. Some of the inquiries indicate that confusion or uncertainty may exist regarding the circumstances and guidelines relevant to travel. Therefore, the purpose of this Notice is to provide general guidance on the matter. Any questions regarding the matters discussed below should be addressed to this Committee's Office of Advice and Education at 225-3787.

TYPES OF TRAVEL

There are several different types of travel in which Members and staff of the House of Representatives frequently engage. To assist Members and staff, listed below are nine different types of travel. For each, there is a brief description of: the type of travel; who may accompany the House traveler; duration limitations which apply, if any; applicable disclosure requirements; and the appropriate supervising authority.

Following the listing of travel and applicable guidelines is a discussion of several recent policy decisions made by the Committee regarding the time limits on travel imposed by the Ethics Reform Act.

I. Official Congressional Travel: Member's Office

Description: In support of the Member's official and representational duties to the district from which elected.

Travelers: Only the Member and his or her employees.

Duration Limit: None under House rules.

Disclosure: None by traveler; included in Clerk's report.

Supervising Authority: Authorized by the Member; subject to Committee on House Administration regulations.

II. Official Congressional Travel: Domestic Committee Business

Description: In support of official Committee business, including the conduct of investigations, hearings, meetings, and studies of such Committee.

Travelers: Only Committee Members and employees except as specifically authorized in writing by the Speaker.

Duration Limit: None under House rules.

Disclosure: None by traveler; included in Clerk's Report.

Supervising Authority: Authorized by the Committee Chairman approving the travel; subject to Committee on House Administration regulations.

III. Official Congressional Travel: Foreign Committee Business

Description: In support of official business, requested by the Committee Chairman under 22 U.S.C. sec. 1754, et seq.

Travelers: As authorized by Department of State (commercial travel) or Defense Department (military travel) regulations.

Duration Limit: None under House rules.

Disclosure: Itemized report by traveler to the Committee Chairman approving the travel.

Supervising Authority: State and Defense Departments.

IV. Travel Provided By Federal, State, or Local Governments

Description: Provided on an official basis by a government.

Travelers: As authorized by sponsoring government.

Duration Limit: None under House rules.

Disclosure: None.

Supervising Authority: Sponsoring government organization.

V. Travel Provided By a Foreign Government

Description: As a general rule, travel provided by a unit of foreign governmental authority or a multinational organization, may only be accepted when the travel takes place totally outside the United States. The only exception to this rule is travel in connection with an approved exchange program.

Travelers: Traveler may be accompanied by spouse and dependents.

Duration Limit: None under House rules.

Disclosure: Special "Form for Disclosing Gifts from Foreign Governments" must be filed with the Committee on Standards of Official Conduct within 30 days of departing host country.

Supervising Authority: Committee on Standards of Official Conduct administers the Foreign Gifts and Decorations Act.

VI. Campaign and Political Travel

Description: Travel for a bona fide campaign or political purpose (House Rule XLIII, clause 6).

Travelers: Any person participating in campaign or political activity.

Duration Limit: None under House rules.

Disclosure: On Federal Election Commission (FEC) reports, for travel in connection with elections for federal office.

Supervising Authority: FEC for campaign finance requirements; Committee on Standards of Official Conduct for compliance with House Rule XLIII, clause 6.

VII. Privately Sponsored Fact-Finding Travel

Description: For purposes directly related to official duties.

Travelers: Spouse or another family member may accompany a Member or employee at the sponsor's expense. An aide must independently be fact-finding.

Duration Limit: Maximum four days domestic (including travel time), seven days foreign (excluding travel days), from one source at one event unless prior written approval is obtained from the Committee on Standards of Official Conduct in "exceptional circumstances."

Disclosure: Must be disclosed as "reimbursements" by those filing Financial Disclosure Statements if it aggregates $250 or more in a year from a single source.

Supervising Authority: Committee on Standards of Official Conduct.

VIII. Substantial Participation in a Private Event

Description: Speaking or otherwise substantially participating in an event where no honorarium is involved.

Travelers: Spouse or another family member may accompany a Member or employee at the sponsor's expense. An aide must independently be substantially participating.

Duration Limit: Maximum four days domestic (including travel time), seven days foreign (excluding travel days), from one source at one event unless prior written approval is obtained from the Committee on Standards of Official Conduct in "exceptional circumstances."

Disclosure: Must be disclosed as "reimbursements" by those filing Financial Disclosure Statements if it aggregates $250 or more in a year from a single source.

Supervising Authority: Committee on Standards of Official Conduct.

Application of the Time Limits on Travel

In response to some questions frequently asked regarding the travel time limits specified in the Ethics Reform Act of 1989, the Committee made the following policy determinations:

Computation of Four Days: A maximum of 4 days, including travel time, may be accepted from one source without prior approval for domestic fact-finding and substantial participation travel. The traveler must begin his or her return travel no later than four calendar days (96 hours) after the start of the trip.

Computation of Seven Days: A maximum of 7 days, excluding travel days, may be accepted from one source without prior approval for foreign fact-finding and substantial participation travel. The traveler is thus permitted 7 days at his or her destination.

Staying Over: Any days on which a traveler pays the host the actual cost of his or her own expenses (and those of any accompanying family member), travels separately at his or her own expense, or accepts personal hospitality of an individual as allowed by the rule, are not counted toward the 4 or 7 day limit. The traveler may still return at the sponsor's expense.

Consecutive Events: The applicable time limit (4 or 7 days) commences with the beginning of each separate event with a separate host in which the traveler is fact-finding or substantially participating (as evidenced in part by separate invitations from different sponsoring organizations).

Further guidance regarding travel or other matters under the jurisdiction of this Committee may be obtained by seeking a written advisory opinion or calling the Committee's Office of Advice and Education at 225-3787.

Solicitation Under the Ethics Reform Act of 1989

MEMORANDUM OF OCTOBER 9, 1990

TO: All Members, Officers, and Employees of the U.S. House of Representatives

FROM: Committee on Standards of Official Conduct Julian C. Dixon, Chairman John T. Myers, Ranking Minority Member

The Ethics Reform Act of 1989 enacted a new, government-wide ban on solicitation, codified at 5 U.S.C. sec. 7353. Because this statute might appear to affect legitimate activity, the Committee wishes to clarify its interpretation of the statute.

Section 303 of the Ethics Reform Act of 1989 added the new sec. 7353 to 5 U.S. Code, stating in pertinent part:

(a) Except as permitted by subsection (b), no Member of Congress or officer or employee of the executive, legislative, or judicial branch shall solicit or accept anything of value from a person—

(1) seeking official action from, doing business with, or…conducting activities regulated by, the individual's employing agency; or

(2) whose interests may be substantially affected by the performance of individual's official duties.

These statutory restrictions extend to "anything of value," regardless of whether the official receives a personal benefit. Subsection (b) authorizes this Committee to issue implementing rules or regulations for the House, "providing for such reasonable exceptions as may be appropriate."

Section 7353 must be read in the context of preexisting laws, rules, and regulations. The statute supplements, for example, the provisions of the criminal code that prohibit bribes and gratuities. See 18 U.S.C. sec. 201. Thus, sec. 7353(b) (2)(B) states:

No gift may be accepted…in return for being influenced in the performance of any official act.

At the same time, however, the new law does not amend prior law permitting solicitations in defined circumstances. For example, a highly developed body of law regulates campaign financing. The Committee does not construe 5 U.S.C. sec. 7353 to prevent a Member, officer, or employee from raising campaign funds or soliciting other items to the extent their acceptance is permitted under applicable laws, rules, or regulations, provided that no individual solicits, directly or through others, any personal or financial benefit unless the Committee grants prior written approval in exceptional circumstances.

Certain types of solicitations are not directly addressed by other laws. Members are often asked, for example, to assist charities in their fundraising efforts. The Committee has determined that Members, officers, and employees of the House may solicit funds on behalf of charitable organizations qualified under sec. 170(c) of the Internal Revenue Code, provided that no official resources are used, no official endorsement is implied, and no direct personal benefit results. The Committee will address on a case-by-case basis the extent to which a Member, officer, or employee may personally control the distribution of funds from a charity for which he or she solicits funds. Similarly, questions regarding solicitations on behalf of entities that are not charities qualified under sec. 170(c) will be decided as they arise.

The Committee encourages any Member, officer, or employee with questions on the scope of sec. 7353 to call its Office of Advice and Education at 225-3787 or to write the Committee for an advisory opinion.

Select Committee on Ethics Advisory Opinion No. 71>

Definition of a gift for purposes of House Rule XLIII, clause 4. REASON FOR ISSUANCE

House Rule XLIII, clause 4 provides that a Member, officer, or employee of the House shall not accept gifts in any calendar year aggregating more than $250, directly or indirectly, from any source, except to the extent permitted by written waiver in exceptional circumstances by the Committee on Standards of Official Conduct. Specifically exempted from this provision are (1) gifts from relatives; (2) gifts valued at $100 or less; and (3) gifts of personal hospitality of an individual.

The Commission on Administrative Review, in its report on Financial Ethics (H. Doc. 95-73, February 14, 1977) recommending the Rules changes that were enacted by the House that year, specified that bequests and other forms of inheritance should not be considered gifts for the purposes of the new Rule, and explained personal hospitality to mean "hospitality extended for a non-business purpose by an individual, not a corporation or organization, on property or facilities owned by that individual or his family." Additionally, it is understood that loans and campaign contributions are not considered to be gifts.

Other than the exemptions specified in the Rule and the legislative history, there is no precise definition of what constitutes a gift for purposes of Rule XLIII, clause 4. The House recognized the likelihood that Members, officers, and employees would need guidance on the definition of terms used in the new House Rules, and therefore passed H. Res. 383 which authorized the Select Committee to issue advisory opinions providing such guidance and interpretation respecting the application of the Rules.

The Select Committee begins with the proposition that the basic legal definition of a gift should be used in applying the provisions of Rule XLIII, clause 4, as follows:

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 by the donor.

This definition is implicit, for example, in the Select Committee's Advisory Opinion #2, which states that necessary expenses provided a Member in connection with an event in which he "substantially participates," i.e., renders consideration of equal value, do not constitute a gift.

The Select Committee finds that there are certain categories of gifts that were never intended to be covered under the Rule XLIII, clause 4 limitations on acceptance of gifts. These are items that do not present potential conflicts of interest or are related to a Member's official duties. For these reasons, Rule XLIII, clause 4 is not applicable to the following categories of gifts:

Food lodging, transportation, and entertainment provided on an official basis by federal, state, and local governments and political subdivisions thereof. Members, officers, and employees are frequently invited to various functions paid for or sponsored by such government agencies. It was not the intent of the gifts limitation to prohibit Members, officers and employees from participating in such events. Even if the individual is not fully participating, but is simply present, for example, at a groundbreaking ceremony or a banquet honoring newly-elected officials, it would serve no purpose to preclude such activities.

Food lodging, transportation, and entertainment provided by a foreign government within a foreign country. The Foreign Gifts and Decorations Act was amended by PL 95-105 to give consent of Congress to acceptance of gifts of travel or expenses for travel taking place entirely outside the United States. Any such gifts of travel expenses must be disclosed to the Committee on Standards of Official Conduct within thirty days after departure from the donor country. Since such gifts from a foreign government are subject to these statutory requirements, they are exempted from the prohibitions of Rule XLIII.

Communications to a Member's offices in Washington, D.C. and his district, including subscriptions to newspapers, magazines, and periodicals. Members are traditionally provided free subscriptions to weekly news magazines, newspapers, interest group journals, and other publications which are useful as information sources or reference tools in the conduct of the Member's official duties. In many cases, these publications could exceed $250 in value in a calendar year, particularly if postage is added (e.g., local newspapers). It would be inappropriate and contrary to the public interest to prohibit Members from receiving these materials and might impinge on the rights of citizens to communicate with their Representative. The Select Committee emphasizes that this finding applies primarily to free subscriptions to publications, and not to individual items of considerable value, such as a set of encyclopedias or rare books.

Bona fide awards presented in recognition of public service and available to the general public. A Member, officer, or employee should be permitted to accept an award valued at more than $250 from an organization so long as the award is not contrived for one special occasion and is available to the general public.

A suitable memento of a function held in honor of the Member, officer, or employee. A Member, officer, or employee should be permitted to accept a suitable memento of reasonable value. However, the Committee emphasizes that a "suitable memento would not include items such as cash, a television set, or automobile.

Consumable products provided by home-state businesses to a Member's office but which are primarily intended for consumption by persons other than the Member and his staff. Members have traditionally received gifts of consumable items (e.g., cigarettes, peanuts, etc.) from businesses in their home states. These consumable products are usually passed on to constituents and other visitors to the office and are therefore not considered by the Committee to be gifts to the Member or his staff. This applies only to gifts of consumable items, and only when such items are consumed primarily by persons other than the Member and his staff.

Food and beverage consumed at banquets, receptions, or similar events. Pursuant to section 801(e) of the Ethics Reform Act of 1989, also exempt from application of Rule XLIII, clause 4 are "gifts of food and beverages consumed not in connection with gifts of lodging."2

For purposes of Rule XLIII, clause 4, a gift is defined as follows:

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 by the donor.

The Select Committee finds, based on the language of new Rule XLIII, clause 4, the Rule's legislative history, the absence of conflict of interest issues, and/or public policy considerations, that the following items are not gifts for purposes of Rule XLIII, clause 4:

(1) Bequests and other forms of inheritance;

(2) Loans made in a commercially reasonable manner (including requirements that the loan be repaid and that a reasonable rate of interest be paid);

(3) Political contributions as defined by the Federal Election Commission and otherwise reported as required by law;

(4) Food, lodging, transportation, and entertainment provided on an official basis by federal, state, and local governments or political subdivisions thereof;

(5) Food, lodging, transportation, and entertainment provided by a foreign government within a foreign country;

(6) Communications to a Member's offices in Washington and his district, including subscriptions to newspapers, magazines, and other periodicals;

(7) Bona fide awards presented in recognition of public service and available to the general public;

(8) Suitable mementos of a function honoring the Member, officer, or employee;

(9) Consumable products provided by home-state businesses to a Member's office that are primarily intended for consumption by persons other than the Member and his staff;

(10) Food and beverages consumed not in connection with gifts of overnight lodging, including at banquets, receptions, or similar events.

Select Committee on Ethics Advisory Opinion No. 21>

Applicability of House Rule XLIII, clause 4, to reimbursement or payment of necessary expenses associated with a conference, meeting or other similar event in which a Member, officer or employee of the House participates.

REASON FOR ISSUANCE

Members have raised a number of questions concerning the definition and application of the gifts provisions as set forth in House Rule XLIII, clause 4. An advisory opinion has been requested as to whether the reimbursement or receipt of expenses connected with events in which a Member, officer, or employee participates constitutes a gift.

BACKGROUND

House Rule XLIII, clause 4, establishes, in effect, that Members, officers, or employees of the House shall not accept gifts (other than the personal hospitality of an individual or with a fair market value of $100 or less) in any calendar year aggregating more than $250, directly or indirectly, from any source (other than from a relative), except to the extent permitted by written waiver granted in exceptional circumstances by the Committee on Standards of Official Conduct. In most cases, an individual's expenses for a meeting or conference, including transportation, food, and lodging, would exceed the aggregate figure of $250. However necessary expenses should not be considered a "gift" to a participating individual who renders personal services sufficient to constitute "equal consideration" for the expenses provided by the sponsoring organization. Conversely, it should be noted that the services rendered must be more than perfunctory in nature to constitute equal consideration for the expenses invol

A similar philosophy of exempting expenses for participation in an event is recognized in clause 3(c) of House Rule XLVII, which excludes actual and necessary travel expenses from being considered an honorarium paid for a speech or appearance.

The Ethics Reform Act of 1989 establishes a ceiling on the expenses which will normally be deemed necessary for privately paid travel. In the case of domestic travel, a maximum of four consecutive days (including travel days) may be accepted without prior written approval from the Committee on Standards of Official Conduct. In the case of foreign travel, a maximum of seven consecutive days (excluding travel days) may be accepted without prior written approval from the Committee. The Committee is authorized to grant prior written exemptions from this limitation in "exceptional circumstances."

A separate question surrounds the reimbursement or payment of similar expenses for the spouse of a Member, officer, or employee. If a sponsoring organization pays the spouse's expenses to attend an event in which the Member participates, would those expenses constitute a gift to the Member under clause 4 of rule XLIII? Rule XLIII does not specifically address this question. However, the Ethics Reform Act of 1989 does authorize a Member, officer, or employee to accept travel expenses for a spouse or other family member in connection with any substantial participation event.

Summary Opinion

A Member, officer, or employee of the House (and the individual's spouse or another family member) may be paid or reimbursed for transportation, food, and lodging expenses when such expenses are directly associated with a conference, meeting, or similar event in which the Member, officer, or employee substantially participates. Such reimbursements or payments aggregating $250 or more from one source would be disclosed in accordance with the provisions of title I of the Ethics in Government Act (5 U.S.C. app. 6, sec. 102(a)(2)).

Select Committee on Ethics Advisory Opinion No. 81

Applicability of House Rule XLIII, clause 4 to acceptance of necessary expenses paid by an organization in connection with a fact-finding event which is directly related to the official duties of a Member, officer, or employee.

REASON FOR ISSUANCE

The Select Committee has received numerous inquiries concerning whether a Member, officer, or employee may accept payment or reimbursement for necessary expenses from an organization sponsoring a fact-finding event.

BACKGROUND

Members, officers, and employees of the House of Representatives are often invited by independent foundations, corporations, unions and other non-governmental organizations, both foreign and domestic, to attend a "fact-finding" event which is intended for educational purposes directly related to their official duties.

For example, an oil company may sponsor an inspection tour of its offshore oil drilling platform, or a lumber company may arrange a demonstration of new logging methods in a remote area. Similarly, a foreign foundation may invite Members and employees to attend an educational program designed to promote better understanding and improve U. S. relations with that country.

The applicable House Rule regarding fact-finding events is Rule XLIII, clause 4 which provides that a Member, officer, or employee shall not accept gifts2 (other than the personal hospitality of an individual or with a fair market value of $100 or less) in any calendar year aggregating more than $250, directly or indirectly, from any source (other than from a relative), except to the extent permitted by written waiver granted in exceptional circumstances by the Committee on Standards of Official Conduct. In many instances, the travel expenses for a fact-finding event would exceed $250.

Although there has been some criticism regarding abuses of "fact-finding tours" in the past, the Select Committee finds that it would be contrary to the public interest and the intent of Rule XLIII to prohibit Members, officers, and employees from attending fact-finding events or activities which have a legitimate purpose directly related to the official duties of the Congress. The Committee also notes the precedent in current law (22 U.S.C. secs. 2451-2) which allows federal employees to accept travel expenses paid by foreign governments in connection with a trip which is for an educational or cultural purpose and is so certified by the State Department. Therefore, the Select Committee holds that necessary expenses paid by an organization sponsoring a fact-finding event are exempted from the limitations of Rule XLIII, clause 4, provided that the fact-finding event or activity is directly related to the official duties of the Member, officer, or employee. Any such reimbursement or payment of travel expen

This exemption also applies to necessary expenses for the spouse or one other family member of a Member, officer, or employee. The Ethics Reform Act of 1989 authorizes a Member, officer, or employee to accept travel expenses for a spouse or other family member in connection with any fact-finding event.

The Committee notes that the phrase "fact-finding event or activity" does not apply to situations where expenses are provided in consideration of personal services rendered. In those cases where the purpose of a Member's trip is to provide such services as delivering a major speech to a convention, necessary expenses are not considered to be a gift (see Advisory Opinion #2, issued April 6, 1977). In comparison, although a Member, officer, or employee of Congress may render some personal services in the course of a fact-finding event, the primary purpose of the trip is for Members, officers, or employees to become better informed regarding subject matters closely related to their official duties.

Additionally, the Select Committee emphasizes that the definition of a "fact-finding event" must be interpreted narrowly. House Rule XLIII, clause 2 puts Members on notice that not only the "letter" but also the "spirit" of House Rules must be adhered to. Therefore, since Members are already provided travel expenses to and from their own districts, a Member should not accept free transportation on a corporate jet or commercial flight from Washington to his district, on grounds that he would "tour" the corporate facilities there, Neither would the exemption apply, for example, to travel expenses provided by representatives of the maritime industry to attend a ship-launching.

The intended definition of a fact-finding event would also not extend to expenses incurred during such an event which are unrelated to the specific fact-finding activity. For example, if a Member spends two days attending an educational event in a foreign country and then spends several more days touring that country at his leisure, the expenses associated with the sight-seeing tour would not be exempted from the Rule. Similarly, this exemption for fact-finding activities applies only to necessary expenses (transportation, food, and lodging) and not to entertainment. Thus, a Member of Congress, whether traveling on a fact-finding tour or under any circumstances, may not accept gifts of entertainment beyond the $250 limit imposed by Rule XLIII. The Ethics Reform Act of 1989 establishes a ceiling on the expenses which will normally be deemed necessary for privately paid fact-finding travel. In the case of domestic travel, a maximum of four consecutive days (including travel days) may be accepted without prior written approval from the Committee on Standards of Official Conduct. In the case of foreign travel, a maximum of seven consecutive days (excluding travel days) may be accepted without prior written exemptions from this limitation in "exceptional circumstances." The Committee also emphasizes that to qualify for the exemption, the fact-finding event or activity must bear a direct relationship to official duties. The responsibility will rest with the Member, officer, or employee to determine whether the particular event or activity is intended for fact-finding purposes directly related to his or her official duties.

SUMMARY OPINION

A Member, officer, or employee of the House (and the individual's spouse or another family member) may be paid or reimbursed for transportation, food, and lodging expenses provided by the sponsor of a fact-finding event or activity which is directly related to official duties. Such reimbursements or payments aggregating $250 or more in value from one source would be disclosed in accordance with the provisions of title I of the Ethics in Government Act (5 U.S.C. app. 6, sec. 102(a)(2)).

The Committee emphasizes that this holding has no bearing on any constitutional or statutory prohibition regarding acceptance of gifts from foreign governments or their representatives.

Select Committee on Ethics Advisory Opinion No. 91

Definition of an indirect gift for purposes of House Rule XLIII, clause 4.

REASON FOR ISSUANCE

The Select Committee has received a number of requests for an advisory opinion interpreting what constitutes an "indirect gift" to a Member, officer, or employee for purposes of applying the gifts provision in House Rules.

BACKGROUND AND DISCUSSION

House Rule XLIII, clause 4 provides that a Member, officer, or employee shall not accept gifts in any calendar year aggregating $250 or more in value, directly or indirectly, from any source (other than from a relative), except to the extent permitted by written waiver in exceptional circumstances by the Committee on Standards of Official Conduct.

The word "indirectly" has principal reference to gifts to the spouse or dependent of a Member, officer, or employee of the House of Representatives.2 For example, if a Member would be personally barred from receiving a color television set from an individual, it would not be appropriate for the Member's spouse or dependents to receive such a gift. Therefore, as a general rule, gifts received by the spouse or dependent of a Member, officer, or employee would be considered indirect gifts to the Member, officer, or employee. Failure to so apply the gifts provision to spouses and dependents could cause the intent of the Rule to be easily defeated. The issue is not simply one of preventing circumvention of the gifts provision, but also a common sense recognition that assets and holdings of a spouse and dependents are generally considered to be shared by the partner, i.e., the Member, officer, or employee. However, in finding that the gifts to a souse or dependent generally constitute an indirect

Therefore, the following guidelines are set forth by the Select Committee to clarify when gifts to spouses and dependents would not be considered as indirect gifts to the Member, officer, or employee of the House for the purposes of Rule XLIII, clause 4.

A spouse or dependent may frequently receive a gift from an employer or another person which is prompted by recognition of their services, friendship, or some other consideration unrelated to the official responsibilities of the Member, officer, or employee. When it is clear that such gifts are truly independent of the Member, officer, or employee and would have been offered regardless of the donee's relation to that person, such gifts would not be considered as indirect gifts for the purposes of Rules XLIII. However, when it is apparent that the gift may not have been offered but for the donee's relation to the Member, officer, or employee, such a gift would constitute an indirect gift to the Member, officer, or employee.

An additional clarification that has been requested concerns the treatment of "simultaneous gifts" to a Member, officer, or employee and his spouse or dependents. For example, an individual or organization may well invite a Member's family to a theater performance.3 The question is whether such gifts should be aggregated or considered as separate gifts in relation to the provision of Rule XLIII, clause 4 which exempts all gifts valued at $1004 or less. For example, the questions has been raised: "Would tickets costing $60 each for a Member and his spouse be considered as one $120 gift or as two $60 gifts (thus falling under the $100 exemption)?"

The legislative history of the amendment to Rule XLIII, clause 4 clearly indicates that the intent of the "de minimis" exemption for gifts of less than $100 in value was to avoid imposing excessively burdensome recordkeeping requirements and to ignore insubstantial gifts which do not present any conflict of interest. Furthermore, it would seem to serve no public policy consideration to prohibit a Member from attending an event with his spouse and dependents, but to allow the Member to attend such a reception alone. Therefore, the Select Committee finds that simultaneous gifts valued at $100 or less should not be aggregated, but rather should be considered as separate gifts.

SUMMARY OPINION

Gifts to a spouse or dependent are considered indirect gifts to the Member, officer, or employee for purposes of House Rule XLIII, clause 4, unless such gifts are prompted by some consideration unrelated to the Member, officer, or employee. Simultaneous gifts such as theater invitations to a Member and his spouse and dependents should be treated as separate gifts and not be aggregated. Therefore, it unless an individual gift is valued at more than $100, it would be exempted for purposes of Rule XLIII, clause 4.

Select Committee on Ethics Advisory Opinion No. 31

Applicability of House Rule XLIII, clause 4 to acceptance of free transportation provided by air carriers on inaugural flights.

REASON FOR ISSUANCE

The Select Committee has been requested to issue an advisory opinion on the propriety of Members, officers, or employees of the House of Representatives accepting free transportation provided by air carriers on inaugural flights.

BACKGROUND

Commercial air carriers occasionally provide free transportation on "inaugural flights" to invited guests when a new route or new equipment is introduced. The air carriers may invite Members, officers, and employees of the House of Representatives on such flights.

The applicable House Rule in this situation is Rule XLIII, clause 4, which provides, in effect, that a Member, officer, or employee shall not accept gifts in any calendar year aggregating $250 or more in value, directly or indirectly, from any party (other than from a relative). The question is whether an inaugural flight constitutes a gift.

In the case of inaugural flights, the Member, officer, or employee of the House does not appear to render any services of equal consideration of the value of the flight, and therefore an inaugural flight would appear to constitute a gift to the Member, officer, or employee. If the value of the transportation provided on an inaugural flight exceeds $250, and the Committee assumes that such would be the case in every instance, acceptance of such a gift would be prohibited under Rule XLIII, clause 4.

The Committee recognizes that the definition of "gift" for the purposes of Rule XLIII, clause 4, might not include some situations where a trip or event is primarily intended for educational purposes and is directly related to a Member's or officer's or employee's official duties. However, the Committee finds that inaugural flights, as traditionally defined, do not have sufficient educational value to exclude them from the definition of a gift for purposes of the intent of Rule XLIII, clause 4.

SUMMARY OPINION

Acceptance of free transportation provided by air carriers on inaugural flights is prohibited under House Rule XLIII, clause 4.

Valuation of Gifts of Transportation on Private Aircraft1

Dear Colleague: The purpose of this letter is to notify all Members, officers, and employees of the House of Representatives of a revision to the Committee's policy, effective immediately, regarding the valuation of gifts of transportation not accepted in connection with either fact-finding activities or events in which a Member substantially participates. Members may not accept gifts valued at greater than $250 in a calendar year. See House Rule XLIII, clause 4, which states:

A Member, officer, or employee of the House of Representatives shall not accept gifts (other than personal hospitality of an individual or with a fair market value of $100 or less), as adjusted under section 102(a)(2)(A) of the Ethics in Government Act of 1978) 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, directly or indirectly, from any person (other than from a relative) except to the extent permitted by written waiver granted in exceptional circumstances by the Committee on Standards of Official Conduct pursuant to clause 4(e)(1)(E) of rule X.

To date, the Committee has utilized a simplified approach in valuing gifts of transportation (most typically provided on private aircraft) accepts by Members. The existing methodology has been to determine whether the specific itinerary is also available from a commercial carrier and, if so, to set the value of the flight using the lowest available commercial rate. This concept of valuation is consistent with the approach taken by the Select Committee on Ethics in its Final Report, House Report 95-1837, January 3, 1979:

With respect to gifts of transportation on private aircraft, the value is equal to the commercial air fare for the same flight." Final Report, at p. 8. See also, H. Rept. 99-470, February 5, 1986; and H. Rept. 100-46, April 9, 1987.

While the existing approach has, of course, generally proven adequate to value gifts of transportation, the Committee believes that the approach can, and should, be further refined to take into account the various factual scenarios which might arise. Such refinements would address the kind of service provided (that is, class of transportation), as well as valuation in the absence of regularly scheduled commercial service.

To this end, the Committee, effective immediately, will adopt criteria similar to that utilized by the United States Senate and described by the Senate Select Committee on Ethics in its Interpretative Rule No. 412, issued August 11, 1986.

Accordingly, the Committee has agreed on the following method for calculating the value of a gift of private aircraft transportation for both reimbursement and disclosure under the Ethics in Government Act of 1978, as well as application of House Rule XLIII, clause 4.

REVISED VALUATION APPROACH

A. If the cities between which the Member is flying have regularly scheduled air service, regardless of whether such service is direct, then the value of the use of the aircraft is the cost of a first class ticket from the point of departure to the destination. If more than one first class fare is available (due to service by more than one carrier), the lowest first class fare will be used.

B. If the cities have regularly scheduled air service, but only a standard (coach) rate, then the value of the use of the aircraft is the coach rate. If more than one coach fare is available due to service by more than one carrier, the lowest coach fair will be used. No discount fares will be used, such as "supersaver" fares, for valuation purposes.

C. If either the city from which the Member flies or his destination does not have regularly scheduled air service, then the value of the use of the aircraft is the cost of chartering the same or a similar aircraft for that flight.

The Committee notes that the new policy is generally consistent with Federal Election Commission regulations pertaining to the use of private aircraft by candidates for Federal office.

The Committee further notes that the Committee on House Administration has adopted travel regulations pertaining to the level of reimbursement to be provided from the official allowance to Members who seek reimbursement for air transportation costs they have paid in connection with official travel. By contrast, this advisory letter and the revised policy address only the valuation of gifts of private transportation not associated with official travel.

Any questions regarding the revised policy shall be directed to the Committee staff at 225-7103.2

Sincerely,

Julian C. Dixon

Chairman

Floyd D. Spence

Ranking Minority Member

Chapter 3: Outside Employment and Income of Members, Officers, Employees, and Spouses

Highlights

Rules concerning the outside employment and compensation of Members, officers, and employees of the House generally address the potential for conflicts of interest, e.g.:

• private commitments that might infringe on public obligations;

• possible improper influences on official conduct;

• distractions from the time and attention expected to be devoted to congressional responsibilities; and

• the appearance that an individual is profiting from a position in Congress.

To avoid these problems, Members, officers, and employees of the House are subject to the following restrictions:

Income Level Restriction

All Members, May not accept honoraria for officers, and appearances, speeches, or articles. employees

May not represent others in a private capacity before the Government.

May not accept compensation of any kind from a foreign government or act as an agent for a foreign principal.

May not attempt to cash in on an official position.

Members and May not receive more than those employees 15% of a House Member's salary earning at least in total out side earned income 120% of the ($19,425 in 1992). GS-15 rate of basic pay May not accept compensation for ($77,080 in 1992) providing professional services involving a fiduciary relationship, or for being employed by an organization that provides such services.

May not allow their names to be used, regardless of compensation, by organizations providing fiduciary services.

May not accept compensation for serving as a board member or officer of any organization.

May not accept compensation for teaching, without prior written approval from the Committee on Standards of Official Conduct.

Must file annual financial disclosure forms.

Members and May not lobby former colleagues those employees for one year after leaving office. paid at least 75% of a Member's May not represent foreign governments rate of basic pay for one year after leaving office. ($97,125 in 1992)

Members of the May not contract with the House of Federal Government. Representatives

May not practice in the United States Claims Court or the Court of Appeals for the Federal Circuit.

The mere potential of a conflict of interest does not preclude a Member's spouse from accepting outside employment. However, Members should avoid circumstances suggesting that they receive direct or indirect benefits that influence official acts.

Chapter 3: Outside Employment and Income of Members, Officers, Employees, and Spouses

Numerous restrictions limit the amount and source of outside earned income that Members, officers, and employees of the House of Representatives may accept. These restrictions attempt to avoid any possible conflict between the narrow interests of private employers and the broader interests of the general public.

As explained by the Bipartisan Task Force on Ethics:

The current limitations on outside earned income and honoraria were prompted by three major considerations: First, substantial payments to a Member of Congress for rendering personal services to outside organizations presents a significant and avoidable potential for conflict of interest; second, substantial earnings from other employment is inconsistent with the concept that being a Member of Congress is a full-time job; and third, substantial outside earned income creates at least the appearance of impropriety and thereby undermines public confidence in the integrity of government officials.

…The earned income limitation was intended to assure the public that (1) Members are not using their positions of influence for personal gain or being affected by the prospects of outside income; and (2) outside activities are not detracting from a Member's full-time attention to his or her official duties.1

A Member or employee should never use the prestige or influence of a position in Congress for personal gain. The House has adopted various standards of conduct to implement this principle and to preclude conflicts of interest.

Most significantly, as of January 1, 1991, no Member, officer, or employee may accept any honoraria. In addition, Federal law and House rules limit the total amount of outside earned income that Members and certain officers and employees may receive in a calendar year. House Rule 472 defines covered officers and employees as those paid, for more than 90 days in a calendar year, at a rate equal to or exceeding 120 percent of the base salary for grade GS-15 of the executive branch's General Schedule. In 1992, this salary threshold is $77,080.3 The earnings cap is set at 15 percent of the Executive Level II salary, that is, a Member's base annual salary. In 1992, the cap is thus $19,425 (in 1991, it was $18,765). The Committee can inform Members and staff of the amount of the threshold and the cap in subsequent years.

Further restrictions limit the type of work that Members and senior staff may do. (Again, senior staff are those paid above GS-15.) The Ethics Reform Act of 1989 prohibits Members and these senior employees from acting in certain fiduciary capacities. Thus, these individuals may not receive compensation for practicing a profession that offers services involving a fiduciary relationship. They may neither affiliate with nor lend their names to firms that provide fiduciary services. A Member or senior employee may not serve as a paid officer or board member of any organization, including a nonprofit organization. Neither may such an individual teach for compensation without prior written approval from the Committee on Standards.

A number of other statutes affect particular types of outside activities. For example, Members, officers, and employees of the House generally may not represent others in a private capacity before the Government. They also may not receive compensation from a foreign government or act as an agent for a foreign principal. Members may not contract with the Federal Government. Members and senior employees also must file annual financial disclosure statements.4 House Rule 43, clause 12, restrains any employee who files a financial disclosure statement from contacting executive or judicial branch personnel on matters in which the House employee has a significant financial interest, unless the employee gets a prior written waiver from his employer.

Conflicts of Interest

Although the term "conflict of interest" may be subject to various interpretations in general usage, under Federal law and regulation, this term "is limited in meaning; it denotes a situation in which an official's conduct of his office conflicts with his private economic affairs."5 The ultimate concern, "then, is risk of impairment of impartial judgment, a risk which arises whenever there is temptation to serve personal interests."6

In addition to statutory restraints limiting particular types and amounts of outside income, general ethical standards and rules restrict any outside activities that are inconsistent with congressional responsibilities. The Code of Ethics for Government Service, affirms that a "public office is a public trust" and cautions all Government officials not to engage in any business with the Government, "either directly or indirectly, which is inconsistent with the conscientious performance" of governmental duties.7 This Code specifically provides that a Member or employee should never accept "benefits under circumstances which might be construed by reasonable persons as influencing the performance" of official duties.8 To do so would raise the appearance of undue influence or breach of the public trust.

The Committee found that this standard was violated, for example, when a Member persuaded the organizers of a privately-held bank to sell him stock while he was using his congressional position to promote authorization for the establishment of the bank.9 The Member also sponsored legislation to remove restrictions on the development of property in which he had a personal financial interest. Thus, the Member was found to have wrongly used his official position for personal benefit.

The House Code of Official Conduct prohibits any Member, officer, or employee from receiving any compensation or allowing "any compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in the Congress."10 As noted in the debate preceding the adoption of the rule, an individual violates this standard if he uses "his political influence, the influence of his position…to make pecuniary gains."11 Along similar lines, Members and employees of the House are prohibited from using confidential information received in the performance of their official duties as a means for making private profit.12

Such restrictions accord with other professional standards, which may apply to particular Members and employees. For example, Canon 9 of the American Bar Association (ABA) Model Code of Professional Responsibility for lawyers cautions that "[a] lawyer should avoid even the appearance of professional impropriety." More specifically, Disciplinary Rule 8-101 provides:

(A) A lawyer who holds public office shall not:

(1) Use his public position to obtain, or attempt to obtain, a special advantage in legislative matters for himself or for a client under circumstances where he knows or it is obvious that such action is not in the public interest.

(2) Use his public position to influence, or attempt to influence, a tribunal to act in favor of himself or a client.

(3) Accept anything of value from any person when the lawyer knows or it is obvious that the offer is for the purpose of influencing his action as a public official.

These strictures reflect the same type of concerns evidenced in the House Code of Conduct and the Code of Ethics for Government Service.

A House employee who has an outside job must not allow it to interfere with official responsibilities or to impinge on official time, that is, the employee's regularly scheduled working hours. House rules specifically require that a Member not retain anyone under his or her payroll authority "who does not perform official duties commensurate with the compensation received."13 Any person in Government service is required by the Code of Ethics for Government Service to "[g]ive a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought."14 These provisions recognize that the United States Treasury pays House employees for the performance of official duties.15 These standards thus require every employee to ensure that any private employment does not detract from the performance of, or from the time and attention necessary to, the individual's Government job.

What is Outside Earned Income?

House Rule 4716 places various restrictions on the outside earned income of Members, officers, and employees. These restrictions apply only to earned income, that is, employment, rather than investment income. The rule defines the term "outside earned income" as "wages, salaries, fees, and other amounts received or to be received as compensation for personal services actually rendered." The rule specifically excludes (1) the individual's congressional salary; (2) compensation for services rendered prior to coming to Congress or before the effective date of the rule; (3) amounts paid to a qualified pension, profit-sharing, or stock bonus plan; (4) in the case of a family-controlled business or farm, amounts received in connection with protecting or managing one's investment as long as the personal services rendered do not in themselves generate a significant amount of income; and (5) copyright royalties received from established publishers under usual and customary contractual terms. In the debate preceding adoption of Rule 47, one Member distinguished earned income as that which one earns "by the sweat of [one's] brow."17

The House Commission on Administrative Review of the 95th Congress, in recommending the limitation, explained the basic reasons for focusing on and restricting income from outside employment activities, rather than from assets or investments:

Earned income creates a variety of more serious potential conflicts of interest than does investment income, ranging from overt attempts to curry favor by private groups to subtle distortions in the judgment of Members on particular issues…. The Member who has stock holdings can transfer his holdings at any time to another company, and, thus, is not as subject to the same degree of potential conflict as a Member whose…salary [from a private company] could be cut off arbitrarily.

Outside earned income also presents a "time conflict" between the Member's private interest and the public interest. Supplementing salary with outside earned income can detract from a Member's full-time attention to his official duties and creates subtle distortions in judgment as to how Members should use their time….

Moreover, many citizens perceive outside earned income as providing Members with an opportunity to "cash in" on their positions of influence. Even if there is no actual impropriety, such sources of income give the appearance of impropriety and, in so doing, further undermine public confidence and trust in government officials.18

The Ethics Reform Act of 1989 enacted a number of changes to the laws regulating outside employment of Members and staff, chiefly in the areas of honoraria, fiduciary and related professional restrictions, and the outside earned income limit. For the first time, senior staff were brought under the same outside earned income limit as Members, effective January 1, 1991. Violation of these laws may lead to disciplinary action in the House and/or civil fines of up to $10,000 or the amount of compensation for the prohibited conduct, whichever is greater. However, the statute specifically provides that any House Member or employee who acts in good faith in accordance with a written advisory opinion from the Committee on Standards shall not be subject to any sanction.19 Therefore, the Committee encourages anyone with questions regarding outside employment or income to call or write for guidance.

Honoraria Ban (affecting All Members, Officers, and Employees)

[I]n calendar year 1991 or thereafter, a Member or an officer or employee of the House may not…receive any honorarium.

—House Rule 47, cl. 1(a)(1)(B).

The honoraria rules have undergone major changes in the past few years. Until 1991, all Members, officers, and employees were free to accept honoraria of up to $2,000 per speech, appearance, or article, subject only to the outside earned income cap then effective for Members. The Ethics Reform Act of 1989 enacted a comprehensive ban, prohibiting all Members, officers, and employees of the House (as well as all executive branch employees) from receiving any honoraria, as of January 1, 1991.20 At the end of the first session of the 102d Congress, the House passed a bill, H.R. 3341, that would have permitted rank-and-file Federal employees (including those who work for Congress) to accept payments for appearances, speeches, and articles unrelated to their official duties and status. The Senate did not act on this bill, however, so (as of the printing of this Manual), the honoraria ban remains in effect.21

Federal law defines an honorarium as "a payment of money or any thing 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…."22 The ban is absolute. It encompasses every appearance, speech, or article, regardless of its subject matter or relationship to official duties. The statute does not authorize the Committee to grant waivers under any circumstances.23

Example 1.

Staffer A works for the Education and Labor Committee. A teacher's union offers him $2,000 to write an article for the union newsletter on legislative initiatives to improve the quality of public education. The staffer may write the article but may not accept any payment.

Example 2.

Staffer B, who works for the Foreign Affairs Committee, writes an article on rare butterflies for a nature magazine. B writes the article in her spare time, on her home computer. Even though this has nothing to do with B's official duties or status, she uses no official resources, and the magazine has no interests that could be substantially affected by the performance of B's official duties, Staffer B may not accept payment for the article.

The Bipartisan Task Force explained the need for such a broad prohibition as follows:

Significant increases in honoraria income in recent years [have] heightened the public perception that honoraria [are] a way for special interests to try to gain influence or buy access to Members of Congress, particularly since interest groups most often give honoraria to Members who serve on committees which have jurisdiction over their legislative interests.

…There is growing concern that the practice of acceptance of honoraria by Members, particularly from interest groups with important stakes in legislation, creates serious conflict of interest problems and threatens to undermine the institutional integrity of Congress.24

Definitions

The Committee defines the terms "speech," "appearance," and "article" as follows:

A speech means an address, oration, talk, lecture, or other form of oral presentation, whether delivered in person, transmitted electronically, recorded, or broadcast over the media, but does not include teaching in an established educational program that conforms to criteria established by the Committee.

An appearance means attendance at a public or private conference, convention, meeting, social event or like gathering, possibly but not necessarily involving incidental conversation, discussion, or remarks.

An article means a writing that has been or is intended to be published, for which a payment, if made, would be other than a royalty received from an established publisher pursuant to usual and customary contractual terms.

Exclusions

Speaking, appearing, and writing are integral to many jobs. Most jobs require the employee to "appear" at the work site in order to perform. The Committee does not construe the honoraria law to preclude all outside employment just because the employee must show up to do the work. The Committee has determined that the following types of compensation are not honoraria:

Compensation for activities where speaking, appearing, or writing is only an incidental part of the work for which payment is made (e.g., conducting research).

Bona fide awards and gifts. If a Member, officer, or employee is presented with an award, memento, or gift at an event, the Committee does not consider the object to be an honorarium, unless it is specifically given in consideration of the speech or appearance. Similarly, an individual may accept an award for artistic, literary, or oratorical achievement made on a competitive basis under established criteria.

Paid engagements to perform or to provide entertainment where the artistic, musical, or athletic talent of the individual is the reason for the employment, rather than the person's status as a Member or employee of Congress.

Witness and juror fees by a court or other governmental authority.

Fees to a qualified individual for conducting worship services or religious ceremonies (but not for delivering speeches or invocations at religious conventions);

Payments for works of fiction, poetry, lyrics, or script, where the payment is not offered because of the author's congressional status.

Thus, not all jobs that involve speaking, appearing, or writing are barred. Conducting religious ceremonies plainly involves speaking, yet qualified Members and employees may still accept compensation for these services. The fact that a speech is made before a religious group or at a religious convention, however, will not suffice to remove it from the statute's ban. Similarly, a Member could not accept a fee merely for offering an invocation at the beginning of an event.

Performers "appear" on stage. The Committee does not interpret the law to prohibit paid engagements to perform or to provide entertainment where the performer is being paid for artistic (including dramatic), musical, or athletic talent, rather than for the individual's status as a Member or employee of Congress.

Writers, too, may continue to ply their craft in many ways. If the writing is not for publication, or the writing is an incidental part of a job, payment may still be permitted. Congressional authors of fiction, poetry, lyrics, or scripts may accept compensation. Moreover, House Rule 47 has long exempted book royalties from outside earned income restrictions, royalties being deemed return on the author's intellectual property, akin to other unrestricted returns on property. As the Senate Special Committee on Official Conduct reasoned: "If an individual writes a book, and it becomes a best-seller, any royalties received are beyond his direct control. It is income which is, in effect, a return on a prior investment of time and energy."25

The honoraria ban, too, distinguishes between books and articles. A book author's royalties generally reflect the book's sales, that is, the public's assessment of the book's worth. An article, on the other hand, typically garners a one-time fee, based only on what the publisher is willing to pay the particular author (and not necessarily limited by the marketability of the piece). To be exempt from the honoraria prohibition, a book must be published by an established publisher pursuant to a usual and customary royalty agreement.

In an investigation in the 101st Congress, the Committee found reason to believe that certain income that a Member reported as book royalties were actually excessive honoraria. The Committee's Statement of Alleged Violations charged that the Member, having reached his outside earned income limit, arranged bulk book sales to groups before whom he spoke in lieu of collecting honoraria.26 The Member resigned before the Committee could proceed further.

Bulk book sales are not, however, invalid per se. In another case, the Committee declined to initiate a Preliminary Inquiry based on allegations (among others) that a bulk book sale might have been an improper gift or political contribution, where the Member received no personal financial benefit from the sale.27 Unlike the previous case, here there were no allegations that the sale was arranged to compensate the Member for personal services.

Example 3.

Member A writes a book of memoirs about his years in public service. An established publisher offers the Member its usual and customary royalty terms for the right to publish the book. Member A may have the book published and collect royalties. The royalties will be deemed "unearned income" and will not count against A's outside earned income cap.

Example 4.

Staffer B has an outside part-time job as a consultant at a local university. Her duties include research and analysis on subjects unrelated to her official duties. In order to inform her faculty supervisor of her findings, she must write them up. Since the writing is incidental to her primary responsibilities, she may accept a salary for this job as long as it does not otherwise conflict with her official duties.

Example 5.

Staffer C was a music major in college and is an accomplished violinist. He is occasionally invited to play with the local symphony orchestra at evening and weekend concerts and is compensated at the same rate as other musicians of his caliber in the community. Because he is hired based on his talent and not his status as a congressional employee, he may accept compensation for these performances.

Example 6.

Staffer D works for a House committee by day and plays piano evenings and weekends. In the course of lobbying her on some legislation, Lobbyist Z learns of her avocation and, without knowing anything about her musical abilities, offers to hire her to play at his firm's Christmas party. He offers to pay her twice the going rate for such an engagement. Staffer D should decline.

Example 7.

Staffer E writes a fictional story, which is published in a children's magazine. Since it is a work of fiction, he may accept payment.

Stipends

A regulation of the Federal Election Commission interpreting prior law on honoraria excluded stipends, that is payments "for services on a continuing basis."28 The Bipartisan Task Force on Ethics, however, noted its concern that such a blanket exemption for stipends would invite circumvention of the honoraria ban.29 Congress directly addressed this issue in 1991 by changing the definition of honorarium to include a payment for "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."30 Thus, stipends are now banned if they are related to the individual's official duties or status in Congress. Members and staffers who are unsure as to whether the ban applies to a particular activity should seek the Committee's guidance.

Example 8.

A network news affiliate in Member A's district invites her to deliver a regular two-minute commentary on their Saturday evening news show on the topic, "This Week in Congress." The affiliate offers the Member a stipend of $5,000 a year for her time. While the Member may do the commentary, she may not accept the stipend because the offer is related to her official duties and status.

Example 9.

A philatelic magazine commissions Staffer B to write a series of articles on stamp collecting. Since stamp collecting is unrelated to B's official duties and status, B may accept payment for the series.

Donations to Charity

The statute does authorize the sponsor of a speech, appearance, or article to make a payment in lieu of an honorarium directly to a charity qualified under sec. 170(c) of the Internal Revenue Code.31 The sponsor may make a donation of up to $2,000 per speech, appearance, or article, as long as the sponsor makes the payment directly. Even if the sponsor makes the check payable to the charity, the Member or employee may not accept the check and personally forward it to the charity.

The Member or employee may suggest a particular charity to receive the donation, within the following limits. The House individual may not receive any tax benefit from the donation. Accordingly, the individual may neither add the donation to income nor deduct it for income tax purposes.32 The charity may not be one from which the individual or his or her immediate family (parent, sibling, spouse, child, or dependent relative) derives any financial benefit.33 The Task Force construed this restriction narrowly:

The task force intends that a financial benefit for purposes of this rule would be a direct benefit to the individual or a family member that is separate from any general benefit that the institution would derive. For example, this provision would not prohibit a payment to a university at which the Member's child is a student, or to a health care facility at which a family member is a patient.34

Thus, where the Member, staffer, or family member draws a direct financial benefit (such as a salary) from a particular charity, the Member or staffer may not designate that charity to receive payments in lieu of honoraria. In the case of a national or international charity, however, the fact that a family member works for a local unit would not preclude a Member or staffer from designating the parent organization. Any remote benefit to the family member from the donation in that situation would be too indirect to fall within the statute's prohibition.

Example 10.

Member A gives a speech to a trade association in New Orleans. The association pays A's travel, food, and lodging expenses and sends a check for $2,000 to the Boy Scouts, with a note saying: "In lieu of an honorarium, Member A has asked us to make this donation to the Boy Scouts in honor of his speech to our association." A and the association have complied with the honorarium law.

Example 11.

Member B gives a speech to a political club in Chicago. The following week, she receives a check for $1,500, payable to her, with a note from the club saying: "Thank you for addressing our club. We did not know which charities you support, so we are sending you this check, knowing that you will pass it along to some worthy organization." Member B may not keep the check, even if she immediately endorses it over to a charity. She must return the check to the club. If she wishes, she may suggest that the club donate the money to a specific charity of her choice or to any charity of the club's choice that is qualified under sec. 170(c) of the tax code.

Example 12.

Member C gives a speech at an executives' roundtable in Kansas City. In honor of the event, the executives' group presents C with a check for $1,000, made out to C's favorite charity. C may not send the check on to the charity. C must return the check to the executives, who may then forward it to the charity themselves.

Example 13.

Staffer D writes an article that is accepted for publication by a magazine. The magazine normally would pay $500 for a comparable article and asks D if he would like the money to be donated to some charity. D's favorite charity is a homeless shelter in his home town where his sister works as a counselor. Since his sister receives a direct financial benefit from the shelter (her salary), D may not designate the shelter to receive the payment from the magazine. He may designate another charity.

Example 14.

Staffer E writes an article that is accepted for publication by a magazine that offers to donate $500 to the charity of E's choice. E's husband is a lab technician at the local Red Cross blood bank. E may, if she chooses, designate the national or international Red Cross to receive the payment in lieu of honorarium.

Foundations

Members often cooperate with or help organize charitable foundations, which they may designate to receive payments in lieu of honoraria or for which they may solicit contributions. Typically, these foundations attempt to address particular needs in the Member's district (such as scholarship funds) or national problems of particular concern to the Member. Such foundations are permissible under the laws and rules subject to the Committee's jurisdiction, provided that they comply with the solicitation guidelines set forth in Chapter 2. A Member may designate such a foundation to receive payments in lieu of honoraria if the foundation is qualified under sec. 170(c) of the tax code. The Member may permit use of his or her name on the foundation's letterhead and sign letters on the organization's behalf, using the title "Member of Congress," "Representative," "Congressman" or "Congresswoman."

Official and unofficial activities must remain absolutely separate. By statute as well as regulations of the Committee on House Administration, official resources may not be used to assist the work of an outside organization.35 Conversely, House Rule 45, prohibiting "unofficial office accounts," prevents congressional offices from accepting any funds, goods or in-kind services from private sources.36 The "wall" between public and private activities and resources should not be breached.37

Under the Ethics Reform Act, as of January 1, 1991, Members and other senior government officials may not serve for compensation as officers or members of the board of any association, corporation or other entity. Thus, a Member may sit on the board of a foundation but may not receive any payments, beyond reimbursement for travel and other expenses incurred on the foundation's behalf. In addition, the Internal Revenue Code assesses penalties on certain acts of "self-dealing" (e.g., payment of compensation and certain expenses, lending of money, leasing of property) between private foundations and some Government officials, including elected officials in the legislative branch and House employees who receive a salary of at least $15,000 per year.38 The tax sanctions include an imposition of excise taxes on both the self-dealer and the manager of the foundation, in an amount that multiplies if the original matter is not rectified within a certain time. A Member contemplating establishing a fou

Additional Earned Income Limitations (affecting Members and Senior Staff)

For Members and those officers and employees earning above the GS-15 level for more than 90 days in a calendar year (i.e., $77,080 in 1992),39 the Ethics Reform Act and House Rules limit both the total amount of outside earned income and the type of permissible outside employment. House Rule 47 caps the amount of permissible outside earned income in a calendar year at 15 percent of the Executive Level II salary (that is, the Members' base annual salary). In 1992, the cap is $19,425, for both Members and covered employees.40

In addition, the rule restricts, and in some cases prohibits, compensation for certain types of activities, regardless of whether the individual's income has reached the cap.

Fiduciary and Related Restrictions

A Member or [a covered] officer or employee…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;

(4) serve for compensation as an officer or member of the board of any association, corporation, or other entity; or

(5) receive compensation for teaching, without the prior notification and approval of the appropriate [supervising ethics office].

—5 U.S.C. app. 7, sec. 502.

See also House Rule 47, cl. 3(d).

The Ethics Reform Act prohibits Members and senior employees from engaging in professions that provide services involving fiduciary relationships. The statute does not define "fiduciary," a term generally denoting an obligation to act in another person's best interests or for that person's benefit, or a relationship of trust in which one relies on the integrity, fidelity and judgment of another.41 The fiduciary restrictions arose partially "to ensure that honoraria not reemerge in various kinds of professional fees from outside interests"42 and partially because these professional activities were believed to pose a particular risk of conflict of interest:

There is also concern that receipt of legal fees and other compensation for professional services, and directors' fees from serving on boards of corporations, associations, nonprofit organizations, and other entities, creates at least the appearance of impropriety and the potential for conflicts of interest. Based on the fundamental principle that a public office is a public trust, all officials of the government are expected to act in the interests of the beneficiaries of that trust, that is, the general public.

When certain private positions and employment create for the Member or public official a fiduciary or a representational responsibility to a private client or a limited number of private parties, then such outside activities create the potential for a serious conflict of interest. The conflict occurs in the clash of those responsibilities and the divergence of public and private interests on a particular governmental matter or in general government policy.43

What types of professional activities will be embraced by this prohibition? Law practice will in most cases be banned. In the debate preceding passage of this law, one of the Members who served on the Bipartisan Task Force explained that "it eliminates the ability of Members of Congress to earn income from professional fees such as law practice, insurance, or accounting, any income that could be funneled from lobbyists to Members under the guise of personal services."44 The Bipartisan Task Force intended further that "the term fiduciary not be applied in a narrow, technical sense." Thus, real estate, consulting, and financial services all could fall within the ban.45

Responsibility for construing this statute rests with the Committee on Standards of Official Conduct. In defining the law's parameters, the Committee looks beyond the title of the position and the kind of services typically performed by those in the occupation. The Committee evaluates the nature and circumstances of each individual's particular employment on a case-by-case basis in light of the objectives of the Act.

Specifically, the Committee first looks at the company offering the compensation to determine if it primarily "provides professional services involving a fiduciary relationship." If its regular work is to transact business or to handle money or property for another's benefit "in a relation implying and necessitating great confidence and trust on the one part and a high degree of good faith on the other part,"46 then employment with that entity in any capacity is precluded.

If the firm itself does not provide professional services involving a fiduciary relationship, the Committee then applies the following three-pronged test to determine whether the individual employment opportunity involves a forbidden fiduciary relationship:

Could the employment result in a conflict of interest between private and public responsibilities?

Does the employment create an appearance that an official position is being used for private gain?

Does the compensation appear to be an effort to circumvent the ban on honoraria?

If any one of these criteria is met, the Committee is likely to find a fiduciary relationship and rule against the employment. The Committee considers factors such as whether the individual is acting on behalf of his or her family or a private client; whether the relationship pre-dates the individual's government service; and whether the employment is consistent with policies enunciated in other laws or House rules. No one factor necessarily controls.

While most of these provisions restrict payment for professional services, the ban on allowing one's name to be used by a covered organization applies regardless of whether the organization compensates the Member or employee. Federal law at 5 U.S.C. sec. 501 also provides that a firm, business, or organization that practices before the Federal Government may not use the name of a Member of Congress to advertise the business. These limitations accord with rules of the American Bar Association (ABA) prohibiting the facade of retaining a government lawyer's name in a firm when the individual is not actively and regularly practicing.47

Example 15.

Member A, before his election to Congress, was Vice President and General Counsel of a small manufacturing company. Now that he has assumed office, the company would like him to continue in his prior capacities, at a reduced salary to reflect his reduced time commitment to the company. Member A may not accept any compensation from the company under these circumstances since the payment would either be an officer's fee or compensation for providing legal advice, a professional service involving a fiduciary relationship.

Example 16.

A political consulting firm that specializes in advising candidates for state office offers a consulting contract to Member B. The firm is hoping to attract new clients by making available the demonstrated political savvy and expertise of a Member of Congress. B may not enter into the contract because its purpose is to capitalize on her status as a Member.

Example 17.

Member C was a name partner in a law firm before election to Congress. Upon his election, the firm changed its name to reflect his resignation but requested that it be allowed to list him as "of counsel" on its letterhead so as to maintain the goodwill of his former clients. Even if he accepts no compensation from the firm, C must refuse the request. To accede would be to violate the law against permitting his name to be used by a firm providing professional services involving a fiduciary relationship.

Example 18.

Member Jane Doe is a certified public accountant. Prior to her election, she was employed by the accounting firm of Doe Moe, named for its founder and her father, Joe Doe. Since the firm was not actually named for her, it does not have to change its name upon her election.48

Example 19.

Member E, a lawyer, would like to represent an indigent client on a pro bono (no fee) basis. Since he will not be compensated, he may do so, provided that he observes all other limits on the practice of law by Members.49

Example 20.

Staffer F, whose congressional salary exceedsthe GS-15 level, has long earned outside income as an insurance and real estate broker. As of January 1, 1991, she may no longer do so.

Example 21.

Staffer G, whose congressional salary exceeds the GS-15 level, sold real estate before coming to work on the Hill, but no longer does. In order to maintain his license, however, he must remain affiliated with a real estate firm. As long as he is not actively selling, the firm does not publicly use his name, and he receives no compensation, he may maintain this affiliation.

Example 22.

Member H serves as executor of her late husband's estate. She may accept an executor's fee.

Example 23.

Before coming to Congress, Member J practiced law. A former client writes a will which designates J as guardian of the client's disabled child and provides a fee to compensate J for so serving. Member J may serve. J may accept the fee, as long as it does not cause J to exceed the 15 percent outside earned income limit.

The restrictions on paid board service and teaching arise from the same set of concerns as the fiduciary prohibitions. The ban on accepting compensation for serving as an officer or board member applies to all entities, including nonprofit and campaign organizations. Members and covered employees may still serve, but they may not be paid any salary or directors' fees.50 They may accept reimbursements for travel and other expenses incurred on behalf of such organizations and may continue to be covered by organizational insurance policies.51

Example 24.

Member K serves on the board of a hospital in his district. He receives no salary, but the hospital pays for his travel expenses if he makes a special trip to attend a board meeting, and he is covered under the hospital's officers' and directors' liability policy. Member K is in compliance with Federal law and House rules.

Example 25.

Staffer L, whose congressional salary exceeds the GS-15 level, works on her own time on Member M's campaign. L may be paid for her campaign work, subject to the outside earned income cap, as long as she is not paid as the campaign's Treasurer.

Teaching

Under the terms of the teaching restriction, Members and covered employees may not teach for compensation, unless they receive prior written permission from the Committee on Standards. This requirement ensures that teaching does not become an avenue for circumventing the honoraria ban. The Committee therefore scrutinizes each request. In order to receive approval, the teaching must conform to the following criteria:

1. The teaching is part of a regular course of instruction at an established academic institution.

2. All compensation comes from the funds of the institution and none is derived from federal grants or earmarked appropriations.

3. The payment is for services on an ongoing basis, not for individual presentations or lectures.

4. The teacher's responsibilities include class preparation and student evaluation (for example, grading papers, testing, and homework).

5. The students receive credit for the course taught.

6. The compensation does not exceed that normally received by others at the institution for a comparable level of instruction and amount of work.

7. No official resources, including staff time, are used in connection with the teaching.

8. The teaching does not interfere with official responsibilities nor is it otherwise inconsistent with the performance of congressional duties.

9. The employment or compensation does not present a significant potential for conflict of interest.

Items 1 through 6 should be confirmed in writing by the institution at which the paid teaching will occur. documentation might be in the form of an explanatory letter or copy of a teaching contract attached to the request for Committee approval. Items 7 through 9 should be affirmed in writing by the individual seeking to teach.

The Committee also approves requests to teach for compensation in less formal settings such as Sunday School, piano lessons, aerobics classes, and other situations clearly unrelated to official duties or an individual's status in Congress. No documentation need be submitted from the employing institution in such instances.

The 15 Percent Cap: Earned vs. Unearned Income

Rule 47 restricts compensation for personal services (termed "earned income"), but not moneys received from ownerships or other investments of equity (so-called "unearned income").52 The distinction between earned and unearned income is important because only earned income is subject to the 15-percent cap. In an advisory opinion, the Select Committee on Ethics of the 95th Congress emphasized that the "real facts" of a particular case would control as to whether moneys received would be deemed earned income:

[T]he label or characterization placed on a transaction, arrangement, or payment by the parties may be disregarded for purposes of the Rule. Thus, if the amounts received or to be received by a Member are in fact attributable to any significant extent to services rendered by the Member, the characterization of such amounts as partnership distributive share, dividends, rent, interest, payment for a capital asset, or the like, will not serve to prevent the application of Rule XLVII to such amounts….

…For purposes of this Opinion, there are two types of income - earned and unearned. If the compensation received is essentially a return on equity, then it would generally not be considered to be earned income. If the income is not a return on equity, then such income would generally be considered to be earned income and subject to the limitation.53

Personal Service Businesses

In businesses where capital is not a material income-producing factor, such as in the practice of one's profession as a doctor, lawyer, or carpenter, the Select Committee noted that the entire share of profits is generally considered earned income, unless it can be shown that some income actually derives from a return on investment. Even where the Member performs no personal services, it is presumed, lacking a strong showing to the contrary, that the Member's share of profits from a service business is for attracting or retaining clients and thus is considered earned income.54 As to law practices specifically, the Select Committee noted that "buy-out" arrangements are permitted and will not be counted toward the earned income limit when fair and reasonable in relation to comparable practices.55 To ensure that these criteria are satisfied, a Member may wish to consult with the Committee's Office of Advice and Education before accepting a "buy-out." As described above, the fiduc

Business Corporations

In business corporations, only payment for services the Member performs is considered earned income. An increase in the value of the firm's stock or distribution of profits is not considered earned income. This, however, cannot be used as a subterfuge, such as where a Member would incorporate for the purpose of making speeches or writing articles, then have all fees directed to the corporation and later distributed to the Member as "profits."

Close Corporations, Partnerships, and Unincorporated Businesses

Where a Member has an ownership interest and also performs some services, as in a close corporation, partnership, or unincorporated business, some of the profits might result from the personal services of the Member and therefore would be considered earned income. "[T]he determining factor is whether the Member's personal services generate significant income for the business."56 The Member may protect his or her interest and investments in the business through general oversight and management of investments without generating earned income. However, fees, compensation, or salaries from such a business are earned income. Where the Member's principal function is to refer or to help retain clients, then "the Member would be deemed to be rendering income-producing services, even though the actual time involved might be minimal."57

The rules on income-producing services for a business in which the Member has an ownership interest would also apply to a family business or farm.58 The Commission on Administrative Review in the 95th Congress offered this explanation concerning the family business or farm exemption from the personal earned-income limitation:

…[T]he Commission believes that Members should be able to render personal services to manage or protect their equity in a family trade or business without having to allocate these personal services toward the 15-percent limitation. However, if the personal services, in and of themselves, generate any significant amount of income, the resulting income should be subject to the…limitation. Conversely, the Commission believes that in implementing this limitation care should be taken to prevent Members from circumventing it by incorporating themselves into a "family business" and then withdrawing what in reality are fees for personal services in the form of dividends or profits.59

The debate preceding the adoption of this rule emphasized that personal services that generate income do not come within the exemption and would thus be subject to the earned income limitation:

The crucial element in determining whether the limitation applies…is this: If the personal services produce the income, then it does not matter whether it is a family business or whether it is a law firm, or anything else. If those personal services actually produce the income, then it comes under the limitation.60

Additionally, the Select Committee emphasized the following with respect to the "family business" exemption:

[T]he definition of earned income in Rule XLVII, which excludes amounts received by a Member from a family controlled business "so long as the personal services actually rendered by the Member…do not generate a significant amount of income," was simply intended to assure Members that they could continue to make decisions and take actions necessary to manage or protect their equity in a family trade or business, and would not be forced to divest themselves of their family business interests. As with any business, a Member would not be required to allocate his share of the profits of the business as outside earned income when the facts and circumstances show that the income is in reality a return on investment.61

Income generally comes within the limitation when the Member earns it—that is, "the year in which the Member's right to receive it becomes certain."62 A Member may not avoid the income limitation by deferring receipt of income that he has already earned to another year or to when he leaves Congress.

Practice of Law

While the Ethics Reform Act severely curtails the paid practice of law by Members and senior staffers, these persons may still practice without compensation and other employees may practice for compensation, within the following parameters.

No public official should take on a private obligation that conflicts with his or her primary duty to serve the public interest. The lawyer's duty of undivided loyalty to his or her clients63 makes the practice of law particularly susceptible to conflicts with the wide-ranging responsibilities of Members and staff. Congressional lawyers who wish to maintain private practices should also consult their local bar associations with respect to professional restrictions on them. Federal law prohibits Members from practicing in the United States Claims Court or the United States Court of Appeals for the Federal Circuit64 or from serving as attorneys to contractors or charterers holding contracts under the Merchant Marine Act.65 In addition, Members and employees may not privately represent others before Federal agencies, as described below.

Representing Others Before Federal Agencies

Federal criminal law prohibits Members, officers, and employees from privately representing others before the Federal Government. One provision bars these individuals from seeking or receiving compensation (other than as provided by law) for "representational services" before any Government agency, department, court, or officer in any matter or proceeding in which the United States is a party or has an interest (18 U.S.C. sec. 203). A second provision forbids any officer or employee from acting "as agent or attorney for anyone" (other than in the proper discharge of official duties) before any Government entity in any particular matter in which the Government has an interest, whether or not the individual is compensated (18 U.S.C. sec. 205). The individual need not actually be an attorney or have a strict common law agency relationship with another in order to be restricted by the statute.66 Moreover, House Rule 41 prohibits any officer or employee of the House from acting as "an agent fo

Under section 203, a Member, officer, or employee of the House may not receive compensation, other than congressional salary, for any dealings with an administrative agency on behalf of a constituent or any other person or organization. Even if contacting a Federal agency on behalf of a private individual or organization is within the scope of official duties, an individual who accepts additional compensation for such services has violated the law.67 In this sense, section 203 supplements the law against illegal gratuities discussed in Chapter 2.

Section 203 prohibits the receipt of compensation "directly or indirectly" for services before Federal agencies. Therefore, if a Member or employee is in a partnership arrangement or otherwise shares in fees from services rendered before Federal agencies, a violation of this provision may occur even if the individual did not personally perform the services.68 The Department of Justice has stated, for example, that section 203 "bars a partner in a law firm from sharing in any fees received by the firm before any Federal department or agency during the time he is or was a Federal employee."69 This same informal letter opinion notes, however, that the Justice Department "has interpreted sec. 203 not to apply to a person who receives a fixed salary as an employee of a firm (as opposed to someone who shares in the firm's profits), even though some of the firm's overall income may be attributable to service covered by sec. 203."

Both sections 203 and 205 carry the same possible penalties: imprisonment for up to one year (or five years if the violation is willful); a civil fine of up to $50,000 per violation or the amount received or offered for the prohibited conduct (whichever is greater); and/or a court order prohibiting the offensive conduct.70 In one case, a Federal court held a former Member of Congress liable for repayment of compensation unlawfully received. The court ruled that a violation of section 203—

…unquestionably demonstrates a breach of trust, for in order to fall within its prohibition, a member of Congress must shed the duty of disinterested advocacy owed the government and his constituents in favor of championing private interests potentially inconsistent with this charge.71

Sections 203 and 205 exempt certain activities. Individuals may represent themselves before the Government. One may also represent one's spouse, parent, child, or any person for whom one serves as guardian, trustee, or personal fiduciary.72 Even on behalf of these people, however, the individual must refrain if the matter at issue is one in which he or she participated personally and substantially on behalf of the Government or one which falls within his or her official responsibilities. A staffer needs the approval of his or her employing Member.73 In addition, one may, without compensation, represent anyone in a disciplinary or personnel proceeding.74

Example 26.

Staffer A is a caseworker. Because of his sophistication in dealing with Government agencies, A's sister asks him to represent her at an FCC hearing at which she is contesting the agency's denial of her license application. A must decline.

Example 27.

Staffer A's parents have a dispute with the Social Security Administration. A may represent them at their hearing.

Example 28.

Staffer B is a tax lawyer. B's college roommate has a dispute with the IRS and asks B to accompany her and to assist her at the hearing. B may not do so, even if she receives no compensation.

Contracting With the Federal Government

Under the Federal Criminal Code, a Member of Congress may not enter into a contract or agreement with the United States Government. Any such contract is deemed void, and both the Member and the officer or employee who makes the contract on behalf of the Government may be fined (18 U.S.C. secs. 431-32). To ensure that these prohibitions are carried out, public contracting law requires every Government contract to contain a clause expressly stating that no Member of Congress shall share in any benefits arising from the contract (41 U.S.C. sec. 22).75

The criminal law precludes Members from "directly or indirectly" holding, executing, undertaking, or enjoying "in whole or in part" any contract with the Government. The Attorney General has interpreted this language to prohibit a general or limited partnership that includes a Member of Congress from entering into a contract with the Federal Government.76 There are no definitive Federal rulings as to whether a Member of Congress may receive compensation as an employee, rather than a partner, of an organization holding a Government contract. Some state decisions, however, do prohibit such arrangements.77 Even a Member of Congress who receives compensation (e.g., as salary or subcontract) under an independent organization's Government contract might be considered to be improperly benefiting from that Federal contract.

Unlike a partnership, a corporation with a relationship to a Member of Congress may enter into a contract with the Federal Government for the general benefit of the corporation.78 Thus, a Member of Congress apparently may be a stockholder, even a principal stockholder, or an officer of a corporation that holds a Government contract without incurring criminal liability.79 Similarly, the spouse of a Member may enter into a contract with the Federal Government.80 Incorporating for the obvious purpose of circumventing the statute's prohibition might, however, give rise to a cause of action, and justify a "piercing of the corporate veil." It would appear that the statutory exception in the criminal law for contracts with corporations would likewise apply to the contract law provision of 41 U.S.C. sec. 22, since all the provisions discussed, and the exceptions to them, were originally passed as part of the same act.81

In addition, Federal Acquisition Regulations state that contracts between the Government and Federal employees (including employees of the House of Representatives), or firms substantially owned or controlled by Federal employees, should not knowingly be made "except for the most compelling reasons," such as where the needs cannot otherwise be reasonably fulfilled.82 The general ethical standards in the Code of Ethics for Government Service state further that an employee "[s]hould engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties."83

Example 29.

The Resolution Trust Corporation holds an auction of assets of failed banks. Member A may not purchase anything at the auction because the contract of sale would be a contract with the Government.

Example 30.

Member B is invited to speak at a conference sponsored by the executive branch. Although private sector speakers at this conference are receiving fees, B may not accept payment.

Staff Conflict of Interest Rule

A new provision of House rules, enacted by the Ethics Reform Act, restricts the official activities of employees who file financial disclosure forms. These individuals may not contact other Government agencies with respect to nonlegislative matters affecting their own significant financial interests (Rule 43, clause 12). An employing Member may waive this disqualification by notifying the Committee on Standards, in writing, that the Member is aware of the employee's financial interest, but deems this person's participation necessary nonetheless.

Example 31.

Staffer A, the banking expert on Member B's staff, is part owner of a bank in B's district. A new banking regulation will adversely affect all the banks in B's district, and B wishes A to contact the banking regulators on his behalf to urge reconsideration. B writes to the Committee on Standards, stating: "I authorize my staffer, A, to contact banking authorities concerning Regulation 123. I understand that A, as part owner of Central Bank, may benefit if the Regulation is withdrawn. Nonetheless, I waive the application of House Rule 43(12)(a) because A's expertise in this area makes her participation necessary." A is then free to contact the agency.

Holding Local Office

House employees are often tempted to run for local offices themselves. No statute or rule prohibits this. Staff should take care, however, to avoid any undertaking that is inconsistent with congressional responsibilities.

Employees who run for or hold local office may not do so to the neglect of congressional duties, nor on "official time" for they receive Government salary.84 No local elective service may be performed in the congressional office or in a manner that utilizes any official resources, including the telephones. In dealing with the public, staff who serve as local officials should always make clear in which capacity they are acting. They should discourage any suggestion that their local constituents will receive special treatment from the congressional office, beyond that received by other residents of the congressional district.85

House employees should also recall that they are prohibited by 18 U.S.C. sec. 205 from acting as an agent in connection with any particular matter in which the United States has a direct and substantial interest, except in the course of their official duties. While the Committee is not aware of any local official being prosecuted under this statute, employees should avoid situations that might be construed as unlawful representation of a locality before the Federal Government.

Dual Government Employment

A House employee may not hold another non-House Government job if the salaries of the two positions combined exceeds $20,987 per year.86 A "position" means "a civilian office or position (including a temporary, part time, or intermittent position), appointive or elective, in the legislative, executive, or judicial branch of the Government."87 The dual employment bar does not apply when the positions involved are expert or consultant positions and pay is received on a "when-actually-employed" basis for different days.88 An individual also may not hold two House jobs, if the combined salary exceeds the maximum annual rate of pay authorized to be paid out of a Member's clerk hire allowance.89 Thus, the law allows House employees to work part-time and allows House offices to share employees, as long as each employee receives pay commensurate with the work done for each office and no individual's combined salary exceeds the cap.

Foreign Governments

The United States Constitution prohibits any Member or employee of the House (as well as any other Federal official) from receiving an "emolument" of "any kind whatever" from a foreign government or a representative of a foreign state, without the consent of the Congress.90 An "emolument" means "any profit, gain, or compensation received for services rendered."91

This provision was introduced during the debates of the Constitutional Convention in August of 1787 by Mr. Pinckney of South Carolina. As noted in Elliot's Debates, "Mr. Pinckney urged the necessity of preserving foreign ministers, and other officers of the United States, independent of external influence," and introduced this provision, which passed without objection.92 Justice Joseph Story, in his Commentaries on the Constitution of the United States, explained that this constitutional prohibition was "founded in a just jealousy of foreign influence of every sort."93 As noted by the Comptroller General, "It seems clear from the wording of the constitutional provision that the drafters intended the prohibition to have the broadest possible scope and applicability."94

Congress must consent, generally by means of a private or public bill, before a Member or employee of Congress may accept any compensation from a foreign government, or from an organization or person representing or acting as an instrumentality of a foreign state. Although Congress has consented, in the Foreign Gifts and Decorations Act, to the acceptance by Federal officers of certain gifts, no statute grants a general consent for the receipt of emoluments or other compensation from foreign governments.95 The Comptroller General has ruled that transportation or expenses for travel gratuitously given by a foreign government would fall within regulations promulgated on the receipt of foreign gifts. However, if the same were offered by a foreign government in return for or in connection with some service that a Member or employee would provide, such as making a speech, then such expenses could be deemed "compensation" and thus be an "emolument."96 Note the difference between thi; the Constitution, however, prohibits the acceptance of such expenses from a foreign government.

Members and employees may not therefore receive any payment for services rendered to official foreign interests, such as ambassadors, embassies, or agencies of a foreign government. Caution should thus be exercised in accepting expenses or other compensation from any foreign organization (such as a foundation) that receives sponsorship, funding, or licensing from a foreign government because it could be considered an official arm or an instrumentality of the government. The Comptroller General has ruled, for example, that a Member of Congress could not accept a fee from the British Broadcasting Corporation for participation in a television program to discuss the American Presidency. The BBC, because of its funding relationship and regulation by the British Government, was considered an instrumentality of the British Government, and thus a "foreign state" under the constitutional ban.97 While the Foreign Gifts and Decorations Act prohibits gifts from multinational organizations (such as the United Nations or the World Bank), no similar provision bans compensation from such organizations.

Regardless of compensation, a public official may not act as an agent or attorney for a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended, that is, generally, those individuals engaged in lobbying, political, or propaganda activities.98 In addition, United States officials may not accept campaign contributions from foreign nationals.99

Voting

Certain issues go to the very heart of a Member's official responsibilities. Chief among them is voting on legislation. House Rule 8 states:

1. Every Member…shall vote on each question put, unless he has a direct personal or pecuniary interest in the event of such question. \* \* \* \*

3.(a) A Member may not authorize any other individual to cast his vote or record his presence in the House or Committee of the Whole.

(b) No individual other than a Member may cast a vote or record a Member's presence in the House or Committee of the Whole.

(c) A Member may not cast a vote for any other Member or record another Member's presence in the House or Committee of the Whole.

In the 100th Congress, prior to the adoption of this rule, the House reprimanded a Member for allowing another to vote on the floor in his place. In recommending disciplinary action, the Committee declared its firm belief that "nothing is more sacred to the democratic process than each person casting his own vote."100

Voting on Matters of Personal Interest

No statute or rule requires the divestiture of private assets or holdings by Members or employees of the House upon assuming their official positions. Since legislation considered by Congress affects such a broad spectrum of business and economic endeavors, a Member of the House may be confronted with the possibility of voting on legislation that would have an impact upon a personal economic interest. This may arise, for example, in a bill authorizing appropriations for a project for which the government contract is held by a corporation in which the Member is a shareholder, or a bill providing federal guarantees for municipal securities when a Member is among those holding such securities. Longstanding House precedents have not found such interests to warrant abstention under the rule of the House that instructs Members to vote on each question presented unless they have "a direct personal and pecuniary interest in the event of such question."101 Rather, it has generally been found that "where legislation affected a class as distinct from individuals, a Member might vote.102

House Rule 8, clause 1 has been explained as follows:

It is a principle of "immemorial observance" that a Member should withdraw when a question concerning himself arises; but it has been held that the disqualifying interest must be such as affects the Member directly, and not as one of a class. In a case where question affected the titles of several Members to their seats, each refrained from voting in his own case, but did vote on the identical cases of his associates. And while a Member should not vote on the direct questions affecting himself, he has sometimes voted on incidental questions.103

Thus, Members holding stock in national banks have voted on legislation "providing a national currency and to establish free banking" since Members"do not have that interest separate and distinct from a class, and, within the meaning of the rule, distinct from the public interest."104 Veterans in the House have properly voted on questions of pay and pensions in the military since such Members "did not enjoy the benefit arising from the legislation distinct and separate from thousands of men in the country who had held similar positions."105 The Speaker would not rule that a Member owning stocks in breweries or distilleries should be disqualified in voting on the proposed amendment to the Constitution concerning prohibition of the manufacture and sale of liquor.106 Members who were stockholders in or had interests in import businesses voted on a tariff bill affecting the import business since "the bill before us affects a very large class…. The Chair would be surprised if there were not hundreds of thousands of American citizens who were stock holders in these companies."107

Although the rule has been found not to apply when a Member is affected only as a member of a class rather than as an individual, some precedents in the House indicate that the rule might apply if legislation affects only one specific business or property, rather than a class or group of businesses or properties. Thus, although the Speaker found that a Member interested in breweries or distilleries could vote on "prohibition" because it affected a class of businesses, the Speaker specifically noted: "Now if there was a bill here affecting one institution, if you call it that, the Chair would be inclined to rule that a Member interested in it pecuniarily could not vote, but where it affects a whole class he can vote."108 Similarly, in ruling that Members with interests in import businesses could vote on a tariff bill, the Speaker observed: "Certainly it would not be within the power of the Chair to deny a Member the right to vote except in the case where the legislation applied to one and all. In this case if the gentleman from Massachusetts be a stockholder in the road the Chair would rule he had no right to vote. It differs from the case of national banks109 which has been brought up in several instances, in the fact that this is a single corporation, and is not of general interest held throughout the country by all classes of people in all communities…. But if a stockholder in a single railroad corporation, as in this case, has his vote challenged it would be the duty of the Chair to hold, if he is actually a stockholder of the road, that he has no right to vote…. The Chair so decides without any knowledge in this particular case. It is for the gentleman from Massachusetts whose delicacy the Chair knows and cheerfully recognizes to relieve the House from any embarrassment on that question."110

As shown by more recent applications of the rule, however, even where one corporation or entity is primarily affected by legislation, a Member's interest in such corporation or entity might not be found to be a disqualifying interest in the subject matter. As this Committee has noted:

House precedents establish the rule that "where the subject matter before the House affects a class rather than individuals, the personal interest of Members who belong to the class is not such as to disqualify them from voting." This principle was followed by the House as recently as December 2, 1975, when the question arose whether House Rule VIII(1) would disqualify Members holding New York City securities from voting on a bill to provide federal guarantees for these securities. Speaker Albert ruled that a point of order to disqualify Members holding such securities would not be sustained.111

The Committee further found that a Member's ownership of 1,000 shares of common stock in a defense contractor corporation, out of more than 4,550,000 shares outstanding, "was not, under House precedents, sufficient to disqualify him from voting on" an appropriations bill authorizing funds for a project for which the corporation was under contract with the government to perform.112

Finally, House precedents favor "the idea that there is no authority in the House to deprive a Member of the right to vote."113 Given the size of today's districts, when a Member refrains from voting, roughly half a million people are denied a voice on the pending legislation. While the Committee has endorsed the principle that "each individual Member has the responsibility of deciding for himself whether his personal interest in pending legislation requires that he abstain from voting,"114 it did so after investigating allegations (among others) that the Member had violated Rule 8 in not refraining from voting in a particular instance. The Committee cleared the Member of this charge, but it has occasionally advised Members, in private advisory opinions, that it would be inappropriate for them to introduce or to vote on legislation directly affecting significant and uniquely held financial interests. A Member's decision on whether to sponsor legislation affecting personal finan

Post-Employment Restrictions

Executive branch officers and employees have long labored under restrictions on their professional activities upon leaving office. Depending on how closely those activities touch upon their former Federal responsibilities, the restraints could last one year, two years, or permanently.115 The Ethics Reform Act of 1989 enacted, for the first time, post-employment restrictions on certain legislative branch officials, codified at section 207 of the Federal Criminal Code.116 These limitations went into effect for Members with the swearing in of the 102d Congress on January 3, 1991 at noon, and for staff on January 1, 1991. The law applies only to Members, officers, and those employees who earn at least 75% of a Member's salary ($97,125 in 1992).117 An employee must have earned that salary for at least 60 days in the year prior to leaving Government service for the restrictions to come to bear.

The law imposes a one-year "cooling-off period" on these former legislative officials. For one year after leaving office, covered individuals may not seek official action by communicating with or appearing before specified current officials with the intent to influence them. Thus:

• Former Members may not seek official action from current Members, officers, or employees of either House of Congress or from current employees of any other legislative office.118

• Former elected officers of the House of Representatives may not seek official action from current Members, officers, or employees of the House.119

• Covered former employees from the personal staff of a Member may not seek official action from that Member or from any of the Member's current employees.120

• Covered former committee staff may not seek official action from any current Member or employee of the employing committee or from any Member who was on the committee during the last year that the former employee worked there.121

• Covered former employees on the leadership staff may not seek official action from current Members of the leadership122 or any current leadership staff employees.123

• Covered former employees of any other legislative office may not seek official action from current officers and employees of that legislative office.124

For the purposes of this statute, detailees are deemed to be employees both of the entity from which they come and the entity to which they are sent.125

These restrictions bar certain types of contacts with certain categories of officials, basically former colleagues and those most likely to be influenced on the basis of the former position. The law focuses on communications and appearances. By contrast, if a former official plays a background role, does not appear in person or convey his or her name on any communications, the law apparently does not prohibit that person from advising those who seek official action from the Congress. Such a background role does not pose the risk of improper influence since the current officials are not even aware of the former official's participation.126 The law does, however, absolutely preclude one set of activities regardless of whether the former official acts openly or behind the scenes. None of the officials subject to the limitations described above may represent, aid, or advise a foreign entity with the intent to influence any officer or employee of any department or agency of the United States Government.127

Exceptions

These restrictions do not apply to official actions taken by employees or officials of: the United States Government; the District of Columbia; state and local governments; accredited, degree-granting institutions of higher education; and hospitals or medical research organizations. They further do not preclude activities on behalf of international organizations in which the United States participates, where the Secretary of State certifies in advance that such activities serve the interests of the United States. In addition, section 207 does not prevent individuals from making uncompensated statements based on their own special knowledge, from furnishing scientific or technological information in areas where they possess technical expertise, or from testifying under oath.128

Penalties

Violation of sec. 207 is a felony, carrying penalties of imprisonment and/or fines. The statute authorizes imprisonment for up to one year (or up to five years for willfully engaging in the proscribed conduct). Additionally, an individual may be fined up to $50,000 for each violation or the amount received or offered for the prohibited conduct, whichever is greater. The statute further authorizes the Attorney General to seek an injunction prohibiting a person from engaging in conduct that violates the act.129 However, it is a legal defense to any Justice Department prosecution that an official sought the advice of his or her supervising ethics office before leaving office, and conducted his or her future activities in accordance with that advice.130 Thus, departing individuals with any concerns about the applicability of these restrictions to their proposed conduct would be well advised to secure an advisory opinion from the Committee on Standards.

Example 32.

Member A retired with the 101st Congress. A is not subject to any post-employment restrictions.

Example 33.

Member B retires in the middle of the 102d Congress to accept an appointed position in an executive branch agency. B may lobby Congress on behalf of the agency.

Example 34.

Member C retires at the end of the 102d Congress to become Governor of his state. C may lobby Congress on behalf of his state.

Example 35.

Member D retires at the end of the 102d Congress to become president of a private university. D may lobby Congress on behalf of the school.

Example 36.

Staffer E, who earns more than 75% of a Member's salary, resigns from her position on Member F's personal staff. She may not lobby F or anyone on his staff for one year (except on behalf of an exempt organization), but may lobby any other Member of Congress as soon as she leaves.

Example 37.

Staffer G, who earns more than 75% of a Member's salary, resigns from his position on the Ways and Means Committee. He may not lobby any current member or staffer of Ways and Means, or any Member who was on that committee during G's last year of congressional service, for any non-exempt person or entity, for one year. He may, however, lobby any other Member or staffer on any issue.

Negotiating for Future Employment

The House Code of Official Conduct prohibits House Members and staffers from receiving compensation "by virtue of influence improperly exerted" from congressional positions (Rule 43, clause 3). The Code of Ethics for Government Service (para. 5) forbids anyone in Government service from accepting "favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance" of governmental duties. In light of these restrictions, individuals should be particularly careful in how they go about negotiating for future employment, especially when negotiating with someone who could be substantially affected by the performance of official duties. It would be improper to permit the prospect of future employment to influence official actions. Therefore, while it is not specifically required, one should consider recusing oneself from any official activities affecting an outside party with whom job negotiations are under way.

Employment Considerations for Spouses of Members

Being married to a Member of Congress does not, of course, preclude one from earning a salary. Certain aspects of a spouse's employment, however, may have ramifications for the Member.131

Federal law, at 5 U.S.C. sec. 3110, generally prohibits a Federal official from hiring or promoting a relative, including a spouse. A Member's spouse may work in the congressional office, but only on an unpaid basis (unless the employment predated the marriage).132

Spouses who accept positions with Federal, state, or local governments should be aware of a political limitation. Under the "Hatch Act,"133 most employees in the executive branch of Government may not take active part in political campaigns. Thus, an individual employed by the Federal Government may not be able to campaign on behalf of his or her spouse. Because the penalty for violation ranges up to removal or suspension, the employed spouse should consult with his or her supervising ethics office to determine the propriety of proposed campaign activities.

Neither Federal law nor House rules specifically precludes a Member's spouse from engaging in any activity on the ground that it could create a conflict of interest with the Member's official duties. However, House rules and statutory provisions impute to the Member certain benefits that are received by the spouse. Thus the question may arise as to whether the Member is improperly benefiting as a result of the spouse's employment.

House Rule 43, clause 3, part of the Code of Official Conduct, prohibits a Member from receiving any compensation, or allowing any compensation to accrue to the Member's beneficial interest, from any source as a result of an improper exercise of official influence. Additionally, the Code of Ethics for Government Service (para. 5) admonishes officials never to accept benefits for themselves or their families "under circumstances which might be construed by reasonable persons as influencing the performance" of official duties. The income received by a spouse from employment usually accrues, albeit indirectly, to a Member's interest. Nonetheless, neither of these provisions is triggered by a spouse's employment unless the Member has improperly exerted influence or performed official acts either in order to obtain compensation for or as a result of compensation to the spouse.

Caution must also be exercised regarding the receipt of gifts. The House gift rule (Rule 43, clause 4) limits the value of gifts a Member may receive to $250 from any one source in any one year. While gifts from relatives are exempt, gifts from other third parties to a spouse (or dependent child) may count as indirect gifts to the Member, unless the gifts are wholly independent of the family relationship.134

As explained in more detail in Chapter 6, official resources may only be used for official purposes. Thus a Member may not use any congressional resources (including, e.g., staff time or the office computer) on behalf of any private enterprise, including a spouse's professional activities.

This Committee has formally addressed matters relating to spouses in a number of instances. In the 98th Congress, two Members were found to have violated rules relating to filing Financial Disclosure Statements under the Ethics in Government Act.135 In the first case, the Member had already been convicted of four counts of knowingly and willfully filing a false statement with the Government under 18 U.S.C. sec. 1001.136 Among other discrepancies, he failed to report properly a bank loan to his wife, the payoff of that loan by a third party, and receipt of the proceeds of a commodities transaction.

In the second case, the Member improperly claimed the spousal exemption, thus failing to report assets and income attributable to her. In general, only the source of a spouse's earned income over $1,000, not the amount, need be shown on a Member's Financial Disclosure Statement. Other information concerning a spouse (as well as a dependent) must be reported with the same degree of detail as that required of the Member, except for the following:

…items (i) which the reporting individual certifies represent the spouse's or dependent child's sole financial interest and responsibility and which the reporting individual has no knowledge of, (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.137

The Committee noted, in this case, that "[i]t is only under rare circumstances…that the exemption is available."138 It would not be available, for example, where a spouse's holdings support the Member's vacations, the education of the Member's dependents, the maintenance of the Member's home, or where the Member has a possibility of inheriting the spouse's assets.139

On occasion, the Committee has looked into allegations that spouses were not earning their income, but rather that their salaries and benefits were provided as indirect gifts to the Members. In one case, the Committee issued a Statement of Alleged Violations, finding reason to believe that the Member had violated the gift and financial disclosure rules. There, the Committee found no evidence supporting or establishing that the spouse had provided identifiable services or work products to the employer in return for her salary, free and reduced housing benefits, and the use of a company car. Thus, the Committee imputed the money and benefits to the Member, since circumstances indicated that they were not provided wholly independent of her relationship to him.140 The Member resigned before a disciplinary hearing could take place. Where, however, a spouse is performing work in return for his or her salary, attempts to impute that salary as a gift to the Member will not stand.141

Appendices to Chapter 3

Select Committee on Ethics Advisory Opinion No. 1131

SUBJECT: GENERAL INTERPRETATION OF HOUSE RULE XLVII, DEALING WITH LIMITATIONS ON MEMBERS' OUTSIDE EARNED INCOME

1. General

(a) Purpose of the rule.—House Rule XLVII, was adopted on March 2, 1977 as part of the financial ethics code. Originally limited to Members, it was amended by the Ethics Reform Act of 1989 to include officers and senior employees.2 Besides restricting the type of employment in which covered individuals can engage, the Rule limits the amount of "outside earned income" a Member, officer, or senior employee may have.3 Two major considerations prompted adoption of the Rule. First, substantial payments to a Member, officer, or senior employee for rendering "personal services" to outside groups presents a significant and avoidable potential for conflict of interest. Second, it is inconsistent with the concept that being a Member, officer, or senior employee of Congress is a full-time job to permit substantial earnings from other employment.

(b) Annual Limitation generally.—Clause 1 of the Rule prohibits a Member, officer, or senior employee from having outside earned income attributable to a calendar year which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule as of January 1 of such calendar year.4 In order for an item to be counted against this limitation for a particular year: (i) it must be "outside earned income" within the meaning of Rule XLVII; and (ii) it must be attributable to that year. The Rule defines outside earned income to mean "wages, salaries, fees, and other amounts received or to be received as compensation for personal services actually rendered."

Outside earned income is attributed to the year in which the Member's, officer's or employee's right to receive it becomes certain (i.e., under the accrual method) rather than to the year of receipt. Therefore, receipt of income earned during a particular year cannot be deferred to a future year in which the Member, officer, or employee has less outside earned income or until after the individual retires from Congress. The limitation is not applicable to compensation for personal services rendered prior to the effective date of Rule XLVII, or prior to the effective date of the individual's becoming a Member, officer, or employee, if later. Outside earned income is determined without regard to any community property law. That is, even though under applicable community property law one-half of any personal service income earned by an individual is deemed to belong to the spouse, all of such income is considered earned income of the Member, officer, or employee for purposes of the Rule. (c) Real facts controlling. —The limitations imposed by rule XLVII may not be avoided by the characterization or disposition of any payment for services rendered. In all cases, the real facts will control. For example, if a spouse, child, other relative of a member, officer, or employee, or trust for the benefit of any of them, is paid an amount, however denominated, and the true consideration for the payment is services rendered by the Member, officer, or employee, the amount will be deemed outside earned income by the Member, officer, or employee. Similarly, the lable or characterization placed on a transaction, arrangement or payment by the parties may be disregarded for purposes of the Rule. Thus, if amounts received or to be received by a Member, officer, or employee are in fact attributable to any significant extent to services rendered by the Member, officer, or employee, the characterization of such amounts as partnership distributive share, dividends, rent, interest, payment for a capital asset, or the like, will not serve to prevent the application of Rule XLVII to such amounts. Moreover, the Rule applies to outside earned income realized in a medium other than money, for example, in property or services or through a bargain purchase or forbearance in consideration of personal services rendered. In short, income may not be recharacterized in order to circumvent the Rule. Indeed, characterization of income is essentially irrelevent. For purposes of this Opinion, there are two types of income—earned and unearned. If the compensation received is essentially a return on equity, then it would generally not be considered to be earned income. If the income is not a return on equity, then such income would generally be considered to be earned income and subject to the limitation. When such amounts received or to be received by a Member, officer, or employee are designated as salary, fees, or commissions, the overriding presumption is that such amounts, almost by definition, constitute compensation for personal services rendered. An honorarium from a speaking engagement, for example, is obviously outside earned income.5 With respect to income from business ventures, the Committee is convinced that in the overwhelming majority of cases, there will be little or no difficulty in determining whether certain income is subject to the Rule. Again, the facts of each individual case will govern applicability of the Rule, but the principles set forth in this Opinion should be followed in making that determination.

2. Outside earned income from business ventures

This Advisory Opinion differentiates between businesses in which both capital and personal services are material income-producing factors and those in which personal service is the only material income-producing factor.

(a) Personal service businesses.—Where a Member, officer, or employee owns or participates in a personal service business, such as a professional practice, in which capital is not a material income-producing factor, his or her entire share of the profits is deemed to be outside earned income for purposes of the Rule, except to the extent it can be demonstrated that the income in fact represents a return on investment. In general, capital is not a material income-producing factor where gross income of the business consists principally of fees, commissions or other compensation for personal services performed by an individual. Thus, the practice of one's profession by a doctor, lawyer, insurance broker, or real estate agent will not, as such, be treated as a business in which capital is a material income-producing factor. Even where the practitioner may have a substantial investment in professional equipment or in the physical plant constituting the office from which he conducts his practice, the capital investment would be regarding as only incidental to the professional practice.6

Moreover, the fact that the Member, officer, or employee may not personally participate to any substantial extent in the rendering of services to the customers or clients of the business, all such services being performed by assistants or associates, would not serve to justify classification of his or her share of the business income as other than earned income. If a Member, officer, or employee shares in the profits of a personal service organization without being required to perform any significant productive services, absent a strong showing to the contrary, it will be presumed that the Member, officer, or employee is being compensated for attracting or retaining clients, and such income is considered outside earned income.

Law practices.—Since there are a number of attorneys serving in the House of Representatives, for purposes of example, application of the Rule to the practice of law is specifically addressed in this Opinion. Those Members, officers, and senior employees who previously maintained an active affiliation with a law firm generally find it necessary to enter into a buy-out agreement with their partners in order to liquidate their equity in the firm. This is perfectly appropriate. Amounts received or receivable by a Member, officer, or employee in payment for an interest in a law firm or similar organization upon retirement from it would not constitute outside earned income so long as the amounts payable do not, in effect, represent a continuing participation in the law firm and the total amount payable is not in excess of the fair market value of the interest of the Member, officer, or employee. Normally such arrangements call for fixed payments at annual or more frequent intervals over a period of years. In

Payments to a Member, officer, or employee under a buy-out agreement will not be deemed to be outside earned income where the arrangements are entered into in good faith and agreed to by all the partners, and reflect the usual and customary value of the equity generally accorded to partners in similar law practices in the same geographic area. A buy-out agreement should also be reasonably calculated to avoid the Member's, officer's, or employee's participation in post-withdrawal profits. In general, the proceeds resulting from a buy-out agreement are taxed as capital gains. If such an agreement is not limited to liquidation of the Member's, officer's or employee's equity in the firm, and includes payments which might be taxable as earned income, any such payments under the agreement might be subject to the earned income limitation.

The Committee notes that Rule XLVII, clause 2, and section 502 of the Ethics in Government Act prohibit a Member, officer, or employee from receiving compensation for affiliating with or being employed by a firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship. Even if no compensation is received, the Member, officer, or employee may not permit his or her name to be used by any such firm, partnership, association, corporation, or other entity. This limitation parallels the American Bar Association Code of Ethics, which states in part: "A layer who assumes…a legislative post…shall not permit his name to remain in the name of a law firm or to be used in the professional notice of the firm during any significant period in which he is not actively and regularly practicing law as a member of the firm." (ABA Disciplinary Rule 2-102B).

(b) Business where capital is a material income-producing factor.—Capital is a material income producing factor if a substantial portion of the gross income of the business is attributable to the employment of capital, as reflected, for example, by a substantial investment in inventories, plant, machinery or other productive equipment. This Opinion discusses the application of the Rule in such cases to income from a fully taxable corporation and income from an unincorporated business or Subchapter S corporation.

(1) Taxable corporations

If a Member, officer, or employee renders services to a fully taxable business corporation, he or she will not be deemed to realize outside earned income from such services beyond the amount of salary or other form of extra compensation designated as consideration for the personal service rendered. In those cases where the sole financial interest of the Member, officer, or employee is stock in the corporation, an increase in the net assets of the corporation would not be considered to be subject to the limitation. An increase in the value of stock or other property is not ordinarily treated as earned income either for tax purposes or under generally accepted accounting principles; and any increase in the corporation's net profits would be subject first to corporate income tax and then to personal income tax before the Member, officer, or employee receives any resulting increment to his or her wealth through a dividend or sale of stock. The foregoing has no application, of course, to income which a Member, officer, or employee earns through personal efforts in dealings with third parties but causes to be paid to a corporation and distributed. For example, if a Member, officer, or employee incorporates for the purpose of conducting a personal service, and all fees are paid to the corporation from which "profits" are then drawn, all such amounts would be considered outside earned income. In sum, if a Member, officer, or employee renders services to a taxable corporation, only the salary or other compensation received for those services would be subject to the limitation, but not any increase in the corporation's assets or a share of the profits. This ruling is consistent with the intent of the Commission on Administrative Review which recommended the limitation on outside earned income. In its report (House Document No. 95-73), the Commission stated that "…Members should be able to render personal services to manage or protect their equity…without having to allocate these personal services toward the 15 percent limitation."

(2) Subchapter S corporations, partnerships, unincorporated businesses

In those cases where the Member, officer, or employee has an ownership interest in a business for which he or she also performs services, as in a subchapter S corporation or a partnership, some part of the individual's share of the profits of that business may reflect the value of services, and thus would be considered outside earned income. The determining factor is whether the Member's, officer's, or employee's personal services generate significant income for the business. Of course, if the Member, officer, or employee receives formal income from the business, for example, payments designated as salary or fees, such amounts would be considered earned income. Additionally, in those cases where other partners or associates are providing capital and managerial experience, and the principal role of the Member, officer, or employee is to refer clients to the business or to help retain existing customers or clients, the Member, officer, or employee would be deemed to be rendering income-producing services, even though the actual time involved might be minimal. However, if the Member, officer, or employee, is engaged primarily in the general oversight and management or protection of his or her investment, such services would not be deemed to generate significant income. Such non-income generating services would include consultation with other management officials, analysis of financial and other reports, participation in formal meetings, and making decisions concerning the general operations and investment strategy of the business. The application of the Rule to the various types of business organiztions as discussed in this Opinion applies equally to a business owned or controlled by the Member, officer, or employee or the individual's family. Again, the determining factor is whether or not the personal services of the Member, officer, or employee actually generate any significant income for the business. In those situations where the services rendered by the Members, officers, or employees are incidental and do not generate significant income, no part of a share of the profits or any increase in the assets of the business would be deemed to be outside earned income. The Committee emphasizes that the definition of earned income in Rule XLVII, which excludes amounts received by a Member, officer, or employee from a family controlled business "so long as the personal services actually rendered by the individual…do not generate a significant amount of income," was simply intended to assure Members, officers, and employees that they could continue to make dicisions and take actions necessary to manage or protect their equity in a family trade or business, and would not be forced to divest themselves of their family business interests. As with any business, a Member, officer, or employee would not be required to allocate a share of the profits of the business as outside earne income when the facts and circumstances show that the income is in reality a return on investment. For example, if the Member, officer, or employee owns a hardware store and the services rendered are incidental, such as occasionally serving customers, the income received from the business is basically a return on equity, (i.e., profits from the sale of hardware goods) and is not generated by the services of the Member, officer, or employee. Similarly, if the Member, officer, or employee gives overall direction to the management of the business for a family owned farm, the income received from the farming operations is not generated by the personal services of the Member, officer, or employee, but rather is basically a return on equity form the sale of crops or dairy products. These types of businesses are distinguishable from personal service business where income is essentially produced by the services of the individual affiliated with the organization.7

(3) When income is attributable

(a) Income from pre-effective date services.—The Rule excludes from earned income any compensation derived by a Member, officer, or employee for personal services rendered prior to the effective date of the Rule or prior to the effective date of becoming a Member, officer, or employee, if later. This provision would serve to exclude from the limitation, for example, most renewal commissions paid to a Member, officer, or employee with respect to life insurance policies sold prior to the effective date, or similar commissions received by a Member, officer, or employee with respect to pre-employment leases in which the individual was the leasing agent. In most such arrangements, payment of the commission is not contingent upon the performance of any future services by the recipient; the only contingency is that the insured or lessee continue to pay premiums or rent, as the case may be. The exclusion would also apply to a fee received by a Member, officer, or employee who was a lawyer where all the work had been done prior to the effective date. However, this exclusion would not apply to income derived from the continuing or future business of clients brought into the firm prior to the effective date of the Rule.

(b) Application of the limitation to part years.—Where an individual becomes a Member, officer, or employee during any calendar year, the Rule applies only to outside earned income of the individual attributable to periods after the effective date of becoming a Member, officer, or employee. For the balance of the calendar year, the applicable limitation will be 15% of the Executive Level II salary for that part of the year, and only outside earned income attributable to that part is counted against the limitation.

(4) Other provisions

(a) Payments attributed to deferred compensation plans.—Amounts received by a Member, officer, or employee from a tax-qualified pension, profit sharing or stock bonus plan are not treated as outside earned income, as provided in the Rule, nor are contributions to such a plan counted as outside earned income. Amounts received by a Member, officer, or employee from a non-qualified deferred compensation plan which were earned in a year prior to the effective date of the Rule or the individual coming to Congress are not outside earned income for the year received under the principle explained in section 3(a), provided no part of the consideration for such payments is current services. Amounts set aside for a Member, officer, or employee under a non-qualified deferred compensation plan for services rendered after the Rule's effective date or coming to Congress will generally constitute outside earned income of the Member, officer, or employee for that year, even though they will not be received until a later year, unless receipt is subject to a substantial risk of forfeiture. (b) Assignment of income to charities.—Notwithstanding the general holding of this Opinion that a Member, officer, or employee cannot deflect the application of the Rule by assigning to another income which in fact was earned through rendering services, earned income assigned by a Member, officer, or employee to a tax-exempt charity will not be counted as part of the outside earned income of the Member, officer, or employee, provided the individual is not a "disqualified person" with respect to the recipient organization within the meaning of section 4946 (a) of the Internal Revenue Code. For the purposes of this portion of the Rule, such income would not be deemed to have been "received" by the Member officer, or employee provided that he or she did not personally benefit in any way from such income.8

If an amount paid to charity is treated as constructive income, a Member, officer, or employee could possibly receive an indirect tax benefit. For example, such amounts may be counted as adjusted gross income for the purposes of computing entitlement to make contributions to a tax-favored "Keogh" retirement plan. The Member, officer, or employee would also be allowed to take an itemized deduction for a charitable contribution under section 67 of the Internal Revenue Code. Any tax or other financial benefit on account of payments directed to charity in consideration of personal services may result in the Member, officer, or employee being viewed as receiving income for the purposes of House Rule 47 and 5 U.S.C. app. 7, sec. 502.

(c) Honoraria.—Clause 1(a)(1)(B) of Rule XLVII provides that a Member, officer, or employee of the House may not receive any honorarium. Clause 3(c) defines "honorarium" to exclude any actual and necessary travel expenses incurred by the Member, officer, or employee in connection with the event. Payment of actual and necessary travel expenses of a relative accompanying the Member, officer, or employee are also excluded from the limitation. A payment in lieu of an honorarium may be made directly by the sponsor of an event to a qualified charitable organization on behalf of a Member, officer, or employee. No such payment may exceed $2,000, nor may it be made to a charitable organization from which the Member, officer, or employee or a parent, sibling, spouse, child, or dependent relative of the Member, officer, or employee derives any financial benefit.9 Section 7701(k) of the Internal Revenue Code provides that an amount so paid to a charitable organization is not deemed income to the Member, officer, or employee for tax purposes, nor is any charitable deduction allowed.

Ban on Compensated Professional Services Involving a Fiduciary Relationship

MEMORANDUM OF APRIL 23, 1991

TO: Members, Officers, and Senior Employees of the U.S. House of Representatives

FROM: Committee on Standards of Official Conduct Louis Stokes, Chairman James V. Hansen, Ranking Minority Member

The Ethics Reform Act of 1989 amended Federal law and House Rules to include new restrictions on outside earnings beginning January 1, 1991. Members and senior staff (those earning $72,2981 and above) may not receive more than 15 percent of the Executive Level II (House Member) salary in outside earned income in a calendar year. 5 U.S.C. app. 7, sec. 501(a); House Rule XLVII, clause 1(a)(1)(A). For 1991, this limit is $18,765. Regardless of whether this income level is reached, however, certain types of earnings are absolutely prohibited.

All House Members and staff are precluded from receiving any honoraria. 5 U.S.C. app. 7, sec. 501(b); House Rules XLIII, clause 5, and XLVII, clause 1(a)(1)(B). In addition, section 502 of the Ethics in Government Act (5 U.S.C. app. 7, sec. 502) provides that Members and senior employees 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) serve for compensation as an officer or member of the board of any association, corporation, or other entity.

See also House Rule XLVII, clause 3(d). The Committee on Standards of Official Conduct is responsible for interpreting these provisions for the House. The Attorney General, however, is also authorized to seek a civil penalty for prohibited conduct of the greater of $10,000 or the amount of the compensation involved. 5 U.S.C. app. 7, sec. 503.

The statute does not define "professional services which involve a fiduciary relationship." The House Bipartisan Task Force on Ethics report on the Ethics Reform Act of 1989 cited the definition of "fiduciary" at page 563 of Black's Law Dictionary (5th ed. 1979) as "one having a duty to act primarily for another's benefit on matters connected with such undertaking." The report further stated:

[T]he task force intends that the term fiduciary not be applied in a narrow, technical sense and wants to ensure that honoraria not reemerge in various kinds of professional fees from outside interests.

The Task Force suggested the fiduciary provision might reach "services such as legal, real estate, consulting and advising, insurance, medicine, architecture, or financial." Report on H.R. 3660 at 16, 135 Cong. Rec. H9257 (daily ed. Nov. 21, 1989). However, during the floor debate on the Act, the Chairman of the Task Force emphasized the definition of fiduciary would "ultimately be a decision of the Committee on Ethics" and that "Members should request an opinion from the Ethics Committee as to the application of the rule in their own particular situation." 135 Cong. Rec. H8757 (daily ed. Nov. 16, 1989).

The primary objectives behind the fiduciary restrictions appear to have been as follows: The first was to prevent any conflicts of interest between a private duty to act primarily for another's benefit and the public duty to act for the common good. The second was to avoid the appearance that Members and employees were using their positions for personal gain. And the third was to "ensure that honoraria not reemerge in various kinds of professional fees from outside interests." See Task Force Report, supra, at 15-16.

To determine whether employment in which a Member or senior employee proposes to engage is prohibited under the statute, the Committee will look beyond the title of the position and the kind of services typically performed by those in the occupation. The Committee will evaluate the nature and circumstances of each individual's particular employment on a case-by-case basis in light of the objectives of the Act.

Specifically, the Committee will first look at the company offering the compensation to determine if it primarily "provides professional services involving a fiduciary relationship." If its regular work is to transact business or to handle money or property for another's benefit "in a relation implying and necessitating great confidence and trust on the one part and a high degree of good faith on the other part," then employment with that entity in any capacity is precluded. See Black's Law Dictionary, supra, at 564.

If the firm itself does not provide professional services involving a fiduciary relationship, the Committee will then apply the following three-pronged test to determine whether professional services for which an individual seeks to be paid involves a prohibited "fiduciary relationship:"

Could the employment result in a conflict of interest between private and public responsibilities?

Does the employment create an appearance that an official position is being used for private gain?

Does the compensation appear to be an effort to circumvent the ban on honoraria?

The Committee will consider, for example, whether the individual is acting on behalf of his or her family or a private client; whether the relationship pre-dates the individual's government service; and whether the employment is consistent with policies enunciated in other laws or House Rules. No one factor will necessarily control.

To provide initial guidance, attached is a summary of some sample advisory opinions recently issued to Members and employees using the three-pronged test adopted by the Committee.

Any Member or senior employee should request the Committee's guidance prior to engaging in any compensated activity which might be construed as involving a fiduciary relationship. Requests for written opinions should be directed to the Chairman of the Committee on Standards of Official Conduct at HT-2, The Capitol, Washington, D.C. 20515. Telephone advice is available from the Committee's Office of Advice and Education at (202) 225-3787. ATTACHMENT SAMPLE ADVISORY OPINIONS RELATED TO "FIDUCIARY" RESTRICTIONS

1. An individual could receive a "consulting" fee for management advice relating to a family owned, capital intensive business which was founded before the person came to Congress, but could not be compensated for being on the board of directors.

2. An individual could continue to receive payment for working on unofficial time for another person's campaign committee, but could not be paid for service as Treasurer.

3. An individual could not receive compensation for consulting on computers where official duties involved ongoing oversight of computer activities.

4. An individual could receive compensation for giving management advice to a relative's advertising firm where the individual would neither solicit nor directly advise clients.

5. Even though not compensated, an individual could not be shown as "Of Counsel" on the letterhead of a law firm. 6. An individual could not receive fees for legal advice to a corporation in which the person owned a minority interest.

7. An individual could not earn income from insurance sales and acting as a real estate broker.

8. An individual could remain affiliated with a real estate firm as a sales agent in order to maintain a license where not actually selling real estate and where the individual's name was not being used publicly by the firm.

9. An individual could continue to serve as paid trustee for a trust established by one family member for the benefit of other family members where the investment advice of an outside organization was being followed.

10. An individual could continue to receive compensation for serving as trustee for an estate of a client where the relationship predated the congressional service, and could act as named plaintiff in a state court action on behalf of the estate.

11. An individual could receive compensation for acting as the executor of the estate of an immediate family member.

12. An individual could receive compensation for acting as the guardian of the disabled child of a former client where the relationship predated congressional service.

13. An individual could have a corporate director's fee donated to charity only if the action did not entitle the individual to any direct or indirect financial benefit.

14. An individual could not continue to receive a fee per meeting for service as a corporate director, but could receive travel reimbursements as an unpaid director.

Teaching Guidelines

MEMORANDUM OF APRIL 24, 1991

TO: Members, Officers, and Employees of the U.S. House of Representatives

FROM: Committee on Standards of Official Conduct Louis Stokes, Chairman James V. Hansen, Ranking Minority Member

This memorandum sets forth the Committee's criteria for approving paid teaching arrangements.

The Ethics in Government Act (5 U.S.C. app. 7, sec. 502(5)) provides that Members and senior staff (those earning $72,2981 and above) may not—

Receive compensation for teaching, without the prior notification and approval of the Committee on Standards of Official Conduct.

See also House Rule XLVII, clause 3(d).

In addition, the Ethics Reform Act of 1989 (Pub. L. 101-194 as amended by Pub. L. 101-280) revised Federal law and House rules beginning January 1, 1991, to prohibit receipt of honoraria by most Federal officials, including ALL Members, officers, and employees of the House of Representatives. 5 U.S.C. app. 7, sec. 501(b); House Rules XLIII, clause 5, and XLVII, clause 1(a)(1)(B).

The statute and House rules use a similar definition, as follows:

The term "honorarium" means a payment of money or any thing of value for an appearance, speech, or article by a Member, officer or employee….

5 U.S.C. app. 7, sec. 505(3); see also House Rule XLVII, cl. 3(c).

In recommending the honoraria ban in its report on the Ethics Reform Act, the House Bipartisan Task Force on Ethics referred to a number of concerns:

Significant increases in honoraria income in recent years has heightened the public perception that honoraria is a way for special interests to try to gain influence or buy access to Members of Congress, particularly since interest groups most often give honoraria to Members who serve on committees which have jurisdiction over their legislative interests.

…There is growing concern that the practice of acceptance of honoraria by Members, particularly from interest groups with important stakes in legislation, creates serious conflict of interest problems and threatens to undermine the institutional integrity of Congress.

The Task Force intended that—

…the prohibition on honoraria for speeches, articles, and appearances extends to payment or compensation for such activity in any form. The ban on honoraria could not be circumvented, for example, by arranging for a continuing series of talks, lectures, speeches, or appearances and re-characterizing the income as a "stipend" or "salary."

Report on H.R. 3660 at 13-14, 135 Cong. Rec. H9257 (daily ed. Nov. 21, 1989) (emphasis added).

The Committee will scrutinize each request to teach for compensation in light of the concerns expressed by the Task Force regarding acceptance of honoraria and favors from special interest groups. In order to receive approval, the teaching must conform to the following criteria:

1. The teaching is part of a regular course of instruction at an established academic institution;

2. All compensation comes from the funds of the institution and none is derived from federal grants or earmarked appropriations;

3. The payment is for services on an ongoing basis, not for individual presentations or lectures;

4. The teacher's responsibilities include class preparation and student evaluation (for example, grading papers, testing, and homework);

5. The students receive credit for the course taught;

6. The compensation does not exceed that normally received by others at the institution for a comparable level of instruction and amount of work;

7. No official resources, including staff time, are used in connection with the teaching;

8. The teaching does not interfere with official responsibilities nor is it otherwise inconsistent with the performance of congressional duties; and

9. The employment or compensation does not present a significant potential for conflict of interest.

Items 1 through 6 should be confirmed in writing by the institution at which the paid teaching will occur. Documentation might be in the form of an explanatory letter or copy of a teaching contract attached to the request for Committee approval. Items 7 through 9 should be affirmed in writing by the individual seeking to teach.

The Committee will also approve requests to teach for compensation in less formal settings such as Sunday School, piano lessons, aerobics classes, and other situations clearly unrelated to official duties or an individual's status in Congress. No documentation need be submitted from the employing institution in such instances.

Members and senior staff may not receive more than 15 percent of the Executive Level II (House Member) salary in outside earned income in a calendar year. 5 U.S.C. app. 7, sec. 501(a); House Rule XLVII, clause 1(a)(1)(A). For 1991, this limit is $18,765. All earned income aggregating $200 or more in value from any one source in a calendar year must be disclosed on the Financial Disclosure Statement filed pursuant to the Ethics in Government Act of 1978, as amended.

Requests for approval of paid teaching arrangements should be directed to the Chairman of the Committee on Standards of Official Conduct at HT-2, The Capitol, Washington, D.C. 20515. Telephone advice is available from the Committee's Office of Advice and Education at (202) 225-3787.

Honoraria Ban—Further Guidance

MEMORANDUM OF APRIL 25, 1991

TO: All Members, Officers, and Employees of the U.S. House of Representatives

FROM: Committee on Standards of Official Conduct Louis Stokes, Chairman James V. Hansen, Ranking Minority Member

The Ethics Reform Act of 1989 revised Federal law and House rules beginning January 1, 1991, to prohibit receipt of honoraria by most Federal officials. While some of the outside income limitations in the House apply only to Members and senior employees, the prohibition against speaking, appearing, or writing articles for pay applies to ALL Members, officers, and employees of the House of Representatives, no matter what the salary level. See 5 U.S.C. app. 7, secs. 501(b), 505(1)-(2); House Rules XLIII, cl. 5; XLVII cl. 1(a)(1)(B), cl. 3(a)-(b). The Committee on Standards of Official Conduct is responsible for implementing this prohibition in the House. This memorandum explains Committee policy on the honoraria ban. WHAT CONSTITUTES AN HONORARIUM, SPEECH, APPEARANCE, AND ARTICLE

The statute and House Rule use a similar definition, as follows:

The term "honorarium" means a payment of money or any thing of value for an appearance, speech, or article by a Member, officer or employee, excluding any actual and necessary travel expenses incurred by such individual (and one relative)….

5 U.S.C. app. 7, sec. 505(3); see also House Rule XLVII, cl. 3(c).

In recommending the honoraria ban in its report on the Ethics Reform Act, the House Bipartisan Task Force on Ethics referred to a "public perception that honoraria is a way for special interests to try to gain influence or buy access to Members of Congress." The Task Force intended that—

the prohibition on honoraria for speeches, articles, and appearances extends to payment or compensation for such activity in any form. The ban on honoraria could not be circumvented, for example, by arranging for a continuing series of talks, lectures, speeches, or appearances and re-characterizing the income as a "stipend" or "salary." Report on H.R. 3660 at 13-14, 135 Cong. Rec. H9257 (daily ed. Nov. 21, 1989); emphasis added. Consistent with this guidance, the Committee has adopted the following definitions relating to the prohibition on receipt of honoraria:

A speech means an address, oration, talk, lecture, or other form of oral presentation, whether delivered in person, transmitted electronically, recorded, or broadcast over the media, but does not include teaching in an established educational program that conforms to teaching criteria established by the Committee.

An appearance means attendance at a public or private conference, convention, meeting, social event or like gathering, possibly but not necessarily involving incidental conversation, discussion, or remarks.

An article means a writing that has been or is intended to be published, for which a payment, if made, would be other than a royalty received from an established publisher pursuant to usual and customary contractual terms.

Payments for a series of speeches, appearances, or articles will be deemed honoraria, and thus prohibited, if the subject matter is directly related to the individual's official duties or the payment is made because of the person's status in Congress.

The following are not considered honoraria:

Bona fide awards and gifts. Thus, if a Member, officer or employee is presented with an award, memento, or gift at an event, the object would not be considered an honorarium, unless specifically given in consideration of a speech or appearance. Similarly, an award for artistic, literary or oratorical achievement made on a competitive basis under established criteria could be accepted.

Compensation for activities where speaking, appearing, or writing is only an incidental part of the work for which payment is made (e.g., conducting research).

Paid engagements to perform or to provide entertainment where the artistic, musical or athletic talent of the individual is the reason for the employment, rather than the person's status as a Member or employee of Congress.

Witness fees by a court or other governmental authority.

Fees to a qualified individual for conducting worship services or religious ceremonies (but not for speeches or invocations at religious conventions);

Payments for works of fiction, poetry, lyrics, or script, where the payment is not offered because of the author's congressional status. PAYMENTS TO CHARITY

While no honorarium may be received by a Member, officer, or employee, a payment may be made directly by the sponsor of an event to a qualified charitable organization in honor of an individual's speech, appearance, or article. 5 U.S.C. app. 7, sec. 501(c). While the individual may identify the charity (or charities) which should get a donation, the check to the charity may not pass through the hands of the Member or other individual requesting that the payment be made. The Internal Revenue Code has been amended to provide that any amount so paid to a charitable organization will no longer be deemed income to the individual for tax purposes, nor will any deduction be allowed. 26 U.S.C. sec. 7701(k).

No single payment in lieu of an honorarium may exceed $2,000, nor may a payment be made to a charity from which the "individual or a parent, sibling, spouse, child, or dependent relative of such individual derives any financial benefit." 5 U.S.C. app. 7, sec. 501(c); House Rule XLVII, clause 3. It does not matter whether the relative receives any part of the actual payment in lieu of an honorarium. If the relative receives any financial benefit from the organization, the payment may not be directed there.

The prohibition on payments to charities from which a family member benefits financially extends to separate funds within, or closely affiliated with, the same local organization. However, a payment to an affiliated national organization is permitted, provided that the funds are not earmarked in any way for the local affiliate. The provision also does not prohibit a payment to a university at which the Member's or employee's child is a student or to a health care facility at which a family member is a patient. See Report on H.R. 3660, supra, at 15.

"Charitable organization" means an organization described in section 170(c) of the Internal Revenue Code. 5 U.S.C. app. 7, sec. 505(5); House Rule XLVII, clause 3(f). To qualify, an entity generally must be organized in the United States and operated exclusively for religious, charitable, scientific, literary, or educational purposes. Donated funds and earnings may not benefit any private individual, nor may a qualified organization attempt to influence legislation or political campaigns. TRAVEL AND FINANCIAL DISCLOSURE CONSIDERATIONS

The Committee has long authorized Members, officers, and employees to accept necessary travel expenses from the sponsors of events in which they substantially participate, but for which no honoraria are paid. See Advisory Opinion No. 2 of the House Select Committee on Ethics, 95th Congress. Privately paid travel to events involving speaking or appearing is subject to restrictions concerning the number of days for which expenses may be accepted, who may accompany a Member, officer, or employee at the sponsor's expense, and financial disclosure of travel received and payments to charity in lieu of honoraria.

If an individual receives an improper honorarium, not only may the Committee take action under House rules, but the Attorney General may seek a civil penalty of the greater of $10,000 or the amount of compensation received. 5 U.S.C. app. 7, sec. 504.

Any questions regarding the honoraria prohibition or any other matters within this Committee's jurisdiction should be directed to the Committee's Office of Advice and Education at (202) 225-3787. Requests for written opinions should be directed to the Chairman of the Committee on Standards of Official Conduct at HT-2, The Capitol, Washington, D.C. 20515.

Chapter 4: Financial Disclosure

Highlights

Financial interests and investments of Members and employees, as well as those of candidates for the House of Representatives, may present conflicts of interest with official duties. Members and employees need not, however, divest themselves of assets upon assuming their positions, nor must Members disqualify themselves from voting on issues that generally affect their personal financial interests. Instead, public financial disclosure provides a means of monitoring and deterring conflicts.

All Members, officers, and employees are prohibited from improperly using their official positions for personal gain. Members, officers, candidates, and certain employees must file annual Financial Disclosure Statements, summarizing financial information concerning themselves, their spouses, and dependent children. Such Statements must indicate outside compensation, holdings, and business transactions, generally for the calendar year preceding the filing date.

Who Must File

The following individuals must file Financial Disclosure Statements:

• Members of the House of Representatives;

• Candidates for the House of Representatives;

• House officers and employees earning at least 120 percent of the Federal GS-15 base level salary, i.e., $73,972 in 1991 and $77,080 in 1992; and

• Principal assistants on Members' personal staffs, as designated by the Members. At least one employee on each Member's personal staff must file, even if no one earns 120 percent of the GS-15 base salary.

When to File

Members, officers, and covered employees must file Financial Disclosure Statements by May 15 of each year.

New officers and covered employees must file within 30 days of assuming their positions.

Candidates who raise or spend more than $5,000 for their campaigns must file within 30 days of doing so, or by May 15, whichever is later, but in any event at least 30 days prior to the elections in which they run.

Termination reports must be filed within 30 days of leaving government employment by Members, officers, and employees who file Financial Disclosure Statements.

Chapter 4: Financial Disclosure

The private financial interests and investment holdings of Members and employees of, and candidates for, the House, as well as those of their immediate families, may present conflicts of interest with official duties. Circumstances may arise where a Member must act on legislation or an employee must give assistance concerning a matter that directly affects a personal financial interest. The personal financial interest, rather than the interest of the general public or the Member's constituency, could then influence official action.

As discussed by the New York City Bar Association:

The evil is not only the possibility or appearance of private gain from public office, but the risk that official decisions, whether consciously or otherwise, will be motivated by something other than the public's interests. The ultimate concern is bad government, which always means actual harm to the public. \* \* \* \*

The evil, then, is risk of impairment of impartial judgment, a risk which arises whenever there is temptation to serve personal interests. The quality of specific results is immaterial. In this sense, conflict-of-interest regulation is true to the fiduciary principle. Like other fiduciaries, such as guardians, executors, lawyers, and agents, the public trustee has a duty to avoid private interests which cause even a risk that he will not be motivated solely by the interests of the beneficiaries of his trust.1

Use of Office for Personal Gain

No Federal statute or rule of the House absolutely prohibits a Member or employee from holding assets that might conflict with or influence the performance of official duties. Even the House rule limiting the amount of income a Member or covered employee may receive in a year applies only to "earned" income, not income from financial assets, investments, or other equity.2 Certain rules and statutes may, however, restrict income from outside financial interests:

• Members and employees of Congress may not use their official positions for personal gain.3

• Members may not enter into or enjoy benefits under contracts or agreements with the United States.4

• Members and employees should not engage in any business with the Government, either directly or indirectly, that is inconsistent with the conscientious performance of governmental duties.5

• Members and employees may not receive any compensation nor allow any compensation to accrue to their beneficial interests from any source, the receipt of which would occur by virtue of influence improperly exerted from a position in Congress.6

• Members and employees of the House should never discriminate unfairly by the dispensing of special favors or privileges to anyone nor may they accept benefits under circumstances that might be construed by reasonable persons as influencing the performance of governmental duties.7

• Members and employees should never use any information received confidentially in the performance of governmental duties as a means for making private profit.8

In its very first case, in the 94th Congress, the Committee found that the prohibition on the use of one's official position for personal gain was violated when a Member sought benefits from an organization after the Member, in his official capacity, had actively promoted the establishment of that organization. The Committee found that "during the period of time [the Member] was active in promoting the establishment of the…Bank [on a military base] he approached…organizers of the bank and inquired about the possibility of buying stock in the Bank."9 He subsequently purchased 2500 shares of the Bank's privately held stock. The Committee noted that "[i]f an opinion had been requested of this Committee in advance about the propriety of the investment, it would have been disapproved."10 The Member was also found to have used public office for private gain in that he had sponsored legislation to remove a reversionary interest and restrictions on land in which he had a personal financial interest.11 The Member was repremanded by the House.12

Policies Underlying Disclosure

Members, officers, and certain employees must annually disclose personal financial interests, including investments, income, and liabilities.13 Financial disclosure provisions were enacted to monitor and to deter possible conflicts of interest due to outside financial holdings. Proposals for divestiture of potentially conflicting assets and mandatory disqualification of Members from voting were rejected as impractical or unreasonable.14 Such disqualification could result in the disenfranchisement of a Member's entire constituency on particular issues.15 A Member may often have a community of interests with his constituency, may arguably have been elected because of and to serve these common interests, and thus would be ineffective in representing the real interests of his constituents if he were disqualified from voting on issues touching those matters of mutual concern. In rare instances, the House rule on abstaining from voting may apply where a direct personal interest in a matter exists.16

Members of Congress enter public service owning assets and having private investment interests like other citizens. Members should not "be expected to fully strip themselves of worldly goods."17 Even a selective divestiture of potentially conflicting assets would raise problems for a legislator. Unlike many officials in the executive branch, who are concerned with administration and regulation in a narrow area, a Member of Congress must exercise judgment concerning legislation across the entire spectrum of business and economic endeavors. The wisdom of divestiture may also be questioned as likely to insulate a legislator from the personal and economic interests that his/her constituency, or society in general, has in governmental decisions and policy.

As noted by the Bipartisan Task Force on Ethics:

The problem of conflicts of interest involves complex and difficult issues, especially with respect to the legislative branch. A conflict of interest is generally defined as a situation in which an official's private financial interests conflict or appear to conflict with the public interest. Some conflicts of interest are inherent in a representative system of government, and are not in themselves necessarily improper or unethical. Members of Congress frequently maintain economic interests that merge or correspond with the interests of their constituents. This community of interests is in the nature of representative government, and is therefore inevitable and unavoidable.

At the other extreme, a conflict of interest becomes corruption when an official uses his position of influence to enhance his personal financial interests. Between these extremes are those ambiguous circumstances which may create a real or potential conflict of interest. The problem is identifying those instances in which an official allows his personal economic interests to impair his independence of judgment in the conduct of his public duties.18

Each situation must be reviewed on a case by case basis to determine if an actual conflict of interest exists. This Committee has admonished all Members "to avoid situations in which even an inference might be drawn suggesting improper action."19

Thus, public disclosure of assets, financial interests, and investments has been required as the preferred method of regulating possible conflicts of interest of Members of the House and certain congressional staff. Public disclosure is intended to provide the information necessary to allow Members' constituencies to judge their official conduct in light of possible financial conflicts with private holdings. Review of a Member's financial conduct occurs in the context of the political process. As stated by the House Commission on Administrative Review of the 95th Congress in recommending broader financial disclosure in lieu of other restrictions on investment income:

In the case of investment income, then, the Commission's belief is that potential conflicts of interest are best deterred through disclosure and the discipline of the electoral process. Other approaches are flawed both in terms of their reasonableness and practicality, and threaten to impair, rather than to protect, the relationship between the representative and the represented.20

The House has required public financial disclosure by rule since 1968, and by statute since 1978. The Commission on Administrative Review noted: "The objectives of financial disclosure are to inform the public about the financial interests of government officials in order to increase public confidence in the integrity of government and to deter potential conflicts of interest."21 The Bipartisan Task Force on Ethics cited two further goals underlying statutory disclosure requirements: (1) requiring disclosure of only those items that are relevant to potential conflicts of interest; and (2) developing reporting requirements that avoid unnecessary invasions of privacy or excessively burdensome record-keeping. In short, the financial disclosure requirements must effectively balance the privacy rights of the reporting individual with the governmental interests in informing the public and deterring conflicts of interest.22

Specific Disclosure Requirements

The Ethics in Government Act of 1978 mandated annual financial disclosure by all senior Federal personnel, including all Members and some employees of the House.23 The Ethics Reform Act of 198924 totally revamped these provisions and condensed what had been different requirements for each branch into one uniform title covering the entire Federal Government.25 Financial Disclosure Statements must indicate outside compensation, holdings, and business transactions, generally for the calendar year preceding the filing date. In all instances, filers may disclose additional information or explanation at their discretion.

The Committee on Standards of Official Conduct develops forms and instructions for financial disclosure and reviews the completed statements of House Members, officers, employees, candidates, and certain other legislative branch personnel for compliance with applicable laws. The Clerk of the House is responsible for making the forms available for public inspection. The discussion that follows focuses primarily on those requirements that apply to Members, officers, and employees of the House. Additional details for all filers within the Committee's jurisdiction are included in the Instructions for Completing Financial Disclosure Statements issued by and available from the Committee.

Who Must File

Members of the House and House employees earning "above GS-15," that is, at least 120 percent of the Federal GS-15 base level salary,26 must file Financial Disclosure Statements by May 15 of each year. For most of 1991, the salary threshold was $73,972.27 In 1992, it is $77,080. Each Member's office must include at least one staffer who files. Thus if a Member has no employee on his or her personal staff who receives 120 percent of the GS-15 salary, the Member must designate at least one "principal assistant" to file. As the Committee first stated in its 1969 financial disclosure instructions, this person will usually be an employee whose relationship with the Member permits the person, under some circumstances, to act in the Member's name or with the Member's authority.28

An individual who qualifies as a candidate for the House must file within 30 days of becoming a candidate, or on or before May 15, whichever is later, but in any event at least 30 days before the election. (Individuals who do not qualify as candidates until within 30 days of the election must file as soon as they do qualify.) One becomes a candidate, as defined in the Federal Election Campaign Act, by raising or spending more than $5,000 for a campaign.29 An individual who does not raise or spend that much money has no financial disclosure obligations. All individuals who do meet this definition must file each year that they continue to be candidates.

Spouse and Dependent Information

In general, reporting individuals must also disclose the financial interests of their spouses and dependent children.30 Only in rare circumstances, where the financial interest of a spouse or dependent child meets all three standards listed below, may a filer omit disclosure:

(1) The item is the sole interest or responsibility of the spouse or dependent child, and the reporting individual has no knowledge of the item;

(2) The item was not in any way, past or present, derived from the income, assets, or activities of the reporting individual; and

(3) The reporting individual neither derives, nor expects to derive, any financial or economic benefit from the item.31

An individual is not required to disclose financial information about a spouse from whom he or she has separated with the intention of terminating the marriage or providing for a permanent separation.32

Example 1.

Member A sets up an account in his 10-year-old daughter's name, into which he deposits funds that he has earmarked to pay for her college education. Member A must disclose the account.

Example 2.

Member B's husband has a stock portfolio, entirely in his own name. He uses the income from these investments to finance family vacations and other non-routine family expenses. Member B must disclose the stock portfolio.

Example 3.

Candidate C's wife inherits some real estate. She is the sole owner, but C will inherit the land if his wife predeceases him. C must disclose the property.

Income—Earned and Unearned

Earned income refers to compensation derived from employment or personal efforts. Such income must be disclosed when it totals $200 or more from any one source in a calendar year. The source type, and exact dollar amount of the reporting individual's earnings must be stated.33

While Members, officers, and employees may not themselves receive honoraria,34 reporting individuals must still disclose the source and amount of payments in lieu of honoraria that are directed to charity. In addition, a confidential listing of the recipient charities must be filed separately with the Committee on Standards of Official Conduct.35 The source and exact amount of spousal honoraria must also be disclosed. Only the source of other earned income of a spouse need be reported, when such income exceeds $1,000. Earned income of a dependent child need not be reported.36

"Unearned" income includes such items as interest, rents, dividends, capital gains, trust income, proceeds from life insurance policies and other amounts received as a return on investment. The source, type, and category of value37 of such income must be disclosed when it exceeds $200 in value from any source during a calendar year.38 The filer must report the category of value reflecting the gross amount of unearned income; net figures may also be disclosed if the filer so chooses. The unearned income of a spouse or dependent child must be reported in the same level of detail as that of the reporting individual.

Assets

Property held for investment or the production of income (e.g., real estate, stocks, bonds, and savings accounts) must be disclosed if it is worth more than $1,000 at the close of the calendar year or it generated income of more than $200 during the year.39 Where the value of an item is difficult to determine, a good faith estimate of fair market value may be used.

The identity of the property, in addition to its category of value, must be specified. Disclosure of real property should include a description sufficient to permit its identification (e.g., street address or plat and map location). Each company in which stock worth over $1,000 is held must be listed separately.

Interest-bearing savings accounts valued at more than $1,000 must be disclosed if all such accounts total more than $5,000 in value. Savings accounts include certificates of deposit, money market accounts, or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution. Non-interest-bearing checking accounts, on the other hand, need not be disclosed since they produce no income. Financial interests in U.S. Government retirement programs (e.g., the Thrift Savings Plan) need not be reported. As a result of a policy change occasioned by the Ethics Reform Act, however, non-federal retirement plans (including state government programs, Individual Retirement Accounts, and Keogh plans) must now be disclosed.

Example 4.

Member A has a stock portfolio, managed by a stock broker. Member A must disclose each stock in the portfolio that is worth more than $1,000 at the end of the year or generates more than $200 in income during the year.

Example 5.

Principal Assistant B begins the year with $1,200 of stock in Company Z. Z suffers losses during the year such that it declares no dividends during the year and B's stock declines in value to $900 by year's end. B need not disclose her stock in Z.

Example 6.

Member C has $10,000 invested in a money market account with a brokerage firm. The money market fund is managed by an employee of the firm, who invests the fund's assets in stocks. Individual investors like Member C have no control over which stocks the fund holds. Member C must disclose his investment in the fund, but need not list the individual stocks in the fund's portfolio.

Example 7.

Member D was a state legislator before becoming a Member of Congress. Her interest in the state employees' retirement program is worth $15,000. Member D must disclose this interest as an asset on her Financial Disclosure Statement.

Example 8.

Candidate E's wife has an IRA, worth $12,000. E must disclose the IRA.

The holdings of and income derived from a trust or other financial arrangement in which the reporting individual, spouse, or dependent child has a beneficial interest in principal or income generally must be disclosed. The three instances when such assets need not be disclosed are when they are held in (1) a qualified blind trust, (2) a qualified diversified trust, or (3) a trust which was not created by the beneficiary and regarding which neither the reporting individual, spouse, nor dependent child have specific knowledge of the holdings or sources of income.40 Even for such trusts, the category of value of any unearned trust income must be reported if it exceeds $200. Both qualified blind trusts and qualified diversified trusts must be pre-approved by the Committee on Standards of Official Conduct. These instruments are discussed in greater detail later in this chapter.

Amounts owed by certain close relatives, personal residences not producing rental income, and personal property not held primarily for investment or the production of income need not be reported.

Example 9.

Member F owns a vacation home, which she uses for one month during the year. The rest of the time, she allows family members and close friends to use it at no charge. F need not disclose this property.

Example 10.

Candidate G owns a vacation home, which he uses for one month during the year. The rest of the time, he rents it out. G must disclose this property.

Example 11.

Member H rents out a basement apartment in her home to her son for $400 a month. H must disclose this rental income, as well as the property that generated it.

Example 12.

Employee J owns an antique car, worth $50,000. J never uses the car for commercial purposes; he uses it exclusively for his personal enjoyment. J need not disclose the car.

Transactions

The Financial Disclosure Statement must include a brief description, the date, and category of value of any purchase, sale, or exchange of real property, stocks, bonds, commodities futures, or other forms of securities (including trust assets) that exceeds $1,000.41 The category of value to be reported is the total purchase or sale price (or the fair market value in the case of an exchange), regardless of any capital gain or loss on the transaction.

Stock and commodity options, futures contracts, and bonds (corporate and government) are considered types of securities. As such, transactions in these items are reportable. Transactions by a partnership in which the reporting individual has an interest must be disclosed when the partnership is organized for the investment or production of income and is not actively engaged in a trade or business. These partnership transactions need only be reported, however, to the extent that the filer's share of the transaction exceeds $1,000.

The purchase or sale of property used solely as a personal residence (including a secondary residence not used for rental purposes) of the reporting individual or spouse and transactions solely by and between the reporting individual, spouse, or dependent children need not be disclosed. Likewise, the opening or closing of bank accounts, the purchase or sale of certificates of deposit, and contributions to or the rollover of IRAs and other retirement plans need not be reported.

Example 13.

Member A sells stock in Company Z for $5,000, realizing a $700 capital loss. A must report the $5,000 sale as a transaction. A may add that the sale represents a loss if she so chooses, but this information is not required.

Example 14.

Member B has a 25 percent interest in a partnership that buys and sells real estate for investment purposes. The partnership buys a piece of property for $400,000. B must disclose the partnership's purchase, in the category of value reflecting his $100,000 share of the transaction.

Liabilities

Personal obligations aggregating over $10,000 owed to one creditor at any time during the calendar year, regardless of repayment terms or interest rates, must be listed.42 The identity (name of the creditor), type, and amount of the liability must be stated. Except for revolving charge accounts, the largest amount owed during the calendar year is the value to be reported. For revolving charge accounts, the year-end balance is used; if the account balance declines by the year's end to $10,000 or less, no reporting is required.

Just as personal liabilities owed to a reporting individual by certain relatives need not be reported as assets, liabilities owed by a reporting individual to a spouse, parent, brother, sister, or child of the filer or of the filer's spouse need not be listed. Mortgages secured by a personal residence (including secondary residences not used for rental purposes) as well as personal loans secured by motor vehicles, household furniture, or appliances need not be disclosed as long as the indebtedness does not exceed the purchase price of the item. One also need not report contingent liabilities, such as that of a guarantor, endorser, or surety; liabilities of a business in which the reporting individual has an interest; loans secured by the cash value of a life insurance policy; and tax deficiencies.

Gifts

House Rule 43, clause 4, limits the value of gifts that Members, officers, and employees of the House may accept in a calendar year from any source other than a relative. The threshold for reporting gifts used to differ from the rule on acceptance. In addition, there used to be different reporting requirements for tangible gifts than for gifts of travel expenses. Beginning with reporting year 1992 (that is, reports due in 1993, describing calendar year 1992), the rules are uniform.43

In 1991, the gift limit was $200 (with gifts of $75 or less not counting), but the disclosure threshold was $250 for gifts of transportation, lodging, food, and entertainment and $100 for all other gifts. On January 1, 1992, the gift limit rose to $250 and the disclosure threshold for all gifts that are received in 1992 and reported in 1993 also rose to $250. Gifts of $100 or less do not count towards the $250. When these figures are periodically adjusted for inflation, they will rise at the same rate at the same time.

Example 15.

In 1991, Member A received from a friend a case of wine worth $150. A must disclose the gift on the report filed in 1992.

Example 16.

In 1992, Member A receives from a friend a case of wine worth $150. A need not disclose the gift on the report filed in 1993.

As a result of these changes harmonizing the acceptance and reporting requirements, most gifts that may be accepted in 1992 and thereafter will not need to be reported. The only exception will be gifts for which a waiver has been obtained from the gift rule but not the disclosure requirement. In that case, the donor, description, and value of the gifts must be listed on the Financial Disclosure Statement. The Committee may waive the requirement that certain gifts be aggregated and disclosed for good cause, upon written request. Such requests, however, are publicly available.

A number of exceptions pertain. Gifts from relatives, personal hospitality, and local meals need not be disclosed. "Personal hospitality" means hospitality extended for a nonbusiness purpose by an individual, at the individual's residence or other property. A "local meal" means a meal unconnected with a travel package, at which the host is present. Gifts to a spouse or dependent child that are totally independent of the recipient's relationship with the reporting individual are exempt from both the gift rule and the disclosure statute. If not totally independent, gifts from third parties to a spouse or dependent child are treated the same as gifts to the reporting individual. However, simultaneous gifts to the reporting individual and his or her spouse or dependent child may be treated as separate gifts for the purpose of determining whether the $100 aggregation threshold has been reached.44

Example 17.

Member B receives from her father a gift of $10,000. B need not disclose the gift.

Travel

Travel and travel-related expenses provided by nongovernmental sources for such activities as speaking engagements, conferences, or fact-finding events are not considered gifts, but must be reported when they aggregate more than $250 in value from one source in a year.45 These expenses include those reimbursed to the reporting individual as well as those paid directly by the sponsoring organization. For reimbursements and gifts of travel, the Financial Disclosure Statement must list the source, travel itinerary, inclusive dates, and nature of expenses provided.

Example 18.

Member B gives a speech in Chicago at a meeting of a trade association which pays airfare, food, and lodging for B and his wife to attend. The expenses for Mr. and Mrs. B exceed $250. B must disclose the source, dates and nature of expenses, but need not report any dollar amounts.

Travel reported on campaign filings, such as Federal Election Commission reports, need not be disclosed on a Financial Disclosure Statement, nor need travel provided on an official basis by Federal, state or local governments be reported. Travel provided by a foreign government pursuant to the Foreign Gifts and Decorations Act46 is disclosed on a separate form for that purpose available from the Committee.

Positions

Reporting individuals must disclose nongovernmental positions, whether or not compensated, that they hold.47 Included are such positions as officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. Positions held in a religious, social, fraternal, or political entity, and positions solely of an honorary nature need not be disclosed.

The title or nature of each position and the name of the organization should be stated. Only positions held by the reporting individual need to be disclosed, not those held by a spouse or dependent child.

Agreements

Any agreements or arrangements of the reporting individual concerning future employment, leave of absence during government service, continuation of payments from a private source, deferred compensation plans, or continued participation in an employee benefit or welfare plan of a former private employer must be disclosed.48 The parties, dates, and terms should be reported by Members, officers, and employees. This information is not required of a candidate, or of the spouse or dependent children of a filer.

Continued payments or benefits from a former employer would include interest in or contributions to a pension fund, profit-sharing plan, or life and health insurance; buyout agreements; severance payments and the like. A deferred compensation plan would include an arrangement for the delayed payment of amounts due for services rendered by a reporting individual. Deferred compensation is not subject to outside earned income limitations, but it is reportable.

Compensation in Excess of $5,000 Paid by One Source

New officers and employees and candidates must disclose any compensation in excess of $5,000 received from a single source other than the United States.49 Reporting individuals need disclose only their own compensation in this section, not that received by their spouses or children. The information must go back two calendar years.

Both the name and location of the entity that made the payment should be specified. The nature of the duties performed only need be described generally. Thus, a firm name and "legal services" would be sufficient for services rendered by an attorney. Individual clients need not be identified. The amount of compensation also need not be disclosed.

Trusts

A reporting individual must usually provide the same information for trust assets and income as for other items, with three exceptions. The first exception from reporting is for trusts that were not created by the reporting individual, his spouse or dependent, where none of the three has specific knowledge of the holdings or the sources of income of the trust. The other exceptions are for qualified blind trusts and qualified diversified trusts.50

A "qualified blind trust" must satisfy a number of requirements, including the following:

(1) The trustee must be an independent financial institution, lawyer, certified public accountant, broker, or investment advisor;

(2) There may be no restrictions on the disposal of the trust assets;

(3) The trust instrument must limit communications between the trustee and interested parties; and

(4) The trust instrument and the trustee must be approved by the Committee on Standards of Official Conduct.

In creating such a trust, an official places financial assets under the exclusive control of an independent party. All assets or holdings transferred to a trust at the time of its creation or anytime thereafter must be identified, valued, and publicly disclosed. Eventually, through the sale of existing assets and the acquisition of new ones, the identity of specific assets owned by the trust will be unknown to the official and will thus be eliminated as a factor in influencing official decision-making.

The third exception from trust disclosure is for a "qualified diversified trust," an arrangement not generally well-suited to use in the legislative branch because of the breadth of legislators' official duties. Such a trust must meet the following requirements:

(1) The trust must consist of a diversified portfolio of readily marketable securities;

(2) The trust assets may not consist of securities of entities having substantial activities in the area of primary responsibility of the reporting individual;

(3) The trust instrument must prohibit the trustee from publicly disclosing or informing any interested party of the sale of any security;

(4) The trustee must have power of attorney to prepare the personal income tax returns of the individual and any other returns that may contain information pertaining to the trust; and

(5) The trustee as well as the trust instrument must be approved in advance by the Committee on Standards of Official Conduct.

Termination Reports

Within 30 days of leaving his or her government position, a reporting individual generally must file a termination report.51 The termination report covers all financial activity through the person's last day on the payroll. An individual who leaves one position requiring a Financial Disclosure Statement for another such position need not file a termination report.

Example 19.

Member A resigns from Congress to take a position as a Cabinet Secretary. A need not file a termination report.

Filing Deadlines, Committee Review, and Amendments

A report must be physically filed or postmarked by the due date, unless an extension has been granted by the Committee pursuant to a written request. Total extensions for any report may not exceed 90 days.52 An individual who files a report more than 30 days after it is due must pay a filing fee of $200, unless the Committee waives the fee in exceptional circumstances.53

Within 60 days of receipt, the Committee on Standards of Official Conduct reviews Financial Disclosure Statements of filers under its jurisdiction to determine whether the reports have been filed in a timely manner, appear substantially accurate and complete, and comply with applicable conflict of interest laws and rules.54 If the review indicates a possible problem, the reporting individual is notified and given an opportunity to amend within a specified period.

A filer may also amend a Financial Disclosure Statement on his or her own initiative. Such amendments are normally given a presumption of good faith by the Committee if submitted before the end of the year in which the report was originally filed.55

To amend a Financial Disclosure Statement, a filer need not submit an entirely new form. Instead, an amendment can be in the form of a letter addressed to, and filed with, the Clerk of the House. Both the original filing and the amendment are made public.

Failure to File or Filing False Disclosure Statements

The financial disclosure provisions of the Ethics in Government Act have been incorporated by reference as a rule of the House of Representatives,56 over which the Committee on Standards of Official Conduct has jurisdiction.57 In addition to any Committee action, the Ethics in Government Act authorizes the Attorney General of the United States to seek a civil penalty of up to $10,000 against an individual who knowingly and willfully falsifies or fails to file or to report any required information.58 Moreover, under the U.S. Criminal Code, anyone who knowingly and willfully falsifies or conceals any material fact in a statement to the Government may be fined up to $10,000 and/or imprisoned for up to five years.59 One Member was convicted, imprisoned, and fined under this criminal law for having significant omissions on his financial disclosure forms over a period of four years.60

Advisory Opinions

The Committee is authorized to render advisory opinions interpreting the financial disclosure provisions of the Ethics in Government Act for any person under its jurisdiction. An individual who acts in good faith in accordance with a written advisory opinion shall not be subject to any sanction under the Act.61

Appendices to Chapter 4

Committee on Standards of Official Conduct Interpretive Ruling No. 11

Designation of principal assistants by Members of the House of Representatives for purposes of filing a Financial Disclosure Statement pursuant to Title I of the Ethics in Government Act (5 U.S.C. app. 6, secs. 101-111) as amended by the Ethics Reform Act of 1989 (Public Laws 101-194 and 101-280).

DISCUSSION

The Ethics in Government Act applies financial disclosure requirements to each employee of the Legislative Branch who is compensated at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS-162 of the General Schedule. Such employees must file a Financial Disclosure Statement by May 15 of each year covering the preceding calendar year. Any Member who does not have an employee in his or her congressional office compensated at the GS-16 salary level is required to designate at least one principal assistant for purposes of the Act. The principal assistant must be an individual who was employed in the Member's office for more than 60 days in the calendar year covered by the Financial Disclosure Statement.

The purpose of the requirement that a Member designate a principal assistant is to ensure that at least one employee in each Member's office files an annual Financial Disclosure Statement. See House Report No. 95-574, Select Committee on Ethics. However, the Act is ambiguous concerning when a Member's obligation to designate a principal assistant takes effect, when that designation must occur, and if the designation requirement applicable to a Member may subsequently be nullified under certain circumstances, requiring the designation of another individual as principal assistant. An additional requirement of the Act is that any "covered employee" must file a termination report within 30 days of leaving his or her Government position. Not clear are the circumstances under which a person who is replaced as principal assistant must file a termination report, as well as whether the filing of a termination report can satisfy the annual filing requirement for a Member's office. While a principal assistant; and (2) The Member does not have a GS-16 employee required to file a disclosure statement on or before May 15. Thus, a principal assistant not a GS-16 employee, designated by a Member who subsequently has a GS-16 employee meeting the statutory requirements, would not be required to file a disclosure statement on or before May 15 of the succeeding calendar year An employee not paid at the GS-16 level, who is no longer obligated to file an annual Financial Disclosure Statement as principal assistant (either because there is a qualifying GS-16 employee or because someone else has been designated) does not have to file a termination report. This is the case whether the individual remains an employee in the same office, moves to a different congressional office, or leaves Government service entirely. As long as the Member designates someone else to file by May 15, the statutory objective is met. The only instance where a termination report is required of a principal assistant not paid at the GS-16 level is

The purpose of this ruling is to ensure that at least one employee in each Member's office files a disclosure statement by May 15 of each calendar year. The ruling is based on three specific provisions of the Ethics in Government Act: (1) At least one principal assistant must be designated by each Member who does not have an employee compensated at a rate equal to or in excess of the GS-16 salary level; (2) An employee in a position subject to the Act is required to file a Financial Disclosure Statement for the preceding calendar year only if he or she was employed by the Member for more than sixty days during the preceding calendar year; and (3) A GS-16 employee is required to file a disclosure statement within thirty days after termination of government employment, covering the preceding calendar year if the annual disclosure statement has not been filed, as well as that portion of the calendar year in which the termination occurred up to the date that such employee left the position. Any Member who does not have an employee required to file a Financial Disclosure Statement on or before May 15 in a calendar year must designate at least one principal assistant to file a disclosure statement by that date. The designation of a principal assistant may occur at any time prior to the May 15 filing date. Any such designated principal assistant must have been employed in the Member's congressional office for more than 60 days in the preceding calendar year and must continue to be so employed when the Financial Disclosure Statement is filed. A principal assistant who is not GS-16 employee does not have to file a termination report if someone

Policy Regarding Amendments to Financial Disclosure Statements

MEMORANDUM OF APRIL 23, 1986

TO: All Members, Officers, and Employees of the U.S. House of Representatives

FROM: Committee on Standards of Official Conduct Julian C. Dixon, Chairman John T. Myers, Ranking Minority Member

The purpose of this letter is to inform all Members, officers, and employees who are required to file Financial Disclosure (FD) Statements pursuant to the Ethics in Government Act (EIGA) of 1978, 5 U.S.C. app. 6, sec. 101 et seq.,1 whose filings are under the jurisdiction of this Committee, of a revision to the Committee's policy regarding the submission of amendments to earlier filed disclosure statements. The new policy, discussed below, will be implemented immediately and all future statements as well as the amendments thereto will be handled in accordance therewith.

To date, it has been the general policy of this Committee to accept amended FD Statements from all filers and consider such amendments to have been timely filed without regard to the duration of time between the date of the original filing and the amendment submitted thereto. Over time, this practice has resulted in the Committee having received a significant number of amendments to disclosure statements under circumstances not necessarily reflecting adequate justification or explanation that the amendment was necessary to clarify previously disclosed information or that a disclosure was omitted due either to unavailability of information or inadvertence. Moreover, and particularly in the case of an individual whose conduct (having EIGA implications) is under review, the Committee has been faced with the somewhat inconsistent tasks of identifying the deficiencies in earlier FD Statements while simultaneously accepting amendments to such statements that may well have been intended to have a mitigating or ; and second, a "circumstance" text addressing why the amendment is justified. In this latter regard, filers will be expected to submit with the amendment a brief statement on why the earlier FD is being revised. Thus, amendments meeting the two-pronged test will be accorded a rebuttable presumption of good faith and this Committee will have the burden to overcome such a presumption. Conversely, any amendment not satisfying both of the above-stated criteria will not be accorded the rebuttable presumption of good faith. In such a case, the burden will be on the filer to establish such a presumption. The Committee is well aware that disclosure statements filed in years past may be in need of revision. To this end, the Committee has determined that a grace period ending at the close of calendar year 1986 will be granted during which time all filers may amend any previously submitted FD Statements. Again, while an amendment may be timely from the standpoint of when it is submitted—i.e., within the current year—information regarding the need for and, hence, appropriateness of the amendment will also be considered vis-a-vis the rebuttable presumption of good faith. In sum, the effect of the new policy is to establish a practice of receiving and anticipating that FD Statements and amendment thereto will be submitted within the same calendar year and that departures based on either timeliness or circumstances can be readily identified for scrutiny and possible Committee action. As noted, implementation of the new policy will affect not only statements filed this year but also all statements filed in prior years in light of the grace period being adopted. Should you have a question regarding this matter please feel free to contact the Committee staff at 225-7103.

Chapter 5: Staff Rights and Duties

Highlights

House employees are public servants, paid with United States Treasury funds. They must perform official duties commensurate with the compensation they receive. Employees are not paid to perform nonofficial, personal, or campaign duties on behalf of a Member or anyone else.

Hiring

A Member, officer, or employee of Congress may not:

• discriminate on the basis of race, color, religion, sex (including marital or parental status), handicap, age, or national origin in hiring, pay, or working conditions;

• hire, promote, or recommend for hiring or promotion a relative;

• promise to help someone get a Federal job in return for a political contribution or anything else of value;

• prevent someone, or threaten to prevent someone, from getting a Federal job or benefit in order to obtain a political contribution or to coerce political activity. Salaries

Employees of the House may not be required:

• to divide or share their salaries;

• to "kick back" a portion of their salaries to a Member or an aide;

• to spend personal money to benefit a Member or the operation of a Member's office.

Campaign Activities

House employees are not covered by the "Hatch Act."

Once they fulfill their required official duties, employees are free to engage voluntarily in campaign activities.

Employees may not make political contributions to their employing Members of Congress.

Outside Employment

House employees may not allow outside jobs to interfere with official congressional duties and so must restrict outside employment to their free time.

Employees must avoid any inherent conflict of interest between the substance of their outside employment and their congressional jobs.

Chapter 5: Staff Rights and Duties

The House has adopted specific laws, regulations, and rules governing the employer-employee relationship. This chapter discusses restrictions against discrimination in hiring and compensation; nepotism; protection of employees from "kickback" schemes and other illegal hiring, firing, and compensation practices; regulations on pay; and guidelines affecting interns and volunteers. Outside employment and campaign activity by House employees are also briefly addressed.1

The general terms, conditions, and specific duties of House employees traditionally have been within the discretion of the employing Members or committees.2 Nonetheless, certain general principles apply to all House employees. Employees of the House are paid from funds of the United States Treasury to perform public duties. These include assisting the Members in official responsibilities3 and working on official committee business4 but do not include performing nonofficial, personal, or campaign duties.5 The Code of Official Conduct (House Rule 43, clause 8) instructs Members and officers to retain no one on their staffs "who does not perform official duties commensurate with the compensation received in the offices of the employing authority."6

Discrimination

Two separate rules of the House of Representatives prohibit employment discrimination. They are House Rules 43 (clause 9) and 51. In addition, a Member of Congress may be subject to suit in Federal court for discriminatory employment practices which violate the equal protection clause of the Fifth Amendment to the Constitution.7

Rule 43 is the Code of Official Conduct for all Members, officers, and employees of the House. Clause 9 of this code states:

A Member, officer, or employee of the House of Representatives shall not discharge or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex (including marital or parental status), handicap, age, or national origin, but may take into consideration the domicile or political affiliation of such individual.

This provision has been part of the Code, in substantially this form, since 1975.8

The Committee on Standards of Official Conduct is charged with investigating alleged violations of the Code of Official Conduct.9 In the 101st Congress, the Committee undertook a Preliminary Inquiry into charges that a Member had sexually harassed two female employees on his personal staff. In that case, the Committee affirmed that sexual harassment is a form of sex discrimination, that the Member charged had indeed harassed his employees, and that this behavior violated the Code of Official Conduct. The Committee report stressed that clause 9 tracks the language of Title VII of the Civil Rights Law of 1964 and should be interpreted in light of judicial and administrative (Equal Employment Opportunity Commission) decisions construing that law.10

While the Committee may conduct investigations and disciplinary hearings and make recommendations to the full House that it formally sanction a Member, the Committee does not have the authority to order remedies such as monetary relief for an aggrieved employee. Employees seeking such remedies have recourse to the House Office of Fair Employment Practices.

In 1988, the House adopted H. Res. 558, the Fair Employment Practices Resolution, now codified in House Rule 51. The Resolution reiterates (at section 2(a)) that "[p]ersonnel actions affecting employment positions in the House of Representatives shall be made free from discrimination based on race, color, national origin, religion, sex (including marital or parental status), handicap, or age." The resolution established the Office of Fair Employment Practices (OFEP) and authorized it to offer counseling and mediation services and to conduct hearings into formal complaints. OFEP staff are appointed by the Chairman and Ranking Minority Member of the Committee on House Administration. OFEP is subject to the administrative direction of the Clerk of the House, and its decisions are appealable to a bipartisan review panel of Members, officers, and employees. Either OFEP or the panel may order the following remedies: monetary compensation; injunctive relief; costs and attorneys fees; employment, reinstatement, or promotion (with or without back pay). The Fair Employment Practices Resolution further prohibits intimidation of, or reprisal against any person for exercising rights to fair employment.

Example 1.

Member A, a Californian, only hires other Californians. A is not violating House rules.

Example 2.

Member B, a Republican, only hires other Republicans. B is not violating House rules.

Example 3.

As a matter of policy, Member C refuses to hire women except for clerical positions. C is in violation of House Rules 43 and 51.

Example 4.

District manager D dismisses Employee E after E turns 55, on the ground that the office needs to maintain a youthful and energetic image. D has violated House Rules 43 and 51.

Effective October 1, 1990, Congress adopted the rights and protections of the Fair Labor Standards Act of 193811 for House staff and staff of the Architect of the Capitol.12 House employees are thus now entitled to the minimum wage and overtime (except for exempt employees13 ), equal pay for equal work, protection against oppressive child labor,14 and protection against retaliation for exercising any of these rights. OFEP administers these provisions in accordance with the Fair Employment Practices Resolution.15

The minimum wage and overtime provisions do not apply to any staff "employed in a bona fide executive, administrative, or professional capacity."16 In light of these standards, the Committee on House Administration recommends that each office establish written leave policies, job descriptions for each employee stating whether or not the position is exempt from the pay provisions, and time-keeping procedures.17 The equal pay provision supplements Rule 43's ban on sex discrimination in that it prohibits paying lower wages to employees of one sex than those paid to employees of the other sex—

…for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex….18

Nepotism

Federal law, at 5 U.S.C. sec. 3110, generally prohibits a Federal official, including a Member of Congress, from appointing, promoting, or recommending for appointment or promotion any "relative" of the official to any agency or department over which the official exercises authority or control. The statute defines a "relative," for these purposes, as—

an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister.

The law bans the employment only of these specifically named relatives.19 Note that this definition is slightly narrower than the definition of relative included in the House gift rule, which also includes great uncles, great aunts, grandparents, grandchildren, grandparents of spouses, and fiances.20

The employing Member or committee and subcommittee chairman must certify, on the monthly payroll authorizations, each employee's relationship (or lack thereof) to any Members of Congress. The antinepotism law, as applied in the House, prohibits the hiring of a relative of a Member on that Member's staff or on the staff of a committee or subcommittee that the Member chairs. Similarly, regulations issued by the Committee on House Administration state that "[n]o Member, relative of the Member, or anyone with whom the Member has a professional or legal relationship may directly benefit monetarily from the expenditure" of either the clerk hire or the official expenses allowances.21 The antinepotism restrictions apply only to employees on the Member's official payroll. Campaign workers are not covered.

If a House employee becomes related to the employing Member (by marriage), the employee may remain on the Member's personal or committee staff. Similarly, if a Member becomes the supervisor of a relative who was hired by someone else (e.g., the Member ascends to the chairmanship of a committee or subcommittee for which the relative is already working), the relative may remain on the payroll. However, the Member may not then give that individual further promotions or raises, other than cost-of-living or other across-the-board adjustments. The statute does not prohibit a Member from employing two individuals who are related to each other, but not to the Member.

Illegal Hiring and Firing Practices

Criminal provisions of the United States Code prohibit offering or threatening Federal jobs to induce payments, political activities, or contributions. Specifically, Federal law prohibits anyone from asking for or receiving anything of value, including a campaign contribution, in return for promising to help someone obtain a Federal post.22 Further, candidates may not directly or indirectly promise appointment or use of influence or support in obtaining "any public or private position or employment" in return for someone's political support.23 The law goes on to bar any individual from promising a Federal job, contract, or benefit to a person as consideration or reward for political support or opposition to any candidate or party.24 Moreover, no one may deprive or threaten to deprive anyone of a Federal job or benefit as a way to induce political contributions, including services, for a candidate or party.25 These provisions carry penalties ranging to fines of $10,000 and imprisonment for two years.26

Salary Kickbacks

Federal law contains no statutory provision that specifically bars government salary kickbacks.27 However, several Members of Congress and congressional aides involved in kickback schemes have been prosecuted by the Justice Department under general fraud statutes. Section 1001 of title 18, for example, specifically prohibits the making of any false, fictitious, or fraudulent statements or knowingly covering up or concealing, by any trick or scheme, any material fact concerning matters in the jurisdiction of any Federal department or agency. The Supreme Court has found that this statute prohibits making a false or fraudulent statement or falsifying or concealing a material fact on a payroll voucher or certification to a disbursing officer of the House to further a kickback scheme.28 A Member or staffer who uses the mails to distribute payroll checks or other funds in furtherance of a kickback scheme may also be violating the Federal mail fraud statute.29

The United States Court of Appeals for the District of Columbia Circuit upheld the conviction of a Member of the House under 18 U.S.C. sec. 1001, finding that the Member's failure to disclose to the House payroll office the real purpose of pay to employees in a kickback scheme, where such funds were used for personal and congressional expenses of the Member, was a material omission in violation of the criminal law.30 In the course of a subsequent Committee investigation of the Member, he admitted that he had misused the clerk hire allowance in violation of House rule 43, clauses 1 and 8, and that he had been unjustly enriched thereby. He agreed to make restitution to the House, apologized, and was censured by the House.31

With respect to a Member's clerk hire allowance, this Committee has noted:

[I]t is improper to levy, as a condition of employment, any responsibility on any clerk to incur personal expenditures for the primary benefit of the Member or of the Member's congressional office operations….

The opinion clearly would prohibit any Member from retaining any person from his clerk-hire allowance under either an express or tacit agreement that the salary to be paid him is in lieu of any present or future indebtedness of the Member, any portion of which may be allocable to goods, products, printing costs, campaign obligations, or any other nonrepresentational service.32

In the 100th Congress, a Member and his Administrative Assistant pleaded guilty to having conspired to defraud the United States in violation of 18 U.S.C. sec. 371 (the criminal conspiracy statute) by submitting payroll forms and collecting salary checks for individuals who did no work for the House. The Committee on Standards found that the Delegate had used the checks to pay for hotel and meal expenses for visiting constituents and staff, campaign expenses, and travel for the Delegate and his family, in violation not only of the conspiracy statute, but also of the House Code of Official Conduct and the Code of Ethics for Government Service. The Delegate and employee resigned before the Committee could hold a disciplinary hearing to consider sanctions.33

General Employment and Compensation Provisions

The Committee on House Administration has promulgated regulations covering a Member's clerk-hire allowance and the employment of committee staff. The U.S. House of Representatives Congressional Handbook spells out these regulations. A summary follows.

Personal Staff

Each Member of the House has a clerk hire allowance for the salaries of up to 18 permanent employees to serve as the Member's staff. The regulations issued by the Committee on House Administration establish the total amount of the clerk hire allowance, maximum monthly payout, and maximum and minimum annual rates of employee salaries. The appropriation for clerk hire allowances routinely provides that such allowances are for securing staff to provide assistance to Members in the discharge of official and representational duties.34 Federal law requires that individuals compensated from the clerk hire allowance must work either in Washington, D.C., or in the state or district that the Member represents.35 Section 2 of the Congressional Handbook provides guidelines on minimum length of employment, reemployment, and leave.

Committee Staff

House Rule 11, clause 6, governs the appointment of committee staff. This provision establishes the number of professional and clerical staff that may be employed by the standing committees of the House36 and limit the rates of pay for such employees.37 The Congressional Handbook sets out regulations and guidelines for employment and compensation of committee staff at Section 3.

The House rules state that professional staff members of the standing committees of the House "shall not be assigned any duties other than those pertaining to committee business."38 The rules further provide that the clerical staff of the House standing committees shall work on "matters related to committee work."39 Thus, committee staff may not be used to supplement the personal office needs of committee members.

All Staff

The regulations of the Committee on House Administration require employing Members to provide monthly salary certifications for their staff. A salary may be disbursed to an employee only upon submission of a signed statement by the appropriate Member certifying that the Clerk has correctly listed the name and salary of each employee; that the listed employees have performed their assigned official duties in the Washington, D.C. congressional office, district office, committee or subcommittee office; and that the employees have certified that they have no relationship to any current Member of Congress, unless specifically noted. Compensation may be received only for duties performed within the preceding month.

The Ethics Reform Act of 1989 amended House Rule 43, clause 8, "to strengthen and broaden [Members' and officers'] accountability for the pay and performance of staff."40 While the old rule addressed only Members as employing authorities for their personal staffs, the revised rule applies to House officers, committee chairs, subcommittee chairs, and ranking minority members in their supervisory roles. The rule now reads:

A Member or officer of the House of Representatives shall retain no one under his payroll authority who does not perform official duties commensurate with the compensation received in the offices of the employing authority. In the case of committee employees who work under the direct supervision of a Member other than a chairman, the chairman may require that such Member affirm in writing that the employees have complied with the preceding sentence (subject to clause 6 of rule XI) as evidence of the chairman's compliance with this clause and with clause 6 of rule XI.

Thus where a Member other than a committee chair (e.g., a subcommittee chair or ranking minority member) directly supervises committee staff, the chair may require the supervising Member to certify the staff's performance. The Bipartisan Task Force intended that "[a]ny violation would consequently become the responsibility of the supervising Member."41

Under Federal law, two or more employees may not hold the same House position; neither may an employee divide a House salary with another person.42 Further, House employees must personally perform the duties for which they are compensated, as they are specifically prohibited from subletting any portion of their official duties to someone else.43 While two employees may not hold a single position, one employee may be shared between two House employing authorities (e.g., one staffer may work for two Members). Part-time work is also permitted.44

Thus, in order to earn compensation from the House, an employee must regularly perform official duties commensurate with the compensation received. The Code of Ethics for Government Service instructs every employee to "[g]ive a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought."45 Employees are paid from United States Treasury funds to perform public duties. Federal law dictates that appropriated funds be used solely for the purposes for which appropriated.46 Funds appropriated to pay congressional staff to perform official duties may be used only for the purposes of assisting a Member in his legislative and representational duties, working on committee business, or performing other congressional functions.47 Employees may not be compensated from public funds to perform nonofficial, personal, or campaign activities on behalf of the Member, the employee, or anyone else.

Committee and Court Actions

In the 100th Congress, the Committee on Standards considered two instances of alleged misuse of clerk hire funds. In one case, the Committee found that a Member maintained an employee on the payroll of a subcommittee the Member chaired, while knowing that the employee was not coming to work. The House reprimanded the Member for, among other things, violating House Rule 43, clause 8.48

In a second case, the Committee found that a Member had maintained an employee on staff for almost two years after the employee moved to a city beyond the environs of either the congressional district or the District of Columbia.49 Although the employee had provided valuable services to the Member and the Committee found no intent to defraud the Government, the Member admitted fault and reimbursed the U.S. Treasury.50

The Department of Justice has on two separate occasions pursued criminal charges, against a then-current and a former Member of the House, for allegedly placing persons on the congressional payroll who did not regularly perform official congressional duties but rather performed personal services or duties for or on behalf of the Members.51 The charges included fraud, mail fraud, and perjury. The sitting Member was convicted;52 the former Member pleaded guilty.53

The United States Court of Appeals, in upholding the fraud conviction of the Member of Congress, noted that although the employees had performed some official services for the Member, "only a nominal percentage of [the employees'] responsibilities were congressionally related," and a jury had sufficient evidence to conclude that such employees were paid from clerk hire allowances "with the intention of compensating them for services rendered to the [defendant Member's private business] or the defendant."54 Therefore, although it might be argued that "it was a matter of [the Member's] discretion to fix their duties and salaries as congressional employees," the "defendant's representations to the House Office of Finance that the [employees] were bona fide congressional employees were fraudulent and material in violation of 18 U.S.C. sec. 1001."55

The United States Court of Appeals, summarizing the testimony of a House officer, noted that it is "within a congressman's discretion to define the parameters of an employee's responsibilities as long as those responsibilities related to the congressman's 'official and representative duties."'56 There is no conclusive listing of what a Member's "official and representational duties" entail. However, the Supreme Court discussed such a concept in a different context and noted that "legitimate" activities of a Member include legislative acts, that is, things said or done in the House in the performance of official duties, and representational activities, such as "legitimate 'errands' performed for constituents, the making of appointments with Government agencies, assistance in securing Government contracts, preparing so-called 'news letters' to constituents, news releases, and speeches delivered outside the Congress."57

Volunteers, Interns, Fellows, and Detailees

House Rule 45 prohibits unofficial office accounts, that is, private supplements to the funds available to Members through their clerk hire and official expenses allowances.58 In Advisory Opinion No. 6, interpreting the unofficial office account prohibition, the House Select Committee on Ethics, 95th Congress, concluded that in addition to money, Rule 45 prohibits the private, in-kind contribution of goods or services for official purposes. The Select Committee found that "no logical distinction can be drawn between the private contribution of in-kind services and the private contribution of money, and that both perpetuate the very kind of unofficial office accounts and practices that are prohibited" by the rule.59

The Select Committee did, however, recognize several exceptions to the general prohibition against acceptance of services including the following:

• Services provided by federal, state, or local government agencies; and

• Intern, fellowship, or similar educational programs that are primarily of educational benefit to the individual, as opposed to primarily benefiting the Member or office, and which do not give undue advantage to special interest groups.

Definitions

The Committee defines the terms "employee," "intern," "fellow," "volunteer," and "detailee" as follows:

An employee means a person appointed to a position of employment in the House of Representatives by an authorized employing authority, whether that person is receiving a salary disbursed by the Clerk of the House, or is in a Leave Without Pay or Furlough status.

An intern means an individual performing services in a House office on a temporary basis incidental to the pursuit of the individual's educational objectives. Some interns receive no compensation from any source, while some receive compensation or other assistance from an educational institution or other sponsoring entity. Although some interns may receive compensation from House allowances,60 this discussion deals primarily with those who do not receive such House compensation.

A fellow means an individual performing services in a House office on a temporary basis as part of an established mid-career education program, while continuing to receive the usual compensation from his or her sponsoring employer.

A volunteer means an individual performing services in a House office without compensation from any source.

A detailee means an executive branch employee assigned to a committee staff for a period of up to one year.61

Internship and Fellowship Programs

A Member or House office may accept the temporary services of an intern participating in a program, as discussed below, which is primarily of educational benefit to the participant, irrespective of whether the individual is being compensated by a third-party sponsoring organization. Similarly, a Member or House office may accept the temporary services of a fellow participating in a mid-career education program, as discussed below, while the individual receives compensation from his or her employer. An intern or fellowship program should be operated by an entity not affiliated with a congressional office, and the organization should be willing to indicate its sponsorship of the intern or fellow in writing. House Members and staff may not raise or disburse funds for programs which place interns or fellows in their own offices, nor may congressional offices solicit or recruit volunteers.62 Members do, however, have the right to select or approve those program participants who will be working in their offices.

While intern and fellowship programs are often sponsored by educational institutions, other public or private organizations may act as sponsors, provided the arrangement does not give undue advantage to special interests. Therefore, an intern or fellow should not be assigned duties that will result in any direct or indirect benefit to the sponsoring organization, other than broadening the individual's knowledge.

Example 5.

Student A writes to Member B offering to work in B's office for one semester, as part of his college's government internship program. A encloses a copy of the college's brochure on its internship program and a letter from the dean, indicating that A will get college credit for his participation. B may accept A's services.

Example 6.

Scientist C works for a pharmaceutical company that sponsors a mid-career fellowship program. In conjunction with the program, C writes to the Science Committee, offering her services for one year, during which time the company would continue to pay her salary. The Committee may accept C's services, provided that she does not work on legislation that will directly benefit her employing company.

Example 7.

Student D's college does not have a formal internship program. D's political science professor has offered to give him independent study credit if he volunteers in a congressional office and writes a paper on what he learns about the legislative process. A Member could accept D's services as a volunteer under these circumstances. The independent study credit demonstrates the educational benefit to the volunteer.

Volunteers

A Member or House office may accept the temporary services of a volunteer, provided the Member or office has a clearly defined program to assure that: (1) the voluntary service is of significant educational benefit to the participant; and (2) that such voluntary assistance does not supplant the normal and regular duties of paid employees. In this regard, a congressional office should limit both the number of volunteers assisting at any one time, and the duration of services that any one volunteer may provide. Voluntary assistance to a congressional office should not be solicited. A volunteer should be required to agree, in advance and in writing, to serve without compensation, not to make any future claim for payment, and to acknowledge that the voluntary service does not constitute House employment.63

An officer or employee of the United States Government or of the District of Columbia government may not accept voluntary services for either government or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property.

In Opinion B-69907 (issued February 11, 1977), the Comptroller General of the United States determined that the statute applies to Members of Congress and other officers and employees of the Legislative Branch. However, because the statute was enacted to prevent funding deficiencies, it was deemed not to prohibit a Member of Congress from utilizing volunteers to assist in the performance of official functions of the Member's office, provided such volunteers agree in advance to serve without compensation, so that there is no basis for a future claim for payment.

Obviously, a Member or House office wishing to use the services of an individual seeking to volunteer may also place the individual in a temporary intern position on the Member's clerk hire payroll or other personnel fund, as authorized by regulations of the Committee on House Administration. The individual may also be referred to an organization that sponsors an internship program. In addition, a Member may accept volunteer services without limit from his or her own immediate family, i.e., spouse, children, or parents (although Federal law, at 5 U.S.C. sec. 3110, prohibits Members from appointing relatives to paid positions).

Example 8.

A recent college graduate seeking work on Capitol Hill offers to volunteer in Member A's office while looking for a paying job. Unless A has a program in the office to ensure that volunteers derive significant educational benefit and do not merely fill in for busy staffers, A may not accept the offer.

Example 9.

A retiree in Member B's district offers to volunteer two days a week in the district office, answering telephones, making copies and generally freeing up the paid staff to do more substantive work. B may not accept this volunteer's services because they are not of significant educational benefit to the volunteer, and they supplant the normal and regular duties of paid employees.

Example 10.

Member C runs a program for senior citizens in C's district office. One or two retirees at a time volunteer for six month periods during which time they receive regular briefings on legislative issues of concern to seniors and act as liaisons to other seniors in the district. Because the volunteers' services are temporary, are of significant educational benefit to the participants, and do not supplant the normal and regular duties of paid employees, this program complies with Committee guidelines.

Example 11.

Member D's spouse offers to volunteer in the district office as an extra caseworker. As long as the spouse receives no pay, Member D may accept.

Volunteers, interns, and fellows should be made aware of the implications their activities have for the Members in whose offices they work. Technically, House rules cannot be enforced against individuals who are not House employees. However, such individuals may be in a position to take actions and make representations in the name of a Member, for which the Member may be responsible. The Member or office may also be subject to a claim of liability for work-related injuries to, or caused by, a volunteer. The Committee recommends that Members and House offices obtain the agreement of such individuals that, although not House employees, they will conduct themselves in a manner that reflects creditably on the House. Members are also encouraged to obtain the Committee's approval for any volunteer, intern, or fellowship program in which they wish to participate.

Detailees

The above guidelines do not prohibit a Member or other House office from accepting services, including detailed staff, provided on an official basis by a unit of Federal, state, or local government. House staff and resources may not, however, be similarly used to perform the work of other governmental units, or of any private organization.

A committee may request or accept detailed staff from executive branch departments or agencies. The Select Committee on Ethics ruled that "in-kind services and functions provided by federal, state and local government agencies do not fall in the same category as private donations of money or in-kind services."64 Note, however, that while Federal law specifically authorizes the detailing of executive branch personnel to committee staffs, there is no comparable provision allowing detailees to serve on the personal staffs of Members.65

Regulations of the Committee on House Administration stipulate that the detailee remains, for most purposes, an employee of the source department or agency, rather than becoming a House employee during the assignment period.66 For the purposes of post-employment restrictions, however, Federal law mandates that detailees be considered employees both of the entity from which they come and that to which they are sent.67

Campaign Activity By House Employees

As long as employees complete those official duties required by the Member and for which the employees are compensated from public funds, they are generally free to engage in personal, campaign, or other nonofficial activities. The broad prohibition against campaign activity by executive branch personnel, known as the "Hatch Act,"68 does not apply to congressional employees. While a House employee may not make a campaign contribution to his or her employing Member, "contribution" for this purpose does not include volunteer activity.69 Thus, House employees may participate in partisan campaign activities.70

All House staff must fulfill the congressional duties for which they receive their Government salaries. Therefore, official responsibilities may not be neglected for the sake of campaign activities. Similarly, no campaign activities should be performed in a manner that utilizes any official resources.71 Within these constraints, employees may engage in campaign activities in their free time after official duties have been completed, while on annual leave or on leave-without-pay status. In any case, the employee should keep careful records documenting that campaign work was not done on official time.

The line between official and political duties may not always be easy to pinpoint. Certain of a Member's legitimate, official, representational duties, such as constituent casework, news releases or newsletters to constituents, may be viewed as "political in nature."72 However, the general distinction between official representational and legislative duties on the one hand and political campaign activities on the other is a common and longstanding distinction in Congress. This distinction is specifically recognized in such measures as the franking law73 and the House rule on unofficial office accounts.74

Questions sometimes arise over the potential, and arguably unavoidable, overlap or intrusion of some minimal campaign-related activities into official operations when dealing with the practical, day-to-day realities of a Member's functioning office. In responding to "official" inquiries from the press or inquiries from constituents, for example, congressional staff may need to respond to issues that relate to a Member's political campaign, as well as his official duties. Similarly, scheduling assistance and information from the Member's official staff may be requested by the campaign staff to ensure that the Member's campaign schedule does not conflict with his official agenda. To the extent possible, however, campaign-related matters should not be handled in the congressional office or on official time.75

In addition to congressional ethical standards and rulings, legal implications arise if salaries are claimed from public appropriations for individuals performing nonofficial, campaign services on behalf of a Member. As noted above, a Member may be held criminally liable for fraud against the Government for compensating individuals from public moneys for campaign services.76 In this connection, in 1979, a former Member of the House of Representatives pleaded guilty to mail fraud and tax evasion for having placed on his congressional payroll 11 persons who were operating and staffing various reelection campaign headquarters.77

Staff Outside Employment Considerations

As with campaign activity, House employees who engage in private employment may not do so

• to the neglect of their congressional duties;

• on "official time" for which a salary is received from the United States Treasury, or

• if the employment is gained through the improper use of their official positions.

Neither may they use confidential information received in the course of their public employment "as a means for making private profit."78 These standards, as well as other limitations on outside employment, are discussed more fully in Chapter 3.

The Ethics Reform Act amended House Rule 11, clause 6(a)(3) to clarify that the professional staff of committees may "not engage in any work other than committee business during congressional working hours" (emphasis added). Thus, professional staffers remain free to engage in outside employment or campaign work on their own time, as long as they comply with all other relevant standards discussed above and in Chapters 3 and 8.79

The Ethics Reform Act also added a staff conflict of interest provision at Rule 43, clause 12, such that an employee who files a financial disclosure statement may not contact anyone in the executive or judicial branch with respect to an entity in which the employee has a significant financial interest. The employing Member may waive this provision by filing a statement with the Committee on Standards of Official Conduct, acknowledging the financial interest and affirming that the employee's participation is necessary.80 As explained by the Bipartisan Task Force on Ethics:

This new provision is intended to provide both a standard of conduct and a workable framework to guarantee that employees who engage in the proper and necessary congressional role of preforming constituent service are not motivated by personal financial interests but are performing, at the direction of the Member, services motivated by the Member's representational duties.81

Appendices to Chapter 5

Committee on Standards of Official Conduct Advisory Opinion No. 121

On the subject of a Member's clerk hire.

REASON FOR ISSUANCE

A number of requests have come to the Committee for advice on specific situations which to some degree, involve consideration of whether monies appropriated for Members' clerk hire are being properly utilized. A summary of the responses to these requests forms the basis for this Advisory Opinion which, it is hoped, will provide some guidelines and assistance to all Members.

BACKGROUND

The Committee requested the Congressional Research Service to examine in depth the full scope of the laws and the legislative history surrounding Members' clerk hire. The search produced little in the way of specific parameters in either case law or congressional intent, concluding that "…no definitive definition was found…." It is out of this absence of other guidance the Committee feels constrained to express its views. The clerk hire allowance for Representatives was initiated in 1893 (27 Stat. 757). The law providing it spoke of providing clerical assistance to a Representative "in the discharge of his official and representative duties…." The same phraseology is used today in each Legislative Appropriations bill and by the Clerk of the House in his testimony before the Subcommittee on Legislative Appropriations. An exact definition of "official and representative duties" was not found in the extensive materials researched. Remarks concerning various bills, however, usually refer to "clerical service" or terms of similar import, thus implying a consistent conception of the term as payment for personal services.

SUMMARY OPINION

This Committee is of the opinion that the funds appropriated for Members' clerk hire should result only in payment for personal services of individuals, in accordance with the law relating to the employment of relatives, employed on a regular basis, in places as provided by law, for the purpose of performing the duties a Member requires in carrying out his representational functions. The Committee emphasizes that this opinion in no way seeks to encourage the establishment of uniform job descriptions or imposition of any rigid work standards on a Member's clerical staff. It does suggest, however, that it is improper to levy, as a condition of employment, any responsibility on any clerk to incur personal expenditures for the primary benefit of the Member or of the Member's congressional office operations, such as subscriptions to publications, or purchase of services, goods or products intended for other than the clerk's own personal use. The opinion clearly would prohibit any Member from retaining any person form his clerk hire allowance under either an express or tacit agreement that the salary to be paid him in lieu of any present or future indebedness of the Member, any portion of which may be allocable to goods, products, printing costs, campaign obligations, or any other non-representational service.

In a related regard, the Committee feels a statement it made earlier, in responding to a complaint, may be of interest. It states: "As to the allegation regarding campaign activity by an individual on the clerk hire rolls of the House, it should be noted that, due to the irregular time frames in which the Congress operates, it is unrealistic to impose conventional work hours and rules on congressional employees. At some times, these employees may work more than double the usual work week—at others, some less. Thus employees are expected to fulfill the clerical work the Member requires during the hours he requires and generally are free at other periods. If, during the periods he is free, he voluntarily engages in campaign activity, there is no bar to this. There will, of course, be differing views as to whether the spirit of this principle is violated, but this Committee expects Members of the House to abide by the general proposition."

Guidance on Intern, Volunteer, and Fellow Programs

LETTER OF JUNE 29, 1990

Dear Colleague: The Committee on Standards of Official Conduct has received a number of inquiries regarding the propriety of House offices accepting services from volunteers,1 interns,2 fellows,3 and others who receive no salary from the House of Representatives. This is to explain the Committee's policy on this subject for all Members and House offices.

House Rule XLV, "Prohibition of Unofficial Office Accounts," was adopted by the House on March 2, 1977, along with other recommendations of the Commission on Administrative Review. H. Res. 287, 95th Congress, 123 Congressional Record 5933-53. In recommending the rule, the Commission posed the question: "Is it proper for a private corporation, independent businessman, or anyone else to pay for the conduct of the House's official business?" The Commission concluded that the answer was "no," that a "wall" should exist between official and unofficial funds. H. Doc. No. 95-73, Financial Ethics, 95th Cong., 1st Sess., p. 17. In Advisory Opinion No. 6, interpreting the unofficial office account prohibition, the House Select Committee on Ethics concluded that in addition to money, Rule XLV prohibits the private, in-kind contribution of goods or services for official purposes. The Select Committee found that "no logical distinction can be drawn between the private contribution of, in-kind services and t

However, the Select Committee did recognize several exceptions to the general prohibition against the acceptance of services, including the following:

Services provided by federal, state or local government agencies;

Intern, fellowship, or similar educational programs that are primarily of educational benefit to the individual, as opposed to primarily benefiting the Member or office, and which do not give undue advantage to special interest groups.

Accordingly, while House Rule XLV generally prohibits Members from accepting either the services of volunteers or of individuals compensated for congressional duties by an outside entity, limited authority exists to accept the services of volunteers, interns, and fellows. In this regard, the Select Committee expressed the view that the intent and spirit of House Rule XLV would be violated if a congressional office attempted to supplement official allowances by directly or indirectly raising, receiving, or disbursing contributions, if such contributions were to be used to compensate individuals working in a House office, or used to support programs which placed interns, fellows, or volunteers in House offices. The prohibition against engaging in such activities applies to both Members and staff. Also relevant to this issue is 31 U.S.C. sec. 1342, as follows:

An officer or employee of the United States Government or of the District of Columbia government may not accept voluntary services for either government or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property.

In Opinion B-69907, issued February 11, 1977, the Comptroller General of the United States determined that the statute applies to Members of Congress and other officers and employees of the Legislative Branch. However, because the statute was enacted to prevent funding deficiencies, it was deemed not to prohibit a Member of Congress from utilizing volunteers to assist in the performance of official functions of the Member's office, provided such volunteers agree in advance to serve without compensation, so that there is no basis for a future claim for payment. The acceptance of services from volunteers not associated with an established program potentially raises other concerns. Individuals who are not House employees4 are not subject to rules and statutes governing their conduct. However, such individuals may be in a position to take actions and make representations in the name of a Member, for which the Member may be responsible. The Member or office may also be subject to a claim of liability for work-related injuries to, or caused by, a volunteer.

In view of the above, the Committee has established the guidelines set forth below to Members and House offices considering acceptance of the services of interns, fellows, or volunteers who will not be paid by the House of Representatives.

INTERN AND FELLOWSHIP PROGRAMS

A Member or House office may accept the temporary services of an intern participating in a program, as discussed below, which is primarily of educational benefit to the participant, irrespective of whether the individual is being compensated by a third-party sponsoring organization.

Similarly, a Member or House office may accept the temporary services of a fellow participating in a mid-career education program, as discussed below, while the individual receives compensation from his or her employer.

An intern or fellowship program should be operated by an entity not affiliated with a congressional office, and the organization should be willing to indicate its sponsorship of the intern or fellow in writing.

House Members and staff may not raise or disburse funds for programs which place interns or fellows in their own offices, nor may congressional offices solicit or recruit volunteers. Members do, however, have the right to select or approve those who will be working in their offices.

While intern and fellowship programs are often sponsored by educational institutions, other public or private organizations may act as sponsors, provided the arrangement does not give undue advantage to special interests. In that regard, the Member accepting the services of an intern or fellow should not assign him or her to duties that will result in any direct or indirect benefit to the sponsoring organization.

VOLUNTEERS

A Member may accept volunteer services from his or her own immediate family, i.e., spouse, children, or parents (although Federal law, at 5 U.S.C. sec. 3110, prohibits Members from appointing relatives to paid positions); this is consistent with regulations of the Committee on House Administration which allow Members to use their own personal resources to support the activities of their own offices. A Member or House office may accept the temporary services of a volunteer, provided the Member or office has a clearly defined program to assure that: (1) the voluntary service is of significant educational benefit to the participant; and (2) that such voluntary assistance does not supplant the normal and regular duties of paid employees. In this regard, limitations should be imposed on the number of volunteers who may assist a congressional office at any one time, as well as the duration of services any one volunteer may provide. Voluntary assistance to a congressional office should not be solicited.

A volunteer should be required to agree, in advance and in writing, to serve without compensation and to not make any future claim for payment, and acknowledge that the voluntary service does not constitute House employment. (Obviously, a Member or House office wishing to use the services of an individual seeking to volunteer may also place the individual in a temporary intern position on the Member's clerk hire payroll or other personnel fund, as authorized by the Committee on House Administration. The individual may also be referred to an organization which sponsors an internship.)

Volunteers, interns, and fellows should be made aware of the implications their activities have for the Member in whose office they work. The Committee recommends that Members and House offices obtain the agreement of such individuals that, although not House employees, they will conduct themselves in a manner which reflects creditably on the House. Members are also encouraged to obtain the Committee's approval for any volunteer, intern, or fellowship program in which they wish to participate. The above guidelines do not prohibit a Member or other House office from accepting services, including detailed staff, provided on an official basis by a unit of Federal, state, or local government. (House staff and resources may not, however, be similarly used to perform the work of other governmental units, or of any private organization.) As a related matter, House Rule XLIII, clause 11, part of the Code of Official Conduct, provides that a Member of the House of Representatives shall not authorize or otherwise allow a non-House individual or organization to use the words "Congress of the United States," "House of Representatives," or "official business" on any letterhead or envelope. The intent of this provision is to prevent persons who are not Members, officers, or employees of the House from represent that their activities are officially sponsored or sanctioned. This prohibition also extends to other printed matter, such as business cards. Accordingly, individuals not paid by the House of Representatives may not use or obtain business cards or other materials suggesting an employment relationship with the House. Any questions concerning these matters should be directed to the Committee's Office of Advice and Education at 225-3787.

Sincerely,

Julian C. Dixon

Chairman

John T. Myers

Ranking Minority Member

Chapter 6: Official Allowances and Franking

Highlights

Official Allowances

Official allowances may be used only for official expenses.

Official allowances may not be converted to personal or campaign use or applied towards any unofficial activity.

Only official allowances (appropriated funds) and Members' personal funds may be used to defray official expenses.

House Rule 45, the prohibition on unofficial office accounts, bars the use of private funds or services from outside sources for official activities.

The misuse of official allowances violates House rules and may also subject Members or employees to criminal prosecution and actions to recover the misspent funds.

The Committee on House Administration governs certifications, documentation, and other standards for reimbursement from the official allowances. Many of that Committee's regulations are set forth in the U.S. House of Representatives Congressional Handbook.

The Frank

A Member's frank may be used only to mail material relating to the official duties, activities, and business of a congressional office.

Each Member receives a limited annual franking account. Expenditures from this account are publicly disclosed by the Clerk of the House four times a year.

The frank may be used for:

• constituent mail relating to public issues;

• press releases, newsletters, and questionnaires;

• mail to other legislators and government bodies;

• Federal publications, laws, regulations, and the Congressional Record.

The frank may not be used for:

• political or personal mail;

• holiday greeting cards or reports on a Member's family;

• expression of condolences on a personal loss or congratulations on a personal achievement.

A Member's frank may not be loaned to any person or organization other than official congressional committees as authorized in the franking law.

In addition, current policy of the Commission on Congressional Mailing Standards prohibits the use of the frank for the solicitation of any funds.

Regulations issued by that Commission should be consulted for further guidance.

Chapter 6: Official Allowances and the Frank

Members of Congress receive various allowances to defray the expenses incurred in holding office. Statutory authorizations often note that such allowances are for expenses of an "official" or "strictly official" nature.1 Legal and ethical problems arise when these allowances are used for other than official expenses, such as when they are converted to personal or campaign use. Chapter 5 addressed the use of the clerk hire allowance. This chapter discusses the official expense allowance and the franking privilege.

The Official Expense Allowance

Committee on House Administration regulations state that the official expense allowance is to be used "to pay ordinary and necessary business expenses incurred by the Member (and/or the Member's employees) within the United States, its territories and possessions, in support of the conduct of the Member's official and representational duties to the district from which he/she was elected."2 The allowance may not be used to defray any personal, political, or campaign-related expenses; nor may the Member, a relative of the Member, or anyone with whom the Member has a professional or legal relationship directly benefit from the expenditure of these funds.3 Members may be personally liable for misspent funds or expenditures exceeding the allowance provided.4

Example 1.

Member A's wife is a travel agent. A may not make official travel arrangements through his wife's agency because she would then be benefiting monetarily from the expenditure of official funds. She may book his campaign travel, provided that she does not charge the campaign more than she would charge other customers.

Example 2.

Member B's district manager is part owner of a building in the district. B may not rent space in the employee's building for the congressional district office. B may rent campaign space from the staffer, at fair market value.

In the 100th Congress, the Committee investigated charges that a Member had allowed his former law firm to use official resources.5 The Committee found that over a nine-year period, the firm had been permitted access to Government photocopy services, furniture, supplies, long distance telephone lines, and a receptionist's services. For this and other violations, the House reprimanded the Member.

The Congressional Handbook provides examples of items for which the official expenses allowance may be used, as well as a list of prohibited expenditures. Included among the permissible uses are expenditures for travel, office equipment leases, district office leases, stationery, telecommunications, printing and product services, costs of audio/video recordings produced in the House Recording studio, postage, computer services, flags for constituents,6 and other expenses related to the Member's official business.

The official expenses allowance may not be used for the following:

(1) Expenses relating to the hiring and employment of individuals, such as employment service fees or relocation costs.

(2) Items purchased from other than the House stationery store which have a useful life in excess of the current term of the Member, and which have a residual value of more than $25 upon expiration of the current term of the Member.

(3) Holiday greeting cards, flowers, trophies, and awards.

(4) Personal advertisements (other than meeting or appearance notices).

(5) Payments for consultants or contract employees.

(6) Donations or gifts of any type, except flags of the United States flown over the Capitol and items purchased for use as diplomatic gifts when on official travel for the House outside the United States.

(7) Dues or assessments other than to legislative support organizations approved by the Committee on House Administration.

(8) Purchases of radio and television time.

(9) Food or beverage costs, unless incidental to discussions, relating to the Member's official and representational duties, with non-House individuals who have a legitimate interest therein, and only to the extent of $1,500 per session.

(10) Educational expenses for courses of study, information and training programs, unless the subject relates to the Member's official and representational duties, the benefit accrues primarily to the House, and the skill or knowledge is not commonly available. Educational expenses for programs not offered by the Federal Government require prior written authorization from the Committee on House Administration.

(11) Parking for the Member or employees at district offices, except when included as an integral part of the lease or occupancy agreement.7

The allowance for official expenses may be used to pay dues or assessments to a legislative service organization (i.e., a caucus, committee, or similar group operated solely to provide legislative services or other assistance to Members in the performance of their official duties).8 A legislative service organization "which receives contributions or any form of income, either direct or in-kind, from any source other than the Members…shall not be located in space under control of the House and shall receive no other support from the House or from Members of the House via their allowances."9 The Committee on House Administration certifies and publishes a list of legislative service organizations that satisfy the criteria established by the committee.10

Anything supported with official funds is an official resource, including congressional offices. The House Office Building Commission, comprised of the Speaker, the Majority Leader and the Minority Leader, has issued regulations governing the use of House facilities.11 These rules generally ban solicitation and commercial activity, limit photography, restrict use of meeting rooms to congressionally related purposes, and impose various health and safety restraints. In addition, as is true of all official resources, congressional offices may not be used for the conduct of campaign activities.

Example 3.

Member B is planning to film a campaign commercial. B may not film in her congressional office because that would be using an official resource for a campaign purpose. She may film her commercial on the outside steps of the Capitol, however, as that is a public space.

Other entities may have jurisdiction over the use of particular official resources. The Joint Committee on Printing, for example, publishes Government Printing and Binding Regulations pertaining to Government documents. These regulations caution:

No Government publication or other Government printed matter, prepared or produced with either appropriated or nonappropriated funds or identified with an activity of the Government, shall contain any advertisement inserted by or for any private individual, firm, or corporation; or contain material which implies in any manner that the Government endorses or favors any specific commercial product, commodity, or service.12

The Joint Committee is of the opinion that commercial advertising is not a proper or authorized function of the Government. Such advertisements can be made to appear to be Government endorsements and thus give unfair advantage to their subjects. Furthermore, publishing such advertisements is unjust to the public in that it allows private advertisers to profit at the expense of the Government, particularly as a considerable number of the publications are circulated free, at least in part, under Government frank.13

Members should also bear these regulations in mind in the context of the common practice of inserting an Extension of Remarks in the Congressional Record noting the accomplishments of a district business. While it is perfectly appropriate publicly to congratulate a local business for achieving an award or celebrating a significant anniversary, Members should refrain from overtly commercial promotions.

Another restriction on Government documents derives from Federal law. By statute, documents distributed from executive branch departments or independent agencies may not contain a notice that they are sent with "the compliments" of an officer of the Government.14 Thus, while Members should feel free to distribute to constituents documents that are prepared by other Federal agencies, it would be inappropriate to stamp any such document, or include a cover letter stating that it is being sent with the compliments of the Member.

Unofficial Office Accounts

House Rule 4515 prohibits "unofficial office accounts." This means that outside private donations, funds, campaign contributions, or in-kind goods or services may not be used to support the activities of, or pay the expenses of, a congressional office. Rather, only appropriated, or Members' personal, funds may be used for this purpose.16 House Rule 45 has been in effect since 1977. Congress codified this rule into law governing both Houses as part of the Legislative Branch Appropriations Act, 1991.17

The House Commission on Administrative Review, 95th Congress, proposed this rule in order to build a "wall" between private funds and official allowances. The House adopted most of the Commission's recommendations on March 2, 1977, as revisions to the House rules of conduct.18 The Commission explained the requirement that official expenses of a Member be paid exclusively from official, appropriated funds as follows:

The Commission strongly believes that private funds should be used only for politically related purposes. Official allowances should reflect the necessary cost of official expenses. Increasing official allowances…to eliminate reliance on private sources represents a small cost to the public for the benefits to be derived. To suggest otherwise would be to accept or condone the continuation of the present system which, at the very least, allows for the appearance of impropriety, and, at worst, creates a climate for potential "influence peddling" through private financing of the official expenses of Members of Congress.19

Several rules in addition to Rule 45 implement the Commission's recommendation that private financing of official expenses be eliminated. House Rule 43, clause 7, requires that a Member treat all privately raised funds as campaign contributions.20 House Rule 43, clause 6, stipulates that campaign funds may be used only for "bona fide campaign or political purposes." Together, these provisions mandate that private funds be used only to support private or political, and not official, activities.

No specific definition of bona fide campaign or political purposes exists in the rules or legislative history of the provision. What would be an official, as opposed to a campaign, expense would depend on the particular facts of the situation.21 During floor debate on adoption of the rule, it was noted, for example, that travel to a Member's home district might be considered a political expense for which private campaign funds could be used if the purpose of the trip was political.22 Similarly, taking certain individuals to dinner, if it is determined to be a political meeting rather than one relating to official duties, could be paid from campaign accounts.23

Members often have discretion in determining whether an event will be "political" or "official," with the following caveat: "[The] committee is of the opinion that once the Member makes his determination, he is bound by it. A single event cannot, for the purpose of the House rules, be treated as both political and official."24 In a public advisory opinion, the committee noted a Member's option of designating a town meeting as either a political (campaign) event or official (representational) one. But, by sending announcements of the meeting under the frank (which can be used only in the conduct of official business), the Member defined the event as official and, thus, could not use campaign or other private funds to conduct, promote, or advertise it without violating Rule 45 or Rule 43, clause 6.25 These rules do not preclude private individuals or organizations, such as radio or TV stations, from expending funds, without the Member's consent, to promote the previously announced town meeting.26

The legislative history of the unofficial office account prohibition indicates that the injunction applies to accounts maintained by third parties for a Member's benefit, even if they are not maintained for the Member's direct use; and extends to any "process whereby funds are received or expended" regardless of whether an actual account or repository is maintained.27 In an interpretation of the unofficial office account prohibition, the House Select Committee on Ethics of the 95th Congress found the private, in-kind contribution of goods or services for official purposes to be banned under Rule 45.28 The Select Committee found, however, that the following would not violate Rule 45:

• Services provided by units of Federal, state, or local government;

• The occasional use of privately owned space to meet with constituents, where no public accommodations are reasonably available;

• Intern or volunteer programs in a Member's office that are primarily of educational benefit to the intern, as opposed to primarily benefiting the Member or office, and that do not give undue advantage to special interest groups. However, Members and their staffs may not personally raise, receive, or disburse any private contributions for intern programs associated with their office.29

Note that while Members may accept the services of other units of government for official events without violating Rule 45, they may not conversely use official congressional resources to do the work of other entities, even other public entities.

Members and staffers are sometimes offered scholarships to participate in study programs that will assist them in the performance of their official duties. The Committee has determined that accepting tuition, room, and board expenses to attend such a program does not violate Rule 45, provided that the following criteria are met:

(1) The scholarship payments must be made from an accredited, sponsoring educational institution of higher learning;

(2) The program must be primarily of educational benefit to the participants;

(3) Scholarship assistance may not be limited to congressional participants, but must be available to other, similarly situated individuals.

(4) The House employee's participation may not in any way give undue advantage to special interest groups or others with a direct interest in legislation; and

(5) Members and employees may not personally raise, receive, or disburse contributions to support the program.

The Final Report of the Select Committee also notes that Rule 45 "is not intended in any way to restrict the Member's use of his personal funds." This principle was reiterated in the statutory codification of Rule 45.30 So, for example, Members may establish petty cash funds out of their personal funds to pay for miscellaneous office expenses.31

Example 4.

Member A would like to decorate his House office in a modern style of furniture not available from Office Furnishings. A may not accept the offer of a furniture store to supply his office with free furniture. A is free to purchase the furniture of his choice with his own money.

Example 5.

The local cable television franchise in Member B's district offers her free cable service in her office so that her district staff may monitor events on the House floor. B may not accept the offer.

Official Travel

Official travel is not subject to the time limits imposed by the House gift rule (Rule 43, clause 4).32 To receive reimbursement, however, the traveler must follow the usually traveled routes. A traveler who chooses an indirect route or stops along the way for nonofficial purposes will be personally responsible for any added expense.33

In 1991, the Committee on House Administration issued a new regulation on travel awards acquired while on official business. This regulation states:

Travel entitlements which have accrued to the Member or to his or her employees incidental to having performed or arranged for official travel, whether in the form of free travel, mileage, travel discounts, coupons, memberships, and so forth, may be used at the discretion of the Member or his or her staff. Further, the Committee encourages the official use of all travel awards and benefits, accumulated as a result of official travel, wherever practicable.34

The Ethics Reform Act of 1989 enacted a clarification with respect to the use of official and campaign vehicles.35 The Bipartisan Task Force wished to approve the incidental use of these vehicles for nonofficial or nonpolitical purposes, respectively.36 These changes reflect the reality that a Member may attend numerous events in the course of a single day, some of which may be official in nature while others are political. It would be impractical under such circumstances to require the Member to keep switching cars as he or she travels from one function to the next. Members should, however, maintain records of the mileage attributable to official, political, and personal trips to ensure that no account is subsidizing another and that any crossover use of a vehicle is indeed incidental. The Task Force recommended, with respect to nonofficial use of official vehicles, "that such incidental use should be during the course of and along the route of a day's official itinerary, incidental to the day's official business, de minimus in nature, frequency and time consumed, and otherwise not constitute a significant activity or event."37

Example 6.

Member A has four official events to attend in his district one day. He will be traveling between events in the car leased for the use of his congressional district office and paid for out of his official expenses allowance. As he drives from the second to the third event, he will pass near his dry cleaner. He may stop to pick up his dry cleaning. This would be a permissible incidental nonofficial use of the car.

Example 7.

Member B is using her official vehicle to drive to a number of official events in her district one day, including a mid-morning meeting with the Governor of the state. After they conclude their official business, they wish to continue their meeting over lunch to have a political discussion about state party matters. They may use B's official car to drive to a local restaurant.

The Committee on House Administration is charged with determining appropriate uses of official vehicles, while the Committee on Standards of Official Conduct has the responsibility of deciding appropriate uses of campaign vehicles.

During the 99th Congress, this Committee undertook an inquiry into travel by a Member of the House on corporate aircraft. The Committee found that the Member had improperly accepted free flights while on official travel. The Member reimbursed the corporation, with interest, for the flights.38

False Claims and Fraud

Federal law provides that official funds may be used only for the purposes for which they are appropriated.39 When funds are used other than for their intended purposes, the misused funds may be recovered by the Government for repayment to the United States Treasury.

The use of official allowances for other than official purposes, including double billing and claims for nonexistent expenses, could subject a Member, officer, or employee to civil litigation under the False Claims Act.40 Any citizen may initiate such a suit, in the name of the United States, by alleging that false, fraudulent, or fictitious claims have been made. The Department of Justice may then take over the suit.41 The Government has also initiated civil suits against Members subsequent to their criminal prosecution for the same or related conduct. In one such suit, for example, the Government contended that a former Member had used, and permitted his family and friends to use, his official telephone credit card to charge personal calls.42

Committee on House Administration regulations require Members to certify and document all expenses before funds may be disbursed from the official expenses allowance: "Each voucher shall be signed by the Member certifying that the expenses being submitted for reimbursement are ordinary and necessary business expenses incurred in support of the conduct of his/her official and representational duties to the district from which he/she was elected."43 The use of money received by submitting such a voucher for other than official expenses may involve a fraud against the Government, in violation of 18 U.S.C. sec. 1001 (prohibiting making any false, fictitious, or fraudulent statements or using false writings, documents, or entries, concerning any matter within the jurisdiction of any agency or department of the United States). The Supreme Court has ruled that this section applies to false statements, writings, or other representations made to a disbursing officer of the House of Representatives in furtherance of a fraudulent scheme.44 In another case, a Federal appellate court affirmed a Member's convition of fraud for having used an official allowance "for purposes other than those intended by the appropriation and duly certified by the congressman."45

Other criminal provisions of the United States Code prohibit:

• making false or fictitious claims upon the United States;46

• conspiring to defraud the Government by obtaining or aiding in obtaining the payment of false claims;47

• knowingly stealing or "converting to [one's] use or the use of another…any money or thing of value of the United States.48

The Frank

The term "frank" denotes the autograph or facsimile signature of a person authorized to transmit matter through the domestic mails without prepayment of postage.49 Members of Congress and certain officers of the House are authorized to send, as franked mail, material relating to the official business, duties, and activities of their offices.50 Use of the franking privilege is governed by Federal law at 39 U.S.C. secs. 3210-3220.

The 1991 Legislative Branch Appropriations Act established for the first time an "official mail allowance" for franked mail and mandated public disclosure of Members' expenditures under the frank and the contents of their mass mailings.51 A Member's annual allowance is capped at three times the cost of a first class mailing to every address in the district. Members may supplement their mail allowance from their clerk hire and official expense accounts by up to $25,000 a year but may not use extra mail allowance to supplement their other accounts. The mail allowance may not be used for special mail services such as express mail, certified mail, registered mail, address corrections, postal insurance, and return receipt. These services may be purchased, but only with funds from the official expense allowance. The use of the official mail allowance is jointly regulated by the Committee on House Administration and the House Commission on Congressional Mailing Standards.

Commission on Congressional Mailing Standards (The Franking Commission)

The House Commission on Congressional Mailing Standards (commonly known as the Franking Commission)52 provides guidance and gives advisory opinions on the frankability of mail matter.53 The Commission also issues regulations. The Franking Commission is authorized to hear complaints of abuses of the frank, subject to judicial review.54

It is illegal to use a franked envelope or endorsement to avoid paying postage on a private letter or package. Criminal fines may be levied for such abuse.55 The Commission will view as an act of good faith an offer by a Member to pay restitution to the Treasury for the cost of improper use of the franking privilege.56

The Commission's regulations are available in booklet form and should be consulted by congressional employees involved in mailing material under the franking privilege. In addition to providing guidelines and requirements for franked mail, the booklet includes examples of permissible and impermissible items or mailings. The Commission suggests that each Member of the House "assign a staff member familiar with the franking law and regulations to supervise preparation of the mailing so that obvious violations of the franking law are avoided before submitting the material for an advisory opinion."57

The Commission has emphasized that Members remain ultimately responsible for their staffs' decisions on using the frank:

The actual determination of whether or not to send a particular piece of mail under a Member's frank probably will be made by his staff who prepare his mail for delivery. An improper use of the frank by a staff member, ranging from an inadvertent mistake on a single letter to a willful abuse on a mass mailing, will be imputed to his Member, under most circumstances. To help avoid these violations of the franking law, with all of their resultant possible penalties and reflections on the effective administration of his office, a Member should reasonably ensure that his staff knows what kinds of mail are frankable by providing for the training and supervision of these employees and their familiarization with these regulations. Members should encourage their staff, especially in the case of all mass mailings, to consult with and seek the advice of the Commission to the greatest extent possible.58

Authorization to Use the Frank

In addition to the grant of the franking privilege to Members of Congress, House officers, and the House Legislative Counsel, the surviving spouse of a Member, if the Member dies during a term of office, is authorized to use the frank for up to 180 days following the Member's death for nonpolitical correspondence relating to the death of the Member.59 Former Members of Congress and others who have been granted the franking privilege may use the frank for 90 days following the date on which they leave office to close the official business of the congressional office.60

Material relating to the official business of a House committee, subcommittee, or congressional commission may be sent under the frank of the chairman, ranking minority member, or any other member of the entity.61 As noted in the regulations of the Franking Commission, the authorization to use the franking privilege of a Member extends to official committees created by Congress and made up exclusively of Members but does not extend to informal groups of Members, "whose business relates to political, party policy, or special interest or regional matters," such as Legislative Service Organizations.62

The franking law specifically prohibits the loaning of a Member's frank to any group, organization, or person other than the official congressional committees noted above and the Republican conference or Democratic caucus of the House.63 Franking regulations note that "[t]his section expressly prohibits the use of the frank for the benefit of charitable organizations, political action committees, trade organizations, and so forth."64 The regulations on the frank also ban providing franked envelopes to members of the public for return mail to a Member or committee of Congress.65 The House Postmaster provides "Orange Bags" and "Direct District Office Pouches" for expedited delivery of franked mail between a Member's Washington, D.C. and district offices.

General Standards of Frankability

The congressional franking privilege is available only for the transmittal of material that concerns "the official business, activities, and duties of the Congress," entailing all matters that "directly or indirectly pertain to the legislative process or to any congressional representative functions generally."66 Material that is purely personal or political may not be sent under the frank. The franking statutes list the following examples of frankable and nonfrankable mail, respectively.

Frankable Mail

1. Mail to any person and to any government agency relating to matters and programs of public concern and congressional actions (39 U.S.C. sec. 3210(a)(3)(A)).

2. Newsletters and press releases dealing with the impact of laws on governments and the public, official actions of Members, discussions of proposed or pending legislation, and positions of Members on, and arguments for and against such matters (39 U.S.C. sec. 3210(a)(3)(B)).67

3. Questionnaires seeking public opinion (39 U.S.C. sec. 3210(a)(3)(C)).

4. Mail between a Member's various congressional offices (39 U.S.C. sec. 3210(a)(3)(D)).

5. Mail to other Members of Congress and all other legislators (39 U.S.C. sec. 3210(a)(3)(E)).

6. Mail expressing congratulations to a person who achieved some public distinction (39 U.S.C. sec. 3210(a)(3)(F)).68

7. Mail consisting of Federal regulations or other publications containing general information (39 U.S.C. sec. 3210(a)(3)(G)).

8. Mail containing nonpartisan voter registration or election information (39 U.S.C. sec. 3210(a)(3)(H)).

9. Mail containing biographical material or pictures in Federal publications or in response to specific requests (39 U.S.C. sec. 3210(a)(3)(I)-(J)).69

10. The Congressional Record (39 U.S.C. sec. 3212a).

11. Public documents printed at the order of Congress (39 U.S.C. sec. 3211).

12. Seeds and agricultural reports (39 U.S.C. sec. 3213).

Nonfrankable Mail

1. Mail containing laudatory and complimentary articles or texts concerning Members on a personal basis rather than based on official duties or activities of a Member (39 U.S.C. sec. 3210(a)(5)(A)).

2. Mail containing greetings from a Member's family unless it is a brief reference in otherwise frankable mail (39 U.S.C. sec. 3210(a)(5)(B)(i)).

3. Any card expressing holiday greetings (39 U.S.C. sec. 3210(a)(5)(B)(iii)).

4. Mail containing reports of a Member's or his family's activities other than in connection with official functions and activities of the Member (39 U.S.C. sec. 3210(a)(5)(B)(ii)).

5. Mail containing solicitations for political support for the sender or any person or party or a vote or financial assistance for any candidate (39 U.S.C. sec. 3210(a)(5)(C)).70

6. Mail that is purely personal to the sender or to any other person (39 U.S.C. sec. 3210(a)(4)).

7. Mail expressing condolences to a person who has suffered a loss or expressing congratulations on a personal distinction (Franking Regs., ch. 2, sec. 8, at 14).

In 1980, former 2 U.S.C. sec. 439b, which prohibited any solicitations under the frank, was repealed.71 The Franking Commission has, however, retained the policy against solicitations in its regulations.72 No material that is not independently frankable may be inserted into a franked envelope.

Mass Mailings

Special requirements and regulations apply to franked mass mailings. The term "mass mailing" is defined to mean a mailing of 500 or more pieces that are substantially identical in content.73

The franking law and the Rules of the House of Representatives74 require that before any mass mailing is made, a sample or description of the material to be mailed must be submitted to the Franking Commission for an advisory opinion on frankability. The cost of preparing and printing a mass mailing may be defrayed only from appropriated funds,75 and these expenses are not reimbursable from the official allowance unless the mailing is frankable. Private funds may not be used to prepare, to print, or to distribute any material for a franked mass mailing. The Commission on Administrative Review believed it "necessary to make a clear separation between the public purpose and private interest in the use of the frank, and, therefore, private funds should not be used to print 'official documents."'76

House rules and the franking law also restrict franked mass mailings during political campaigns. A Member who is a candidate for a statewide office may send franked mass mailings only within his or her own congressional district.77 Further a Member may not send any mass mailings under the frank during the 60 days immediately before any primary or general election in which the Member is a candidate.78

Postal Patron Mail

Mass mailings are often sent out under a simplified form of address that is known as postal patron or postal customer mail. When a postal patron mailing is made under the frank, the mailing may be sent only to the congressional district from which the Member was elected, contiguous counties, or into a congressional district that has been redistricted by a legislative body or by judicial decision, so long as some portion of the old district from which the Member was elected is included in the new district.79 Postal patron mail must be sent at the most economical rate practicable.80

Inside Mail

The House Postmaster provides "Inside Mail" delivery service for inter-office communications between offices in the Capitol, the House and Senate Office Buildings, the Library of Congress, the State Department, and the Social Security Administration. While Inside Mail need not meet the legal standards of frankability, the service exists for the conduct of official business. Inside Mail is not free; generally, it must be either franked or stamped.

"Dear Colleague" Letters

Open "Dear Colleague" letters may be transmitted by Inside Mail without frank or stamp. These "Dear Colleague" letters must be prepared on official letterhead, signed by the Member and related to official business. They may include as attachments material prepared by other individuals or organizations, provided that each such item to be distributed is accompanied by a signed cover letter, on official letterhead, endorsing the material.81

Appendices to Chapter 6

Select Committee on Ethics Advisory Opinion No. 161>

Acceptance of in-kind services for official purposes.

REASON FOR ISSUANCE

House Rule XLV provides that no funds may be paid into any unofficial office account subsequent to March 2, 1977, and that such accounts must be abolished by January 3, 1978. The definition of an unofficial office account included in the new Rule focuses on the most common form, i.e., a privately subsidized account used to supplement official allowances. The legislative history of Rule XLV refers to an unofficial office account as a fund, repository, or process whereby funds are received or expended. The reasons for adopting new Rule XLV, as presented in the Financial Ethics report of the Commission on Administrative Review (H. Doc. 95-73, February 14, 1977), emphasize that eliminating private support of the public's business should be the primary objective of a new Rule.

The Commission strongly believes that private funds should be used only for politically-related purposes. Official allowances should reflect the necessary cost of official expenses…. To suggest otherwise would be to accept or condone the continuation of the present system [of unofficial office accounts] which, at the very least, allows for the appearance of impropriety, and at worst, creates a climate for potential "influence peddling" through private financing of official expenses of Members of Congress.

Although it is clear that acceptance of monetary contributions to sustain such accounts was perceived as conduct to be prohibited by the new Rule, questions have been raised concerning the application of Rule XLV to acceptance of certain in-kind services (e.g., office supplies and equipment, district office space, etc.) and whether such items will be treated differently than monetary contributions for purposes of the Rule XLV prohibition. The Select Committee finds that no distinction can be made between in-kind and monetary contributions. Whether the private support alluded to in the Commission's report is in the form of a monetary contribution or in the form of an in-kind service is not relevant in view of the intended prohibition against the private financing of official business. Moreover, it can hardly be argued that donation of in-kind services is any less an infusion of private support for official business than is the donation of money. At least two precedents for treating in-kind services as monetary contributions are found in regulations promulgated by the Federal Election Commission (FEC) and the Internal Revenue Service (IRS). Those regulations require the inclusion of in-kind donations as contributions to unofficial office accounts, thus confirming the Select Committee's understanding that money and in-kind contributions should be treated the same. Teh FEC defines an "office account" (unofficial office account) as "an account established for the purpose of supporting the activities of a Federal or State officeholder which contains excess campaign funds…" (11 CFR 113.1b). Such excess campaign funds include contributions of "anything of value." Therefore, according to the FEC definition, unofficial office accounts may encompass in-kind services or resources.

Similarly, the IRS considers the donation of in-kind resources as a "contribution," applying the criterion of "anything of value." The IRS treats the contribution of in-kind services or resources used for official purposes as personal income to the Member, just as it treats contributions to unofficial office accounts. In sum, the Select Committee finds that for the purposes of applying Rule XLV, no logical distinction can be drawn between the private contribution of in-kind services and the private contribution of money, and that both perpetuate the very kind of unofficial office accounts and practices that are prohibited by House Rule XLV. Equally clear, however, is that various in-kind services and functions provided by federal, state and local government agencies do not fall in the same category as private donations of money or in-kind services. Thus, the provision of office space or rooms for constituent meetings, etc., by a state or local government would not be prohibited by application of this Rule. Of course, the occasional use of privately owned meeting space where no other appropriate public accommodations are reasonably available for meeting constituents does not fall within the proscriptions of the new Rule. Additionally, applicatiion of the Rule would not prohibit a Member from continued participation with various educational entern, fellowship, or volunteer programs. Members have long recognized that there is an inherent educational and professional benefit in interns, fellows, and volunteers viewing first hand the Legislative Branch of government, and that there are compelling public policy considerations for encouraging such programs. There is nothing in the legislative history that suggests an intent to discontinue these programs, nor has there surfaced any evidence of abuses resulting from the infusion of private money into public business causing conflict of interest or other situations intended to be prohibited by the New Rule. The Select Committee believes these programs are of primary benefit to the persons involved and notes that interns, fellows, and volunteers are not on the payroll of the House, nor are they considered to be employees of the House of Representatives. Therefore, this interpretation of Rule XLV does not apply to intern programs, provided the internships are primarily for educational purposes and do not give undue advantage to special interest groups or others with a direct interest in legislation.

However, it is clear that a Member would be violating the intent and the spirit of House Rule XLV if he attempted to supplement his official allowance by raising, receiving, or disbursing contributions to hire or support interns in his office. Therefore, it follows that a Member and his staff are prohibited from personally raising, receiving, or disbursing contributions used to support an educational intern, fellowship, or volunteer program. This holding represents the only effective method for restricting the potential to collect and maintain, directly or indirectly, unofficial funds for supplementing staff assistance and the officially provided clerk-hire allowance.

SUMMARY OPINION

For purposes of House Rule XLV, the private contribution of in-kind services for official purposes is prohibited. However, Rule XLV does not apply to services provided by federal, state and local government agencies, or to the occasional use of privately-owned meeting space where no public accommodations are reasonably available for meeting with constituents. Nor does Rule XLV apply to interns or volunteers in a Member's office, based on the understanding that such intern programs are primarily of educational benefit to the intern and do not give undue advantage to special interest groups. However, Members and their staffs may not personally raise, receive or disburse any private contributions for intern programs associated with their offices.

House Office Building Commission

Rules and Regulations Governing the House Office Buildings, House Garages, and the Capitol Power Plant June 1, 1991

Pursuant to the authority conferred on the House Office Building Commission by the act of March 4, 1907 (34 Stat. 1365, as amended (40 U.S.C. 175)) the following rules and regulations are promulgated governing the use and occupancy of rooms and spaces, including terraces, entrances, lobbies, foyers, corridors, cafeterias, restaurants and areas appurtenant thereto, in the Cannon, Longworth, and Rayburn House Office Buildings, in the House Annexes, the House of Representatives Garages, and the Capitol Power Plant:

(1) Property damage: Willful destruction, damage, desecration or removal of any Government property or part thereof is prohibited.

(2) Photographs: Photographing, televising, recording, or broadcasting of committee proceedings is not permitted, except as provided for by the Rules of the House. Visitors are permitted to take photographs of the public areas in the House office buildings with hand-held cameras if the photographs are not intended for commercial purposes. The use of flash equipment or other special photolighting devices, tripods, or other bulky accessory equipment is not permitted unless special permission is obtained from the House Office Building Commission. Applications for such special permission should be made to the Speaker.

(3) Soliciting, commercial ventures, and other nongovernmental activities: The soliciting of alms and contributions, commercial soliciting, and vending of all kinds, the display or distribution of commercial advertising, the collecting of private debts, or the distribution of material such as pamphlets, handbills, and flyers, in any of the areas covered by these regulations is prohibited. Staff organizations, duly recognized by the House Office Building Commission, may charge a fee for attendance at any function sponsored by the organization in conducting the function. This fee must be closely calculated to cover only the costs incurred by the organization in conducting the function. This section does not apply to national or local drives for funds for welfare, health, and other purposes sponsored or approved by the House Office Building Commission, or to personal notice posted by employees on authorized bulletin boards.

(4) Use of meeting rooms: The use of meeting rooms under the jurisdiction of the House Office Building Commission is restricted to Congressionally related uses or purposes which serve Members, Committees, Officers or organizations of the Congress. Conditions and procedures for use of the rooms may be promulgated by the Commission. If costs for catering services are to be defrayed by a non-governmental entity, that entity will be required to pre-pay an amount equal to fifty percent of the anticipated catering costs of the event. The remaining costs are payable at the time of the event.

(5) Weapons and explosives: No person, except Members of the Capitol Police and individuals authorized by law, or by regulations promulgated by the Capitol Police Board, shall enter any of the areas covered by these regulations who has in his possession, openly or concealed, any dangerous or deadly weapon, explosive, incendiary, or electronic device, and the use or discharge thereof is prohibited.

(6) Disturbances: The making of any oration, or the utterance of any loud, threatening or abusive language or sound, or the use of any device or sound amplification system which emits loud, threatening, or abusive language or sound, is prohibited.

(7) Obstruction: Assembling, loitering and congregating singly or in groups, in or about the entrances and exits or obstructing the foyers, corridors, and rooms covered by these regulations, or displaying any flag, banner, or device designed or adapted to bring into public notice any person, party, organization, or movement, is prohibited.

(8) Compliance with regulations: Persons entering, in or on the areas covered by these regulations shall comply with all official signs of a prohibitory or directory nature, and, during emergencies, with directions of the Capitol Police or other authorized authority. Any person who fails or refuses to comply with these regulations, or who fails or refuses to comply with directives of the Capitol Police or other authorized personnel, shall be subject to arrest and prosecution.

 HOUSE OFFICE BUILDING COMMISSION

 Thomas S. Foley, Chairman

 Richard A. Gephardt

 Robert H. Michel

Chapter 7: Casework Considerations

Highlights

Members and staff of the House often assist constituents in their dealings with administrative agencies by acting as facilitators or "ombudsmen." Members may properly communicate with agencies on behalf of constituents:

• to request information or status reports;

• to urge prompt consideration of a matter based on the merits of the case;

• to arrange for appointments;

• to express judgment on a matter (subject to ex parte communication rules); and/or

• to ask for reconsideration, based on law and regulation, of an administrative decision.

Congressional officials should make clear to administrators that action is only being requested to the extent consistent with governing law and regulations.

In communicating with a Federal agency on behalf of a constituent, a Member, officer, or employee of the House should not:

• make prohibited, off-the-record comments to an official considering a matter in a formal proceeding;

• receive money or things of value (other than congressional salary) in return for or because of official help; or

• exert undue or improper pressure on agency officials, such as by suggestions of favoritism or threats of reprisals.

A House employee may not privately represent someone before the Government other than in the performance of official duties.

Members may make recommendations for career agency or Postal Service employment, but should limit their comments to the applicant's character and residence. Members have greater flexibility when recommending individuals for appointment to policy positions.

The standards applicable to Federal agency contacts may also apply when a Member makes communications on behalf of constituents to courts, other governments, or private entities. Particular care should be exercised when providing assistance to individuals who are not from the Member's congressional district.

The staff of the Committee's Office of Advice and Education will review the text of any proposed communication upon request.

Chapter 7: Casework Considerations

An important aspect of a House Member's representative function is to act as a "go-between" or conduit between his constituents and administrative agencies of the Federal Government. Whether promoting projects that will benefit constituents or assisting in the resolution of the problems that are an inevitable by-product of government regulation, the Member is serving as a facilitator, or ombudsman. Such activity, in the opinion expressed by the late Senator Paul H. Douglas, plays a useful role in the governmental process by helping legislators and administrators perform their respective jobs adequately through the interest of the former in the work of the latter.1

In a committee print entitled Ethical Standards in Government, a subcommittee headed by Senator Douglas stated that legislators performing casework functions can "legitimately serve as an informal board of inspectors" over administrators, "can prevent the administrators from flagging in their zeal and can detect and check abuses in the conduct of public business."2 Douglas concluded in his own study of ethics in government that there is a "sound ethical basis for legislators to represent the interests of constituents and other citizens in their dealings with administrative officials and bodies."3

The Constitution guarantees all citizens the right to petition the Government for redress of grievances.4 The most logical point of contact is one's elected representative. Furthermore, Members of Congress continually must monitor Government programs and the administration of public laws. Given the unique role of a congressman in the American constitutional scheme, it is not surprising, as the Supreme Court has recognized, that "[s]erving constituents and supporting legislation that will benefit the district and individuals and groups therein is the everyday business of a legislator."5

Off-the-Record (Ex Parte) Communications

Even though performing casework is an important congressional duty, it is not totally unrestricted. Federal law specifically prohibits certain off-the-record comments, known as ex parte communications, directed to executive or independent agency officials, on the merits of matters under their formal consideration.6 Whenever parties to a dispute come before a formal tribunal, they are entitled to a fair, impartial hearing and to equal access to the fact-finder. The ex parte rule is designed to preserve the due process rights of all parties to administrative proceedings.

An ex parte communication is an oral or written communication made without proper notice to all parties and not on the public record, from an interested person outside the agency to a member of the agency, an administrative law judge, or an employee involved in the decision-making process.7 Since 1976, the "Government in the Sunshine Act," has prohibited anyone from making an ex parte communication to an administrative agency decision-maker concerning the merits of an issue that is subject to formal agency proceedings.8 This broad prohibition encompasses the statements of Members and employees of Congress acting on behalf of constituents.

Formal agency proceedings generally include those of a quasi-adjudicatory (or trial-type) nature and those rulemaking proceedings that must include formal hearings and a decision on the record. The legislative history of the Government in the Sunshine Act shows that "[t]he prohibition only applies to formal agency adjudication. Informal rulemaking proceedings and other agency actions that are not required to be on the record after an opportunity for a hearing will not be affected by the provision."9 Thus, a House Member or employee may undertake communications to an agency on behalf of a constituent concerning those matters not subject to formal agency proceedings. Development of agency policy and establishment of budget priorities are examples of areas where Members of Congress are generally free to voice their own views or to forward those of their constituents. Agencies often ask for public comment on proposed regulations. Representatives, like other members of the public, may clearly contribute their opinions. It should be noted that some communications, even if related to a matter not then in a formal agency proceeding, may become part of the public record concerning that matter if the communication forms the basis of subsequent formal action, particularly one involving competing claims to a valuable

(FOOTNOTE 10) See Home Box Office, Inc. v. FCC, 567 F.2d 9, 57 (D.C. Cir.) ("information gathered ex parte from the public which becomes relevant to a rulemaking will have to be disclosed at some time"), cert. denied, 434 U.S. 829 (1977); see also Action for Children's Television v. FCC, 564 F.2d 458, 474-77 (D.C. Cir. 1977).

The proscription does not extend to "general background discussions about an entire industry which do not directly relate to specific agency adjudication involving a member of that industry, or to formal rulemaking involving the industry as a whole."11 The statute specifically exempts congressional status requests.12 As stated in a House Report on the Government in the Sunshine Act: "While the prohibitions on ex parte communications relative to the merits apply to communications from Members of Congress, they are not intended to prohibit routine inquiries or referrals of constituent correspondence."13

Both the House and Senate reports recognized the possibility that a request for background information or a status report "may in effect be an indirect or subtle effort to influence the substantive outcome of the proceedings." Thus in doubtful cases, agency personnel may treat these requests as ex parte communications "to protect the integrity of the decision-making process."14 One way to avoid violating the statutory prohibition is to put all communications with agencies in writing and to request that they be made a part of the record, available to all interested parties.

Example 1.

After taking testimony in a formal, contested proceeding under Federal Acquisition Regulations, an agency official is about to decide which of two competing bidders will be awarded a contract. It would be an improper, ex parte communication for Member A to call up the official and suggest that one of the two competitors receive the award.

Example 2.

In the same circumstances as Example 1, it would be proper for Member A to put his views in writing, as part of the formal record, under established agency procedures.

Example 3.

A constituent company in Member B's district has been awaiting a decision for some time in a formal agency proceeding. Member B may contact the agency seeking information regarding the status of the proceeding and urging prompt consideration of the company's claim.

Example 4.

A constituent company in Member C's district has been awaiting a decision for some time in a formal agency proceeding. Member C has received information on the status of the proceeding from the agency's congressional liaison officer. A call later that day from Member C to the head of the agency, asking for the same information, could be viewed as an attempt to influence the outcome. C should refrain.

Judicially Imposed Limits

No other statute or rule restrains Members of Congress from communicating with agency decision-makers. However, certain Federal court opinions discourage inordinate pressure on officials charged by law with responsibility for making administrative decisions. While such pressure may not violate any standard of conduct overseen by this Committee, Members should be aware that a court's perception that a Member has overstepped may lead it to invalidate the very determination that the Member was seeking. Judicial reaction varies, depending on the degree of formality of the administrative proceeding and the goal of the congressional intervention.

Senator Douglas pointed out with respect to proceedings conducted by administrative personnel that a legislator "should make it clear that the final decision is in their hands."15 Federal courts have nullified administrative decisions on grounds of due process and fairness towards all of the parties where congressional interference with ongoing administrative proceedings may have unduly influenced the outcome. In a seminal case, the court set aside a decision of the Federal Trade Commission because of aggressive questioning of agency officials by a Senate committee regarding their rationale for deciding an issue still pending before the officials in a formal setting. Note that the court's concern here had nothing to do with undisclosed communications; the questioning occurred during public hearings. Nonetheless, the court held that "common justice to a litigant requires that we invalidate the order entered by a quasi-judicial tribunal that was importuned by members of the United States Senate, however innocent they intended their conduct to be, to arrive at the ultimate conclusion which they did reach."16

Where congressional action is directed at less formal, non-adjudicatory administrative proceedings, courts are loathe to interject themselves between the legislative and the executive branches. As one court explained:

Americans rightly expect their elected representatives to voice their grievances and preferances concerning the administration of our laws. We believe it entirely proper for Congressional representatives vigorously to represent the interests of their constituents before administrative agencies engaged in informal, general policy rulemaking, so long as individual Congressmen do not frustrate the intent of Congress as a whole as expressed in statute, nor undermine applicable rules of procedure. Where Congressmen keep their comments focused on the substance of the proposed rule…administrative agencies are expected to balance Congressional pressure with the pressures emanating from all other sources. To hold otherwise would deprive the agencies of legitimate sources of information and call into question the validity of nearly every controversial rulemaking.17

The court focused here on "the intent of Congress…as expressed in statute." In another case, a court set aside an administrative determination that appeared to have been influenced, at least in part, by "irrelevant or extraneous" political considerations.18 There, a subcommittee chairman had stated that funding for unrelated aspects of the agency's budget would be withheld until the department's Secretary approved a particular project. The court emphasized that it was not finding that the Member had acted improperly, but it nonetheless remanded the case, directing the Secretary to "make new determinations based strictly on the merits and completely without regard to any considerations not made relevant by Congress in the applicable statutes."19

Agency investigations occupy a middle ground between formal adjudications and informal rulemaking. An administrative decision in this context need not be completely immune from congressional pressure, provided that the agency has an independent basis for its conclusion. Thus, for example, one corporation tried to resist a Securities and Exchange Commission subpoena on the ground that it had resulted from political pressure instigated by a corporate competitor. The court ruled: "That the SEC commenced these proceedings as a result of the importunings of [a senator and his constituent, the competitor], even with malice on their part, is not a sufficient basis to deny enforcement of the subpoena…. [But t]he SEC order must be supported by an independent agency determination, not one dictated or pressured by external forces."20

Courts have historically refused to intervene when Members attempted to expedite an administrative process rather than urging a particular outcome. In the words of one court, "where the Congressional involvement is directed not at the agency's decision on the merits but at accelerating the disposition and enforcement of the pertinent regulations, it has been held that such legislative conduct does not affect the fairness of the agency's proceedings and does not warrant setting aside its order."21

Congressional Standards

Congress has adopted standards which recognize the legitimate role of Members in assisting constituents, while protecting both the due process rights of parties potentially affected by Government actions and the ability of agency officials to exercise their responsibilities. The Committee on Standards of Official Conduct has observed:

It is clear that under our constitutional form of government there is a constant tension between the legislative and executive branches regarding the desires of legislators on the one hand and the actions of agencies on the other in carrying out their respective responsibilities. The assertion that the exercise of undue influence can arise based upon a legislator's expressions of interest jeopardizes the ability of Members effectively to represent persons and organizations having concern with the activities of executive agencies.

…In sum,…a finding [of undue influence] cannot rest on pure inference or circumstance or, for that matter, on the technique and personality of the legislator, but, instead, must be based on probative evidence that a reprisal or threat to agency officials was made.22

This Committee's longstanding guidance on communicating with executive and independent agencies of the Federal Government is expressed in Advisory Opinion No. 1.23 This opinion states that it is appropriate for a Member to introduce an individual to an agency, to arrange interviews and meetings for the individual, to provide a character reference, and to urge prompt and fair consideration of a matter on the merits of the case. Similarly, a Member may inquire as to the status of any proceeding or ruling at an agency or department. A Member may urge reconsideration of a decision on the ground that it is unsupported by Federal law, regulation, or legislative intent. If a Member has strong feelings about a particular case, judgment on the merits of the case may be expressed, subject, of course, to the prohibition on ex parte communications in formal agency proceedings. A Member should not directly or indirectly threaten reprisal or promise favoritism or benefit to any administrative official.

The Committee set forth the following standards in Advisory Opinion No. 1:

REPRESENTATIONS

This Committee is of the opinion that a Member of the House of Representatives, either on his own initiative or at the request of a petitioner, may properly communicate with an Executive or Independent Agency on any matter to:

• request information or a status report;

• urge prompt consideration;

• arrange for interviews or appointments;

• express judgment;

• call for reconsideration of an administrative response which he believes is not supported by established law, Federal regulation or legislative intent;

• perform any other service of a similar nature in this area compatible with the criteria hereinafter expressed in this Advisory Opinion.

PRINCIPLES TO BE OBSERVED

The overall public interest, naturally, is primary to any individual matter and should be so considered. There are also self-evident standards of official conduct which Members should uphold with regard to these communications. The Committee believes the following to be basic:

1. A Member's responsibility in this area is to all his constituents equally and should be pursued with diligence irrespective of political or other considerations.

2. Direct or implied suggestion of either favoritism or reprisal in advance of, or subsequent to, action taken by the agency contacted is unwarranted abuse of the representative role.

3. A Member should make every effort to assure that representations made in his name by any staff employee conform to his instruction.

As a matter of common sense, when communicating with an agency, Members and staff should only assert as fact that which they know to be true. In seeking relief, a constituent will naturally state his or her case in the most favorable terms. Moreover, the constituent may not be familiar with the intricacies of the controlling administrative regulations. Thus, a Member should exercise care before adopting a constituent's factual assertions. A prudent approach in any communication would be to attribute factual assertions to the constituent.

In order to avoid any inference on the part of agency personnel that a Member is asking for action in a particular matter that is inappropriate under agency guidelines, the Member should consider expressly assuring administrators that no effort is being made to exert improper influence. For example, a letter could ask for "full and fair consideration consistent with applicable law and regulations."

The staff of the Committee's Office of Advice and Education is available to review, on an informal basis, drafts of letters to administrative agencies. Formal written advisory opinions may also be requested from the Committee regarding the propriety of particular communications.

Example 5.

Company Z in Member A's district faces bankruptcy during the pendency of an unrelated administrative appeal. A may inform the agency of Z's financial difficulties and ask that Z's claim be expedited if agency procedures allow it.

Example 6.

Member B sits on the Veterans' Affairs Committee. B, like any other Member, may inquire as to the status of constituents' pending appeals to the Department of Veterans' Affairs. Obviously, in making these inquiries, B should not suggest that the agency's budget will be cut if B's constituents do not receive favorable determinations.

Example 7.

A constituent asks Member C for help with a pending administrative claim. If the Member cannot substantiate that the facts presented by the constituent are correct and complete, the Member should state in any communications to the agency that the information is "according to my constituent."

Example 8.

A constituent business asks Member D for help getting relief from agency regulations. Member D served on the committee that drafted the legislation under which the regulations were promulgated. Member D may tell agency officials of her view that the way in which the legislation is being implemented is inconsistent with the legislative language or intent.

Assisting Supporters

Because a Member's obligations are to all constituents equally, considerations such as political support, party affiliation, or campaign contributions should not affect either the decision of a Member to provide assistance or the quality of help that is given. While a Member should not discriminate in favor of political supporters, neither need he or she discriminate against them. As this Committee has stated:

The fact that a constituent is a campaign donor does not mean that a Member is precluded from providing any official assistance. As long as there is no quid pro quo, a Member is free to assist all persons equally.24

An individual's status as a donor may, however, raise perception problems. The Senate Select Committee on Ethics has expressed the issue as follows:

The cardinal principle governing Senators' conduct in this area is that a Senator and a Senator's office should make decisions about whether to intervene with the executive branch or independent agencies on behalf of an individual without regard to whether the individual has contributed, or promised to contribute, to the Senator's campaigns or other causes in which he or she has a financial, political or personal interest….

Because Senators occupy a position of public trust, every Senator always must endeavor to avoid the appearance that the Senator, the Senate, or the governmental process may be influenced by campaign contributions or other benefits provided by those with significant legislative or governmental interests. Nonetheless, if an individual or organization has contributed to a Senator's campaigns or causes, but has a case which the Senator reasonably believes he or she is obliged to press because it is in the public interest or the cause of justice or equity to do so, then the Senator's obligation is to pursue that case. In such instances, the Senator must be mindful of the appearance that may be created and take special care to try to prevent harm to the public's trust in the Senator and the Senate. This does not mean, however, that a Member or employee is required to determine if one is a contributor before providing assistance.25

The Senate Committee concluded that "established norms of Senate behavior do not permit linkage between…official actions and…fund raising activities."26 House Members, too, should be aware of the appearance of impropriety that could arise from championing the causes of contributors and take care not to show favoritism to them over other constituents.

Assisting Non-Constituents

On occasion a Member's publicized involvement in legislation or an issue of national concern will generate correspondence from individuals outside the district. A private citizen may communicate with any Member he or she desires. However, the Member's ability to provide assistance to such individuals may face practical limitations.

Regulations of the Committee on House Administration state that the official expenses allowance "is provided to pay ordinary and necessary business expenses incurred by the Member (and/or the Member's employees) within the United States, its territories and possessions, in support of the conduct of the Member's official and representational duties to the district from which he/she was elected."27 This regulation does not prohibit a Member from ever responding to a non-constituent. In some instances, working on matters for non-constituents that are similar to those facing constituents may enable the Member better to serve his or her district. Other times, the Member may serve on a House Committee that has the expertise and ability to provide the requested help. Of course, if a Member has personal knowledge regarding a matter or an individual, he or she may always communicate that knowledge to agency officials. As a general matter, however, a Member should not be devoting official resources to

Government Procurement and Grants

Constituents frequently request congressional assistance with Government contracts or grants. These matters are subject to the same guidelines as other casework. Thus, Members may generally forward introductory information to an agency from a constituent firm or request information for a constituent on available opportunities. On the other hand, an attempt to influence the outcome of a quasi-judicial proceeding such as a formal contract dispute or a bid protest pending before a board of contract appeals could trigger complaints from third parties that the fairness and impartiality of the tribunal has been compromised.28 Moreover, experience has shown that contacts like these may be resented by the decision-makers. Consequently, such efforts may do more harm than good to the constituent's cause.

In assisting a private enterprise, a Member should be mindful that congressional allowances, including those for staff, are available only for conducting official business.29 Assistance should not extend so far that the congressional office is actually doing the work of the private business, rather than of the Congress. Again, Members and employees should take care not to discriminate unfairly amongst constituents, e.g., on political grounds.

Example 9.

Member A may contact agency officials and request that they meet with a constituent seeking a grant. Staffer B on Member A's congressional staff may accompany the constituent, but B should make clear that he is not there as the constituent's agent. Care should also be taken to avoid any inference of a threat to agency officials.

Example 10.

Constituent Z requests Member B's assistance with a grant. Z is unfamiliar with the governing regulations and asks B if her staff, being experienced in such matters, would prepare the application on Z's behalf. It would not be appropriate for congressional staff to be doing the work of a private party in this fashion.

Example 11.

Member C is approached by a constituent business for help in getting a government agency to purchase its product. The Member may set up appointments and write letters on the constituent's behalf, however C should either (a) be personally familiar with the company, product, and government requirements, or (b) be willing to provide the same type of assistance to other, similarly situated constituent businesses.

Communicating with Courts

Just as they are asked to intervene with agency officials responsible for making on-the-record decisions, Members may also be asked to communicate with judges in pending court cases. Most courts are subject to limits on ex parte communications which are at least as restrictive as those applicable to executive agencies. Judges, whether serving at the Federal, state, or municipal level, are charged with performing their duties in an impartial manner. They are guided in their actions by standards such as the following:

A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law, and, except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceeding….30

Where a Member believes it necessary to attempt to affect the outcome in a pending case, he or she has a variety of options. A Member who has relevant information could provide it to a party's counsel, who could then file it with the court and notify all parties. Alternatively, the Member could seek to file an amicus curiae, or friend of the court brief. Yet another option, in an appropriate case, might be to seek to intervene as a formal party to the proceeding. A Member could also make a speech on the House floor or place a statement in the Congressional Record as to the legislative intent behind the law. A Member should refrain, however, from making an off-the-record communication to the presiding judge, as it could cause the judge to recuse him- or herself from further consideration of the case.

Where a Member does have personal knowledge about a matter or a party to a proceeding, the Member may convey that information to the court through regular channels in the proceeding (e.g., by submitting answers to interrogatories, being deposed, or testifying in court). Members and employees should also be aware that special procedures are to be followed whenever they receive a subpoena seeking information relating to official congressional business.31

Contacting Other Governments

Besides intervening with Federal agencies and personnel, Members may also be asked to assist constituents in their dealings with state, local, and foreign governments. Members may do so. Their communications should adhere to the same general principles described above that guide their contacts with Federal agencies.32

Example 12.

Constituent Z has a claim pending before the state Workers' Compensation Board. If Member A would do the same for any similarly situated constituent, A may write to the state board inquiring as to the status of Z's claim and asking for expedited review if such would be consistent with the board's governing law and regulations. A may not imply that the state will receive increased Federal aid in return for a disposition favorable to Z.

Example 13.

General Widget, Inc., an old and respected manufacturer in Member B's district, would like to take advantage of the opening of potential Eastern European markets for its products. GW asks B for a letter of introduction to a certain foreign Minister of Finance. B writes:

Dear Minister:

General Widget, Inc. has been doing business in my congressional district for 70 years. Now it seeks the opportunity to do business in your country as well. GW's executives would be happy to describe to you its wide range of products. I would appreciate any consideration you could show to GW and its representatives.

Sincerely,

B

Member of Congress

B's letter is appropriate. If B writes this letter on GW's behalf, B should be willing to write such a letter for any similarly situated constituent company.

Intervening with Non-Governmental Parties

Most often, Members are asked to assist constituents in their dealings with Government agencies. In some circumstances, however, the Member may be asked to assist one private party in dealings with another private individual or organization. For example, a constituent company seeking subcontracts may ask a Member for a letter of introduction to another company which has been awarded Federal funds. As another example, two businesses may ask a Member to act as a mediator in a private dispute.

While a Member may take actions that he or she believes will assist the congressional district, intervening in private matters requires the exercise of particular caution. Unlike agency personnel, many private businesses are not used to dealing with Members of Congress on a regular basis. Thus, a communication from a Member's office may be viewed as an official endorsement of a private enterprise, or as pressure to take action in order to please the Member, rather than based on the merits. In this context, again, Members and employees should bear in mind that official resources should not be devoted to doing the work of private businesses.33

Confidentiality of Records

The "Privacy Act" protects the records maintained by Government agencies from disclosure, except for specified purposes or with the permission of the person to whom the record pertains.34 Although the statute does permit disclosure "to either House of Congress,"35 some agencies require Members to show written consent from their constituents before they will release the constituents' records to the Members. The Privacy Act does not apply to congressional documents. Historically, however, communications between Members and constituents have been considered confidential and should generally not be made public without the constituent's consent.

Personal Financial Interests

Just as Representatives may vote on legislation that affects them as members of a class rather than as individuals, Members and employees may generally contact Federal agencies on issues in which they, along with their constituents, have interests.36 A constituent need not be denied congressional intercession merely because a Member or the staff assistant assigned to a particular issue may stand to derive some incidental benefit along with others in the same class. Thus, Members who happen to be farmers may nonetheless represent their constituents in communicating views on farm policy to the Department of Agriculture. Only where Members' actions would serve their own narrow, financial interests as distinct from those of their constituents should the Members refrain.

As always, Members and employees must guide their actions in this regard by the Code of Official Conduct. The Code prohibits Members and staff from allowing compensation to accrue to their benefit "by virtue of influence improperly exerted" from a position in Congress.37 Moreover, an employee who files a Financial Disclosure statement may not contact a court or executive branch agency with respect to nonlegislative matters affecting any entity in which the individual has a significant financial interest, unless the employing Member grants a written waiver and files it with the Committee on Standards of Official Conduct.38

Gifts and Compensation for Casework

When assisting constituents, Members and staff should be aware that the Federal Criminal Code prohibits the receipt of anything of value in return for or because of official actions.39 Gifts offered as a thank you for casework assistance should generally be declined.

Members and employees also may not ask for or receive compensation for "services rendered" in relation to matters or proceedings in which the United States is a party or has an interest.40 No funds or things of value, other than one's official salary, may be accepted for dealing with an administrative agency on behalf of a constituent.

Caution should always be exercised to avoid the appearance that solicitations of campaign contributions from constituents are connected in any way with a legislator's official advocacy. A discussion of this problem was offered by Senator Douglas:

It is probably not wrong for the campaign managers of a legislator to request contributions from those for whom the legislator has done appreciable favors, but this should never be presented as a payment for the services rendered. Moreover, the possibility of such a contribution should never be suggested by the legislator or his staff at the time the favor is done. Furthermore, a decent interval of time should be allowed to lapse so that neither party will feel that there is a close connection between the two acts. Finally, not the slightest pressure should be put upon the recipients of the favors in regard to the campaign. It should be clearly understood that any gift they make is voluntary and there will be no question of reprisals or lack of future help by the legislator if the gift is withheld. In other words, any contribution should be not a quid pro quo but rather a wholly voluntary offering based upon personal friendship and a belief in the effectiveness of the legislator sharpened perhaps by individual experience.41

If a legislator were to ask for political support as a quid pro quo for official action, he or she could be subject to extortion charges. In overturning the conviction of a state legislator, the Supreme Court recently observed that soliciting campaign contributions from constituents with legislative business could be extortion, "but only if the payments are made in return for an explicit promise or undertaking by the official to perform or not to perform an official act."42 The Court held in that case that, given the realities of financing campaigns, "[w]hatever ethical considerations and appearances may indicate," it is generally not a Federal crime for legislators to "act for the benefit of constituents or support legislation furthering the interests of some of their constituents, shortly before or after campaign contributions are solicited and received from those beneficiaries."43

Other limitations may affect assistance to private individuals, even when no compensation is involved. Under House rules and Federal law, employees usually may not represent individuals or organizations before the Government other than in the performance of official duties.44 Although Members are not subject to the same statutory limitations, representing a private entity before the Government outside of official duties may be inconsistent with a representative's obligations to serve the public interest.45

Recommendations for Government Employment

Constituents frequently ask their Representatives in Congress to recommend them for employment in the Federal Government. Often an individual is seeking a job in the competitive service or with the Postal Service, where merit selection requirements and Federal law limit the weight that can be given to recommendations by Members. Greater flexibility is afforded Members when recommending individuals for appointive policy positions, where political considerations are an important factor in the selection process.

Neither Federal law nor House rules prohibit Members from making recommendations or referrals on behalf of those seeking Government jobs. However, employment in the competitive service is intended to be based on the "merit system."46 Briefly, a register of eligibles is maintained by the Office of Personnel Management, consisting of the names of applicants who have qualified for placement in the competitive service.47 An appointing officer of an agency or department has discretion in choosing an "eligible" from the register to fill a vacancy,48 but must make the hiring choice solely on the basis of the merit and fitness of the applicant.49 Such discretion may not be exercised in an arbitrary or capricious manner.50

The regulatory and statutory framework of the merit system specifically prohibits a Federal officer with authority to appoint persons in the competitive service from considering the political affiliation of an applicant51 or from considering the recommendation of a Member of Congress except as to the character or residency of the applicant.52 The effect of these restrictions was summarized by the predecessor of the Office of Personnel Management as follows:

To put these findings and conclusions in proper perspective, it is necessary to understand that there is nothing wrong in the act of a member of Congress or any other partisan source referring an individual to a Federal agency for possible employment. This is so whether the referred individual is Republican or Democrat, constituent or stranger, and regardless whether referrer and referred are or are not members of the same political party. 5 U.S.C. 3303 states "An individual concerned in examining an applicant for or appointing him in the competitive service may not receive or consider a recommendation of the applicant by a Senator or Representative, except as to the character or residence of the applicant." This provision is not a ban on referrals, and actually anticipates that referrals will be made. What this statute restricts is not communications or referrals, but the reception the appointing official is free to give to a referral. Accordingly, the simple use of a political party label to condemn the otherwise innocent activities of the referrer who bears that label cannot be substituted for a demonstration that politics influenced or was intended to influence any of those activities.53

A separate statute governs the selection of employees for the Postal Service. Members of Congress are prohibited by 39 U.S.C. sec. 1002 from "making or transmitting" any recommendation or statement regarding an individual under consideration for a position, other than statements on the person's character or residence. An authorized representative of the Government may, however, request information on employment-related qualifications of which the Member has knowledge, and the Member may respond.

The above limitations do not apply when a Member is recommending an individual for a policy-making or political position in the executive branch. Such noncareer assignments generally involve advocacy of the President's program, significant involvement in development of Administration policies, or service as a confidential assistant to a Presidential appointee or other key official. Similarly, these limitations do not affect recommendations for congressional employment.

There are other restrictions in Federal law that affect recommendations for any position. A candidate, including a Member of Congress, may not promise to appoint, or to use influence in appointing someone to any public or private post in return for support of the candidate.54 No one may promise employment, or a benefit provided for or made possible in whole or in part by an act of Congress, in return for political activity and support.55 The denial or the threatening of any Federal employment, or employment made possible through Federal funds, as a means of securing political contributions is prohibited.56 Finally, nothing of value may be received in return for a promise of support or use of influence in obtaining someone a Federal post.57

In making recommendations for employment, Members and employees should bear in mind the admonition of the Code of Ethics for Government Service not to discriminate by dispensing special favors.58 Similarly situated constituents should be treated alike. A Member should have some knowledge of an applicant before he or she recommends the person for employment, or the Member could find it difficult to deny subsequent requests.

Example 14.

Constituent Z from Member A's district is eligible and applying for a career position in the executive branch. A knows Z, and at Z's request, A writes to the appointing official as follows:

Dear Administrator:

Z informs me that he is applying for a position with your agency. Z lives in my district and I have known him for 10 years. He is well respected in our community, and I personally know him to be of the utmost integrity. I hope that you will give his application full and fair consideration.

Sincerely,

A

Member of Congress

A's letter is appropriate.

Example 15.

Member B's receptionist, C, applies for a job with the Postal Service. A Postal Service employee contacts B for a job reference. B may supply a thorough evaluation of C's performance while in B's employ and any other information that is pertinent to the request.

Appendix to Chapter 7

Committee on Standards of Official Conduct Advisory Opinion No. 11

SUBJECT

On the Rule of a Member of the House of Representatives in Communicating With Executive and Independent Federal Agencies. REASON FOR ISSUANCE

A number of requests have come to the Committee for its advice in connection with actions a Member of Congress may properly take in discharging his representative function with respect to communications on constituent matters. This advisory opinion is written to provide some guidelines in this area in the hope they will be of assistance to Members.

BACKGROUND

The first Article in our Bill of Rights provides that "Congress shall make no law…abridging the…right of the people…to petition the government for a redress of grievances." The exercise of this Right involves not only petition by groups of citizens with common objectives, but increasingly by individuals with problems or complaints involving their personal relationships with the Federal Government. As the population has grown and as the Government has enlarged in scope and complexity, an increasing number of citizens find it more difficult to obtain redress by direct communication with administrative agencies. As a result, the individual turns increasingly to his most proximate connection with his Government, his representative in the Congress, as evidenced by the fact that congressional offices devote more time to constituent requests than to any other single duty. The reasons individuals sometimes fail to find satisfaction from their petitions are varied. At the extremes, some grieva

Another factor which may lead to petitioner dissatisfaction is the occasional failure of legislative language, or the administrative interpretation of it, to cover adequately all the merits the legislation intended. Specific cases arising under these conditions test the legislation and provide a valuable oversight disclosure to the Congress.

Further, because of the complexity of our vast federal structure, often a citizen simply does not know the appropriate office to petition.

For these or similar reasons, it is logical and proper that the petitioner seek the assistance of his Congressman for an early and equitable resolution of the problem.

REPRESENTATIONS

This Committee is of the opinion that a Member of the House of Representatives, either on his own initiative or at the request of a petitioner, may properly communicate with an Executive or Independent Agency on any matter to:

request information or a status report;

urge prompt consideration;

arrange for interviews or appointments;

express judgments;

call for reconsideration of an administrative response which he believes is not supported by established law, Federal Regulation, or legislative intent;

perform any other service of a similar nature in this area compatible with the criteria hereinafter expressed in this Advisory Opinion.

Principles to Be Observed

The overall public interest, naturally, is primary to any individual matter and should be so considered. There are also other self-evident standards of official conduct which Members should uphold with regard to these communications. The Committee believes the following to be basic:

1. A Member's responsibility in this area is to all his constituents equally and should be pursued with diligence irrespective of political or other considerations.

2. Direct or implied suggestion of either favoritism or reprisal in advance of, or subsequent to, action taken by the agency contacted is unwarranted abuse of the representative role.

3. A Member should make every effort to assure that representations made in his name by any staff employee conform to his instruction.

CLEAR LIMITATIONS

Attention is invited to United States Code, Title, 18, Sec. 203(a) which provides in part:

Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly—demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either receives or agrees to receive, either personally or by another—

(A) at a time when such person is a Member of Congress…; or

(B) at a time when such person is an officer or employee of the United States in the…legislative…branch of the Government…in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court, court-martial, officer, or any civil, military, or naval commission…shall be subject to the penalties set forth in section 216 of this title.2

Section 216 provides for imprisonment for up to one year for engaging in the conduct, and for imprisonment for up to five years knowingly engaging in the conduct, plus fines.

The Committee emphasizes that it is not herein interpreting this statute but notes that the law does refer to any compensation, directly or directly, for services by himself or another. In this connection, the Committee suggests the need for caution to prevent the accrual to a Member of any compensation for any such services which may be performed by a law firm in which the Member retains a residual interest. It should be noted that the above statute applies to officers and employees of the House of Representatives as well as to Members.

Chapter 8: Campaign Funds and Practices

Highlights

Use of Campaign Funds

Campaign funds may not be converted to personal use (e.g., loaned to the Member) or used for official expenses.

Campaign funds may be used only for bona fide campaign or political purposes.

Money received at testimonials or other fundraisers must be treated as campaign funds.

A Member may not use official resources, including funds, supplies, and equipment, for campaign activity.

Campaign Activity by House Employees

Employees of the House are not covered by the "Hatch Act" and may engage in partisan campaign activity in their free time.

Staffers may not make political contributions to their employing Members of Congress.

Members of Congress are prohibited from soliciting political contributions from their staff, as well as from other Federal employees.

Members of the House, like all candidates, must abide by the provisions of the Federal Election Campaign Act concerning required record keeping, reporting, registration, and organization.

Statutory Campaign Restrictions

Federal law prohibits:

• receiving corporate, labor union, foreign national, and government contractor contributions;

• soliciting contributions from Federal employees;

• soliciting contributions in Federal (including House) office buildings;

• accepting contributions over specified statutory limits;

• making cash contributions over $100;

• misrepresenting oneself as working on behalf of a particular candidate or circulating anonymous campaign literature;

• failing to report contributions received or expenditures made.

Chapter 8: Campaign Funds and Practices

Numerous restrictions limit the use of campaign funds by Members of the House of Representatives. Like all candidates for Federal office, Members are subject to regulations on campaign finance pursuant to the Federal Election Campaign Act of 1971, as amended.1 Under the provisions of that act, the Federal Election Commission (FEC) has been established as an independent regulatory agency to oversee Federal campaign finance procedures and practices. Members should thus examine closely provisions of the Federal Election Campaign Act, regulations promulgated by the FEC,2 and explanatory publications prepared by the FEC. In addition, certain campaign activities may run afoul of provisions of the Federal Criminal Code.

This chapter will focus on those provisions not specifically under the authority of the FEC, including Criminal Code provisions and restrictions in the House rules. In addition, it will briefly highlight the major provisions of the large body of Federal campaign law relating to registration, disclosure and use of campaign contributions. Advisory opinions interpreting specific provisions of that law may be requested from the FEC.

Members and supervising employees should carefully counsel all House staff as to the requirements and restrictions pertaining to political activities. The distinction between official and campaign responsibilities should be made clear. Campaign work should be kept out of the congressional office, and vice versa. Management controls, such as time and attendance records, should be implemented to permit adequate supervision of both Washington and district staff and to document compliance with applicable standards.

Use of Campaign Funds

The rules of the House restrict Members' use of their campaign funds. These rules require that campaign funds be used solely for campaign or political purposes and specifically prohibit the use of campaign funds for personal3 or official purposes.4 Campaign funds may not be used to prepare or to print any mass mailing sent under the Member's frank.5 Any proceeds from testimonials or other fundraisers must be treated as restricted campaign contributions.6

Nonincumbent candidates for the House are governed only by 2 U.S.C. sec. 439a, since they are not subject to House rules. That statute was amended in the 96th Congress to prevent all candidates, whether incumbent or not, from using excess campaign funds for personal purposes. Not only do statute and rule prohibit diversion of campaign funds to personal use, but such diversion could also transform the funds into taxable personal income to the individual.7

Bona Fide Campaign or Political Purposes

A Member of the House of Representatives shall keep his campaign funds separate from his personal funds. A Member shall convert no campaign funds to personal use in excess of reimbursement for legitimate and verifiable campaign expenditures and shall expend no funds from his campaign account not attributable to bona fide campaign or political purposes.

—House Rule 43, clause 6.

House Rule 43, clause 6, prohibits Members from mingling their campaign funds with their personal funds and limits the use of campaign funds to bona fide campaign or political purposes. The Select Committee on Ethics of the 95th Congress explained that "[t]he intent of this rule is to restrict the use of campaign funds to politically-related activities and thus to prohibit their conversion to personal use or to supplement official allowances."8 As part of the Ethics Reform Act of 1989,9 the phrase "bona fide campaign purposes" was amended to read "bona fide campaign or political purposes" in order to reflect the longstanding interpretation that campaign funds need not be exclusively applied towards an immediate reelection campaign. Rather, "[f]or purposes of this rule, campaign expenditures and political expenditures are synonymous."10

The rule does not define "bona fide campaign purpose."11 The Select Committee on Ethics of the 95th Congress, in its Final Report, provided the following guidance as to possible political purposes for which campaign funds might legitimately be used:

The Federal Election Commission and the Internal Revenue Service define political expenditures as a payment or gift of anything of value made for the purpose of influencing the selection, nomination, or election of an individual to public office. However, the FEC and IRS have interpreted this definition broadly to encompass the traditional politically-related activities of Members of Congress. Thus, if a Member determines, for example, that advertisements in publications of civic organizations, the mailing of holiday greetings to constituents, or travel to meetings with local party officials, would constitute a political expenditure, as so defined, or are otherwise politically-related, then he may use campaign funds for that purpose. Any such political expenditures must be fully disclosed in accordance with the reporting requirements of the FEC Act.12

As long as Members do not convert campaign funds to personal or official uses, they generally have wide discretion as to what constitutes a bona fide political purpose.

No Personal Use

On four separate occasions, the Committee on Standards of Official Conduct has investigated Members for transferring campaign funds to personal accounts or borrowing from their campaign funds. The Committee found violations of Rule 43, clause 6 in all cases. Having issued four separate public reports condemning the practice, the Committee believes that all Members should at this point be on notice that they may not borrow from their campaigns.

The first case, in the 96th Congress, resulted in a House censure of the Member.13 This Committee, in recommending censure, noted that for a charge of conversion of campaign funds to personal use to be sustained, "it must be proved that the expenditures were not for reimbursement for legitimate prior campaign expenditures, and that the funds were in fact applied to personal use." In the instance in question, the Committee concluded "that these transfers [from campaign accounts to personal accounts] were made to repay personal loans [of the Member] and to cover outstanding obligations against his personal checking account."14

Again, in the 99th Congress, the Committee found that the rule had been violated when a Member borrowed money from his campaign to engage in personal investments: "[W]hen a candidate borrows money from his own campaign, a presumption is raised that [the] candidate is receiving a personal benefit—i.e., use of the money."15 While such a presumption could be overcome, the Committee took the position that any use of campaign funds personally benefiting the Member, rather than "exclusively and solely" benefiting the campaign, is not a bona fide campaign purpose:

Moreover, a bona fide campaign purpose is not established merely because the use of campaign money might result in a campaign benefit as an incident to benefits personally realized by the recipient of such funds, such as where…the individual has the discretion of whether to share benefits he might realize from the use of campaign money.

…[T]he Committee believes that any other interpretation and application of the third prohibition of Rule XLIII, clause 6, would open the door to a potentially wide range of abuse and could result in situations where campaign moneys were expended for the personal enjoyment, entertainment, or economic well-being of an individual without any clear nexus that the funds so expended achieved any political benefit to the disburser (campaign organization) of the funds.16

In the 100th Congress, the Committee issued two letters of reproval to Members for violating Rule 43, clause 6. In the first of these cases, the Member's campaign committee loaned $1,000 at seven percent interest to his administrative assistant to ease some personal short-term financial difficulties and loaned $4,800 at the same interest rate to the Member to enable him to purchase a car for personal and campaign use in the district.17 The Committee concluded that these loans were not undertaken exclusively and solely to benefit the campaign.

The second case involved a variety of financial transactions in 1978 and 1982 through 1985. The Member borrowed funds from his campaign committee, used a campaign certificate of deposit as collateral for a personal loan, and failed to report the debt he owed to his campaign committee as well as debts to various financial institutions. The Committee stated:

The Committee feels that there is no circumstance in which a Member could borrow from his campaign and satisfy the requirement that the use of the funds would exclusively and solely benefit the campaign. Therefore, the Committee takes the firm position that a Member may not borrow funds from his campaign. The act of borrowing shall be construed as a violation of the provision of House Rule XLIII, clause 6, which requires that all campaign expenditures must be for a bona fide campaign expense. \* \* \* \*

The Committee takes the firm position that there is a presumption that a Member has borrowed from his campaign in violation of House Rule XLIII, clause 6, when funds are withdrawn under the guise of repayment of prior unreported loans to the campaign.18

While personal (and official) use of campaign funds is prohibited, certain expenses that arise as a direct result of winning election may be deemed campaign-related. The Committee recognizes that certain expenses occur as a successful candidate is making the transition from candidate to elected official. The Committee has determined that a new Member's moving expenses to relocate to Washington, D.C. may legitimately be paid from campaign funds, as long as these expenses are incurred reasonably contemporaneously with the beginning of the congressional term. The campaign fund may also pay for a reception in honor of an individual's swearing in as a Member of Congress, even if the reception is held in the congressional office. This is the only instance where the Committee has allowed campaign funds to be used for an event held in the House office buildings.

Example 1.

Member A takes his family on a Caribbean vacation to rest up after a particularly grueling but successful campaign. A may not pay for the vacation with campaign funds.

Example 2.

Member B maintains a petty cash fund in the congressional office to pay for nonofficial expenses, such as coffee for the staff and plants for the office. B may not use campaign funds for these purposes. B may use personal funds.

No Official Use

The 1977 amendments to the Rules of the House made by H. Res. 287 were specifically intended to build a "wall between campaign funds and official allowances."19 Thus, the Rules of the House have long prohibited Members from maintaining or using an "unofficial office account," that is, using nonappropriated, private funds such as campaign contributions to defray official expenses of the Member.20 As a result of a 1990 statutory change codifying House Rule 45, Federal law now similarly bars all Members of Congress from using campaign funds for official expenses.21

In Advisory Opinion No. 6, this Committee noted that in the absence of any definition in Rule 45 or Rule 43 of "political" or "official" expenses, a Member has wide discretion in designating a particular expenditure as political or official. "However, [the] committee is of the view that once the Member makes his determination, he is bound by it. A single event cannot, for purposes of the House rules, be treated as both political and official."22 Therefore, in the situation that prompted the issuance of the advisory opinion, the Member could have designated a town meeting either as a political (campaign) event or as an official (representative) one. But by sending announcements of the meeting under the frank (which can be used only in the conduct of official business), the Member defined the event as an official one and thus could not use campaign funds or any other private funds to advertise or to conduct the meeting without violating Rule 45 or Rule 43, clause 6.

Conversely, if a Member designates an event as political by using campaign funds for it, no official resources may then be used. This means that congressional staff should not make the arrangements, invitations may not go out under the frank, and the congressional telephone number may not be designated for RSVPs. Political fundraisers may never use official resources.

Example 3.

Member A may not use campaign funds to purchase business cards for her congressional office staff.

Example 4.

Member B holds an official town meeting in his district, organized by official staff and advertised under the frank. B may not use campaign funds to buy refreshments for the meeting.

Incidental Use of Campaign Vehicles

The Ethics Reform Act authorized "the incidental noncampaign use of vehicles owned or leased by a campaign committee of a Member of the House of Representatives" under "appropriate conditions" as determined by this Committee.23 This provision allows for common sense accommodations of a Member's busy schedule, but not a wholesale conversion of campaign assets to personal, official, or other nonpolitical purposes. Members should therefore guide their conduct by a rule of reason, and consult the Committee's Office of Advice and Education if in doubt as to whether a particular contemplated use would be considered incidental and appropriate.

Example 5.

Member A has three events scheduled in her district one day. The first and last are political events; the second is an official event. She may use the car leased by her campaign to travel to all three events.

Example 6.

Member B's teenager asks permission to borrow the campaign car to go on a date. Member B must decline. This would not be an appropriate use of a campaign resource.

No Franked Documents

Federal law provides that only appropriated funds, and not private contributions, may be used to pay the cost of preparing, printing, and distributing mass mailings under the frank.24 This statutory provision, enacted in 1981, codified provisions that had been in the Rules of the House since 1977.25

The rationale behind the restriction on the use of campaign funds, or other private funds, for defraying the cost of mass mailings under the frank was explained by the House Commission on Administrative Review:

The Commission believes that since the franking privilege is reserved for "official materials," it is inappropriate for franked mass mailings to be printed and prepared with private or political funds. \* \* \* \*

The Commission believes that it is necessary to make a clear separation between the public purpose and private interest in the use of the frank, and therefore, private funds should not be used to print "official documents."26

Testimonials and Fundraisers

The Rules of the House provide that any funds received from testimonial dinners or other fundraising events are to be treated as campaign contributions, subject to all the restrictions on campaign funds.27 Thus, such proceeds may be used only for bona fide campaign or political purposes, rather than for personal or congressional office uses.

The Select Committee on Ethics found in an Advisory Opinion that a direct mail solicitation by a Member of the House or the spouse of a Member constitutes a "fund-raising event" for purposes of House Rule 43, clause 7. Thus the proceeds of such a solicitation must be treated as campaign contributions and may not be converted to personal use by the Member. The Select Committee noted that a major purpose of the revisions of the Code of Official Conduct was to prevent Members from cashing in on their official positions in the Congress.28 That committee also found, in Advisory Opinion No. 11, that a Member may not accept for his unrestricted personal use the proceeds of a fundraiser conducted by a group that is independent from the Member.29

Legal Defense Funds

The Committee on Standards has determined that Members may use campaign funds to defend legal actions arising out of their campaign, election, or the performance of their official duties. The Committee deems the protection of a Member's presumption of innocence to be a valid political purpose. These funds remain campaign contributions, however, subject to all the restrictions and prohibitions of other campaign contributions, including the reporting requirements, contribution limits, and prohibitions on corporate, labor union, and government contractor contributions. Such treatment accords with rulings of the Federal Election Commission.30

In addition (or instead), a Member, officer, or employee may choose to set up a "legal defense fund" independent of any campaign fund. (Officers and employees obviously do not have the option of using campaign funds and would have to resort to separate legal defense funds for actions arising out of their official duties.) The Select Committee on Ethics established an exemption to Rule 43, clause 7, such that funds raised specifically for legal defense are not deemed to be campaign contributions.31 Such legal defense funds are, however, subject to the gift rule.32

Redistricting Funds

The redistricting process arising out of the 1990 census has led to the creation of redistricting funds, set up to promote the interests of the constituents of individual districts. A Member may associate with and raise money for such a fund provided that it represents the views of a wide range of constituents and not solely those of the Member, and that the Federal Election Commission agrees that the fund is independent of the Member's campaign committee and not subject to the Federal Election Campaign Act. No official resources may be used in support of a redistricting fund. The amounts raised would not, under these circumstances, be treated as personal gifts, campaign contributions, or supplements to the official expenses allowance. Such a fund would not be subject to the jurisdiction of this Committee, and no contribution limits or reporting requirements would apply.

Excess Campaign Funds: Repeal of the "Grandfather" Clause

Campaign funds that are in excess of amounts needed to defray the cost of campaigning are subject to the same restrictions as campaign funds in general. The 96th Congress amended 2 U.S.C. sec. 439a to prohibit the use of excess campaign funds for personal purposes by anyone except those who were Members of Congress on January 8, 1980, the date the amendment became effective. Since House rules prohibit such diversion to personal use, however, no Member regardless of tenure in the House, could then or may now make personal use of campaign funds while in office.33

Moreover, in the Ethics Reform Act of 1989, Congress repealed this "grandfather" provision, which allowed those Members who were in office on January 8, 1980 to convert excess campaign funds to personal use upon retirement.34 Under the new law, after the end of the 102nd Congress, no Member will be able to use campaign funds for personal purposes. Those Members who were in office in 1980 and leave office before the swearing in of the 103d Congress (in January 1993) will be limited to the unrestricted amount in their campaign funds as of November 30, 1989 (the date of enactment of the Ethics Reform Act).

The statute still allows campaign funds to be donated to charities described in sec. 170(c) of the Internal Revenue Code,35 to be contributed to any national, state, or local committee of a political party, or to be used for "any other lawful purpose."36 The Select Committee on Ethics stated in its Final Report that House rules also would allow the contribution of excess campaign funds to a qualified charitable organization or to a political party or another candidate, as permitted by FEC regulations.37 Under the provisions of both the Federal statute and House rules, excess campaign funds may be invested for use in a future political campaign. In addition to the general reporting requirements concerning the disposition of campaign funds, the political committee may be liable for tax on the interest earned on campaign funds.38

Campaign Use of Official Resources

Committee on House Administration regulations specify that the various allowances for a Member's office are for "official expenses" and for the "conduct of the official and representational duties of the office."39 These regulations derive in large part from 31 U.S.C. sec. 1301(a), providing that official funds are to be used only for the purposes for which appropriated, as well as from statutory authorizations for allowances.40 It is thus inappropriate to use any official resources to conduct campaign or political activities. A Member may make nonpartisan voter registration materials available in a congressional office, but may not actually register people to vote there.

Members must regularly certify that all official funds have been properly applied. Not only may a false certification bring criminal penalties, but any amount improperly paid may be recovered by the Government.41

Mailing Lists

Mailing lists procured, compiled, maintained, or produced with appropriated funds may be used only for official purposes. Official mailing lists may not be shared with a Member's campaign committee or otherwise be used for campaign purposes. No name or address from any such list may be affixed to a campaign or other mailing not bearing the Member's frank. A congressional office may acquire a mailing list compiled by an unofficial source (including a campaign committee) only if the list is available on the same terms to other entities. If such a list is generally available, a Member's congressional office and campaign committee could each buy the same list and thereby acquire the same information.

The "Facsimile Rule"

House Rule 43, clause 11, provides:

A Member of the House of Representatives shall not authorize or otherwise allow a non-House individual, group, or organization to use the words "Congress of the United States", "House of Representatives", or "Official Business", or any combination of words thereof, on any letterhead or envelope.

When the Committee's Advisory Opinion regarding Rule 43, clause 11, was issued in 1979, this provision was viewed as not preventing a Member from using a facsimile of official stationery for his or her own campaign.42 (Obviously, a Member may not use stationery printed at Government expense for campaign business.) Since a letter advocating a Member's reelection or soliciting campaign contributions must include a conspicuous statement indicating the sponsor of the communication (generally, the campaign committee), it was believed unlikely that such correspondence would be misinterpreted as an official communication from the House or an endorsement by the Congress.43 However, since the 1979 Advisory Opinion was published, Congress has amended Federal law relating to official-appearing stationery.

The Deceptive Mailings Prevention Act of 199044 provides that any solicitation by a non-governmental entity, which uses any insignia or any term or symbol implying Federal Government connection, endorsement, or approval, must carry a disclaimer, both on the internal documents and on the envelope, conspicuously stating that it is not an official mailing.45 The House Committee on Post Office and Civil Service, in its report to accompany the bill, made it clear that the statute would apply to campaigns:

The provisions of this bill apply to political mailings by individuals, political parties, and political action committees. Any political mailing seeking funds by use of a solicitation that looks like a bill, or by the use of a name, symbol, or insignia which creates the impression that the mailing is connected with or approved by any branch of the Federal Government would be subject to this legislation.46

Two provisions of the Criminal Code also militate against use of facsimiles of official stationery for campaign mailings. Use of the Great Seal of the United States on letterhead may convey an impression of officiality. The Federal Criminal Code47 provides misdemeanor penalties for the knowing display of a likeness or facsimile of the Great Seal on (among other things) stationery, in a manner reasonably calculated to convey a false impression of sponsorship or approval by the Government of the United States. The Department of Justice has consistently advised Members of Congress and campaign committees that the display of the Great Seal on stationery used for solicitation of funds or political support is a violation of this provision.48 In 1986, for example, it was publicly disclosed that the Justice Department had informed a Member of the House that his use of the Great Seal on a letter soliciting support for a congressional candidate was improper.49

The General Counsel to the Clerk of the House has distinguished the Great Seal from "congressional seals," which he has advised may be used by Members on Christmas cards and other items that are neither printed nor mailed at official expense.50 Nevertheless, to avoid any dispute as to whether "congressional seals" are facsimiles of the Great Seal, Members may wish to use a likeness of the Capitol Dome instead. The Dome is in the public domain and therefore is not protected in the same manner as the Seal.

Another Criminal Code provision51 makes it unlawful for any person to solicit or receive any campaign contribution, as defined in the Federal Election Campaign Act,52 in any room or building occupied in the discharge of official government duties, including House office buildings.53 Campaign solicitations bearing letterhead with the congressional address of a Member's Washington D.C. or district office could be viewed as violating this provision.

Campaign Work by Congressional Staff

House employees are compensated from funds of the Treasury for regular performance of official duties. They are not paid to do campaign work. In the words of the United States District Court for the District of Columbia: "It is clear from the record that Congress has recognized the basic principle that government funds should not be spent to help incumbents gain reelection."54

As noted in Chapter 5, however, the "Hatch Act" does not apply to congressional employees.55 Once employees have completed the official duties assigned, they are free to engage in campaign activities on their own time, as volunteers or for pay, as long as they do not do so in congressional offices or otherwise use official resources. Additionally, employees may engage in campaign activities while on annual leave, leave of absence, or in part-time employment status, provided the time spent on both official and campaign activities is carefully documented. Staff may not be required to do political work as a condition of House employment.

The Federal District Court recognized, "To state the obvious, it is simply impossible to draw and enforce a perfect line between the official and political business of Members of Congress".56 In responding to "official" inquiries from the press or constituents, for example, congressional staffers may need to address questions that relate to a Member's political campaign. Similarly, scheduling assistance and information from the official staff may be requested by the campaign staff to ensure that no conflict occurs between the Member's campaign schedule and official agenda. Committee on Standards of Official Conduct Advisory Opinion No. 257 acknowledged that, as a practical matter, it may be impossible to have an absolute separation of duties. However, the general distinction between official representational and legislative duties on the one hand and political activities on the other is a longstanding distinction in Congress, recognized specifically in such provisions as the franking law,58 the rule on unofficial office accounts,59 and the Federal Election Campaign Act.60 The Committee "expects Members of the House to abide by the general proposition" that staffers are to work on campaign-related matters on their own time, after the completion of their official duties.61

Example 7.

A reporter calls Member A's congressional press secretary to obtain information on some legislation A is sponsoring. In the course of the interview on the legislation, the reporter asks how A perceives the bill will affect his upcoming reelection campaign. The press secretary may answer the question.

Example 8.

A reporter calls Member A's congressional press secretary to obtain A's comment on charges raised about A's political opponent. The press secretary should refer the call to A's campaign staff or to the Member.

Example 9.

Various employees on Member B's official staff also volunteer on her campaign. B's political opponent levels charges of ethical improprieties against her, which B believes require an immediate response. Her congressional staff may not spend their official workday preparing the campaign's response.

Example 10.

Congressional staffer C works for Member B and also volunteers on B's campaign. B asks C to prepare a response, after official working hours, to the charges raised by her political opponent. C may comply, but C may not stay late at the office, using congressional resources such as the office computer and the official mailing list, to do the campaign assignment.

Example 11.

Member D invites his campaign workers, including some volunteers from his congressional staff, to come to his home on a Saturday to help stuff envelopes for a campaign mailing. The congressional staff may attend.

Example 12.

Various employees on Member E's official staff have volunteered to help E's campaign run a telephone fund drive. The may not stay late at the congressional office and make the calls from there.

Campaign Activity in Federal Buildings

The U.S. Criminal Code makes it unlawful to solicit or to receive any political contribution in any building where Federal employees work.62 This includes the Capitol, House office buildings, and district offices. Rules of the House Office Building Commission also specifically prohibit the soliciting of contributions in any House facility.63

The criminal statute recognizes that unsolicited campaign contributions may be received through the mail or a supporter may unexpectedly tender a contribution in person within a congressional office. When this situation occurs, the law specifically provides that the contribution may be accepted, provided it is forwarded within seven days to the appropriate campaign organization.64 If a Member or staffer learns in advance that campaign contribution may be tendered in a House office building, he or she should discourage this action and direct the donor instead to the Member's authorized campaign committee.

Political Contributions From Federal Employees

Federal criminal law specifically prohibits Members of Congress, candidates for Congress, and Federal employees from soliciting political contributions from Federal Government employees, including employees of the House of Representatives.65 Unlike the statute prior to its 1980 amendment, the current provision prohibits only the solicitation of political contributions from Federal employees and does not prohibit the receipt of such contributions.66 As discussed above, however, other criminal laws prohibit the solicitation and receipt of contributions in any building where Federal employees work, including House office buildings and Members' district offices,67 and prohibit employees from contributing to their employing authority.68

The statute (at 18 U.S.C. sec. 602) prohibits the "knowing" solicitation of political contributions from any other Federal employee or officer. Inadvertent solicitations of Federal employees, therefore, such as when part of a general fundraising campaign aimed at the public at large, were not intended to be violations of this provision or its predecessor.69 As stated in the House Report on the Federal Election Campaign Act Amendments revising section 602:

In order for a solicitation to be a violation of this section, it must be actually known that the person who is being solicited is a federal employee. Merely mailing to a list [which] will no doubt contain names of federal employees is not a violation of this section.70

In the 99th Congress, this Committee undertook a Preliminary Inquiry into allegations that Federal law had been violated in connection with political solicitations from congressional staff in House office buildings.71 At issue was a "Dear Colleague" letter advertising a political fundraising event and urging the involvement of the staff of recipient Members. The Committee noted that the letter had been prepared by a contractor without the Members either being aware of or approving the substance of the solicitation. However, the report did point out "the need for any organization involved in political fundraising efforts to institute such procedural safeguards as are necessary to avoid any question that it is acting in accordance with those laws governing political solicitations."72

Since the statute aims to protect employees who, because of their employment and position, may be subject to coercion or "political assessment," section 602 "does not apply to solicitation of Members of Congress."73 This interpretation is consistent with the construction of the predecessor statute to 18 U.S.C. sec. 602. A resolution adopted by the House in the 63rd Congress, 2d Session (1913), affirmed that the prior law "should not be construed to prohibit one Senator or Member of Congress from soliciting campaign contributions from another Senator or Member of Congress."74

Political Contributions from House Employees

An employee of the Federal Government may not make a political contribution to a Member of Congress or another Federal official who is the employer or employing authority of the contributor.75 Prior to an amendment effective in 1980,76 congressional staff and other employees of the Federal Government were prohibited from making political contributions to any other Federal officer, employee, or Member of Congress, regardless of the employment relationship of the parties.77 Although in practice the statute was not strictly enforced,78 such a restriction on employees had been in effect in some form since the late 1800's.79

Under current 18 U.S.C. sec. 603, a congressional employee is prohibited from making political contributions only to his or her boss, that is, the employer or employing authority. As explained in the House Report accompanying H.R. 5010 (96th Congress, 1st Session):

Section 603 has been amended to allow voluntary contributions from federal employees to other federal employees. If, however, the individual is employed by a Senator, Representative or Delegate or Resident Commissioner to Congress that employee cannot contribute to his or her employer although voluntary contributions to other Members of Congress would be allowed. An individual employed by a congressional committee cannot contribute to the chairman of that particular committee. If the individual is employed by the minority that individual cannot contribute to the ranking minority member of the committee or the chairman of the committee.80

Congressional staff may contribute to any candidate, including a Member of Congress, except the employer or employing authority of the staffer. In addition, a congressional employee may contribute to a committee or organization that is not the "authorized committee" or campaign committee of the candidate. Generally, under Federal campaign law, a multicandidate committee or a PAC, which supports more than one Federal candidate, may not be designated as an "authorized committee" of a candidate.81 Therefore, congressional staff may make political contributions to multicandidate political committees such as the Democratic or Republican Senatorial or Congressional Campaign Committee, the Republican or Democratic National Committee, or any PAC, even though some of the proceeds received by such committees may eventually be expended for the benefit of the contributor's employer. In making such a contribution, however, an employee should not specifically earmark it for use in the campaign of the employing Member, since that could be deemed a contribution from the employee to the Member.82

For the purposes of current restrictions on contributions by congressional employees, the term "contribution" is defined in 2 U.S.C. sec. 431, the Federal Election Campaign Act, as amended. This definition specifically excludes the value of voluntary services provided by an individual to a candidate or committee. Thus, staffers may voluntarily provide services on their own free time to their employing Members' campaigns. In addition, the definition of "contribution" refers only to Federal election campaigns, so a congressional employee may make a political contribution in any state or local contest, including one in which a Federal officer or employee is running or soliciting funds. However, the FEC includes within its definition of contribution any outlays that an individual makes on behalf of a campaign, regardless of expection of reimbursement. Under this regulation, a House employee who volunteers on his or her employing Member's campaign may not pay any expenses for the campaign, even if the campaign promptly pays the staffer back.83

Fundraising dinners, testimonials, and similar events are common methods for candidates to raise money for an upcoming political campaign or to pay off previous campaign debts. The price of a ticket to such an event is generally considered a campaign contribution from the purchaser of the ticket to the candidate on whose behalf the event is being held.84 Thus, a congressional employee should not purchase such a ticket or contribute money to a fundraiser or testimonial given for his employer or employing authority. An employee could, however, attend a fundraiser as a nonpaying guest.

General Campaign Finance Requirements

Under the Federal Election Campaign Act (FECA), each candidate for Federal office, including any Member of the House who is running for reelection, must designate a principal campaign committee.85 This committee, like all other political committees, must register with the FEC86 and be organized and keep records according to Federal campaign laws.87 Each candidate must also designate one or more national or state banks or similar, government-insured financial institutions, as a campaign depository.88

The campaign committees of candidates for the House must file periodic, detailed reports, on forms provided by the FEC, with the Clerk of the House as custodian for the FEC, showing the receipt of political contributions and the making of political expenditures.89 Each committee must also file copies of such statements with the Secretary of State, or similar state officer, of the relevant state.90

Restrictions on Receipt of Contributions

Federal campaign laws prohibit Members of and candidates for Congress from receiving political contributions from the treasury funds of a corporation, labor organization, or national bank.91 Additionally, contributions may not be accepted from Federal government contractors.92 Corporations, labor organizations, membership organizations, or cooperatives may, however, establish separate segregated funds, often referred to as political action committees, or "PACs." Even a government contractor may set up a PAC. PACs collect voluntary contributions from which they may then make their own political expenditures and contributions. PACs may not solicit funds by threats of job discrimination or reprisals or by requiring dues or assessments as a condition of employment.93 Members and candidates for the House may receive contributions from PACs, up to the contribution limits specified by Federal law.

Federal law restricts the amount of political contributions that may be made by, and accepted from, individuals and political committees. A "Multicandidate" political committee—which is registered for at least 6 months with the FEC, receives contribution from more than 50 people, and contributes to at least 5 Federal candidates—may contribute up to $5,000 to a candidate for every primary, runoff, or general election in which the candidate's name appears on the ballot (and may contribute up to $5,000 to other political committees during a calendar year and up to $15,000 to national political party committees).94 The PACs of corporations and labor unions are often multicandidate committees which may make contributions of up to $5,000 per candidate per election (primary and general). If a political committee is not a qualified multicandidate committee, it may make contributions of up to only $1,000 per election to a candidate.95 The FEC maintains a list, updated monthly, of committees that have qualified as multicandidate.96

An individual may contribute up to $1,000 to any candidate for each primary, runoff, or general election. An individual may contribute no more than $5,000 per year to any other political committee, $20,000 per year to a national political party committee, and $25,000 in total in a calendar year.97 Candidates, however may contribute unlimited amounts of their own money to their own campaigns.98

Political contributions may not be made by foreign nationals not lawfully admitted to the United States for permanent residence,99 by public utility holding companies100 and by one person in the name of another.101 Cash contributions of over $100 are also prohibited.102

List of Prohibited Campaign Activities

The following is a brief list of specific statutory prohibitions relating to campaign activities by Members and employees of the House.

A Member or employee of the House may not—

(1) promise to use support or influence to obtain Federal employment for anyone in return for a political contribution (18 U.S.C. sec. 211).

(2) deprive, attempt to deprive, or threaten to deprive anyone of employment or any other benefit, provided for or made possible by an Act of Congress appropriating relief funds, because of that person's political affiliation (18 U.S.C. sec. 246).

(3) pay or offer to pay any person to vote or to withhold a vote or to vote for or against any candidate in a Federal election (18 U.S.C. sec. 597).

(4) solicit, accept, or receive an expenditure in consideration of a vote or the withholding of a vote in a Federal election (18 U.S.C. sec. 597).

(5) use any appropriation by Congress for work relief or for increasing employment, or exercise any authority conferred by any appropriations act, for the purpose of interfering with, restraining, or coercing any individual in the exercise of the right to vote (18 U.S.C. sec. 598).

(6) as a candidate, directly or indirectly promise to appoint any person to any public or private position for the purpose of procuring support for that candidacy (18 U.S.C. sec. 599).

(7) promise employment or any other benefit provided for or made possible by any Act of Congress as a reward for political activity or support (18 U.S.C. sec. 600).

(8) cause or attempt to cause anyone to make a political contribution by denying or threatening to deny any government employment or benefit provided for or made possible, in whole or in part, by any Act of Congress (18 U.S.C. sec. 601).

(9) solicit political contributions from any other Federal employee or from any person receiving salary or compensation for services from money derived from the United States Treasury (18 U.S.C. sec. 602).

(10) (staffers only) make a political contribution to any Member of Congress who is one's employer or employing authority (18 U.S.C. sec. 603).

(11) solicit or receive political contributions from persons known to be entitled to or to be receiving relief payments under any Act of Congress (18 U.S.C. sec. 604).

(12) furnish, disclose, or receive for political purposes the names of persons receiving relief payments under any Act of Congress (18 U.S.C. sec. 605).

(13) intimidate any Federal officer or employee to secure political contributions (18 U.S.C. sec. 606).

(14) solicit or receive political contributions in a Federal building, other than unsolicited contributions that are transferred to a political committee within seven days (18 U.S.C. sec. 607).

(15) knowingly accept a contribution in excess of limitations under Federal law of $1,000 to a candidate from any person or $5,000 to a candidate from a multicandidate political committee (2 U.S.C. sec. 441a(a), (f)).

(16) receive any political contribution from the organizational or treasury funds of a national bank, corporation, or labor organization (2 U.S.C. sec. 441b(a)).

(17) knowingly solicit contributions from Government contractors (2 U.S.C. sec. 441c(a)(2)).

(18) make an expenditure for any general public political advertising that anonymously advocates the election or defeat of a clearly identified candidate (2 U.S.C. sec. 441d).

(19) solicit, accept, or receive a contribution from a foreign national (2 U.S.C. sec. 441e).

(20) knowingly accept a contribution made by one person in the name of another person (2 U.S.C. sec. 441f).

(21) fraudulently misrepresent oneself as speaking or acting on behalf of a candidate (2 U.S.C. sec. 441h).

To the extent that an individual may make political contributions or expenditures as discussed above, the individual may not—

(a) make cash contributions to any candidate which total more than $100 (2 U.S.C. sec. 441g);

(b) make contributions in excess of $1,000 per election to any candidate, $5,000 per calendar year to political committees, or $20,000 per calendar year to national party committees, or make contributions aggregating over $25,000 per calendar year (2 U.S.C. sec. 441a(a)).

(c) make a contribution in the name of another (2 U.S.C. sec. 441f).

(d) make independent expenditures in excess of $250 without filing a report with the Federal Election Commission (2 U.S.C. sec. 434(c)(1)).

Appendices to Chapter 8

Committee on Standards of Official Conduct Advisory Opinion No. 61

SUBJECT

General Interpretation of House Rule XLIII, Clause 6, and House Rule XLV.

REASON FOR ISSUANCE

The Committee has received an inquiry concerning the application of House Rule XLIII, clause 6, and Rule XLV, to the use by a Member of campaign funds to advertise or promote a town meeting in his district and in areas newly added to the district by reapportionment after notice of the meeting has been mailed under the frank.

BACKGROUND

House Rule XLIII, clause 6, prohibits a Member from expending funds from his campaign account that are not attributable to "bona fide campaign or political purposes." Rule XLV, clause 1, bars a Member from maintaining, or having maintained for his use, "an unofficial office account." These provisions were included in the amendments to the House Rules made by H. Res. 287, 95th Congress, adopted pursuant to the recommendations of the Commission on Administrative Review. The Commission, in explaining the purpose of these rules, observed (Financial Ethics, H.R. Doc. No. 95-73, 95th Congress, 1st Session 23 (1977)):

The Commission strongly believes that a wall should be built between political expenses and public money, that private money should not be relied upon to pay for the conduct of the House's official business. It regards such a wall as critically important to the integrity of the representative process….

Although federal statutory law (2 U.S.C. sec. 439a) generally would allow a Member to use excess campaign funds to defray ordinary and necessary expenses incurred in connection with holding office, the amendment to House Rule XLIII, clause 6, made by H. Res. 287, 95th Congress, specifically prohibits this practice. As the Select Committee on Ethics observed in its Final Report (H.R. Report No. 95-1837, 95th Congress, 2nd Session (1979)): "The intent of this rule is to restrict the use of campaign funds to politically related activities and to thus prohibit their conversion to personal use or to supplement official allowances." Rule XLV has a similar purpose. It was intended to eliminate the potential for "influence peddling" through private financing of the official expenses of Members of Congress." See Financial Ethics, supra, at 18.

In adopting these rules, the House was aware that "there are gray area expenditures which could be classified (as) either political or official…." See Final Report of the Select Committee on Ethics, supra. The rules do not include any definition of "political" or "official" expenses. As Representative Frenzel observed during the debate on H. Res. 287, 95th Congress (123 Cong. Rec. 5900 (March 2, 1977):

What is political is a matter of fact rather than of definition….

(W)hat we have tried to do is to confine expenses from political accounts or volunteer committee accounts to expenses that are political. By and large, that definition will be left up to the Member and to his volunteer committee, and as it is broadly defined under the election law. (Emphasis added.)

The Select Committee on Ethics, in its Final Report, supra, also expressed the view that Members should make the determination as to whether gray area expenditures are to be classified as political or official.

SUMMARY OPINION

This Committee agrees that the determination as to whether a particular expense is for political or official purposes should be made by the individual Member. A gathering of a Member's constituents at a "town meeting" could be either a political (campaign) event, or an official (representative) one. In such a case, the Member is free to use his judgment in defining it as political or official. However, this Committee is of the view that once the Member makes his determination, he is bound by it. A single event cannot, for purposes of the House rules, be treated as both political and official.

When a Member sends announcements of a town meeting under the frank, he has thereby made the decision that the event is an official one. Under Federal law, the franking privilege may only be used in the conduct of official business. 39 U.S.C. sec. 3210(a)(1). Having thus defined the event as an official one, he may not then use campaign funds (Rule XLIII, clause 6) or any other private funds (Rule XLV) to conduct, promote, or advertise the event. (It is noted that Rule XLV was intended to prohibit the expenditure of private monies for official purposes even if no particular account or repository as such is maintained. See the colloquy between Representatives Panetta and Obey during the debate on H. Res. 287, 95th Congress, 124 Cong. Rec. 5941 (March 2, 1977).

Because the town meetings that are the subject of this opinion were promoted in the first instance by means of the frank, they thereby become official and representational functions and it is an improper mixture of public and campaign funding to promote such official town meetings as political events. In a case such as this, the wall between public and private funding is easily placed.

FURTHER CONSIDERATIONS

Having stated the general rule that certain events or activities may be deemed "official" or "political" but not both, and that the Member must exercise his judgment in making such determinations, there are long established practices not offensive to the principle of separation that are not affected by this Advisory Opinion.

One such practice is a campaign committee making use of materials originally generated and used solely in the course of the Member's official and representational duties once the official use of the material is exhausted. For example, a Member may, at official expense and by means of the franking privilege, reproduce and distribute otherwise frankable reprints from the Congressional Record, radio and television programs, correspondence from public officials, etc. The Committee believes that Rule XLV, which prohibits outside contributions for official purposes, does not ban a Member from later distributing such items at campaign committee expense provided all the expenses associated with reproducing and distributing the material are paid from campaign funds and the material itself or the context in which it is presented clearly establishes its campaign or political purposes and thus its non-official use, so that there would be no appearance that private funds are supplementing official allowances.

Another such practice occurs if an individual or organization without the Member's consent, expends funds or donates services to advertise or promote some official or representational activity of the Member. For example, no violation would occur if a radio to television station in a Member's district promoted a Member's previously announced town meeting in public service announcements.

Select Committee on Ethics Advisory Opinion No. 41>

SUBJECT

Under House Rules, may a Member of the House or the spouse of a Member solicit cash gifts of less than $2502 for personal use through a direct mass mailing?

REASON FOR ISSUANCE

A Member of the House has requested an advisory opinion as to whether his proposal to solicit gifts of less than $250 for personal use would be in violation of House Rule XLIII.

BACKGROUND

House Rule XLIII, clause 4, prohibits acceptance of gifts aggregating over $250. Since the proposal would solicit only gifts of less than $250, it would not be in violation of clause 4.3

However, Rule XLIII, clause 7, appears to have direct application to the proposed plan to solicit gifts. Before March 3, 1977, Rule XLIII, clause 7, read as follows:

A Member of the House of Representatives shall treat as campaign contributions all proceeds from testimonial dinners or other fund-raising events if the sponsors of such affairs do not give clear notice in advance to the donors or participants that the proceeds are intended for other purposes.

This provision was designed to deal with situations in which donations were given to Members under the mistaken notion that they were to be used for campaign purposes when, in fact, they were treated as personal gifts. Hence, language was adopted which specified that unless advance notice was given, proceeds from fund-raising events could not be converted to personal use.

The House Commission on Administrative Review recommended that proceeds from testimonial dinners and other fund-raising events should not be allowed to be converted to personal use under any circumstances. Effective March 3, 1977, H. Res. 287 amended clause 7 to read simply:

A Member of the House of Representatives shall treat as campaign contributions all proceeds from testimonial dinners or other fund-raising events.

In a technical sense, then, the propriety of the proposal turns on the interpretation of a "fund-raising event." There was no legislative history in defining the term fund-raising event when Rule XLIII was adopted in 1968.

But in view of the widespread use of mass mailings to raise funds (direct mail solicitation has become a principal fund-raising technique since 1968), it would appear that the proposal under consideration constitutes a fund-raising event. In the age of computerized mass mailings, it is unnecessary for people to gather together in a common place on a particular date to constitute a "fund-raising event."

Additionally, Rule XLIII, clause 2, would appear to have applicability in this case. The provision states:

A Member, officer, or employee of the House of Representatives shall adhere to the spirit and letter of the Rules of the House of Representatives and to the rules of duly constituted committees thereof.

A major thrust of the provisions contained in the new House Rules adopted March 2, 1977, was to severely limit the potential for Members to "cash in" on their positions of influence for personal gain. Therefore, a limitation on outside earned income was proposed and adopted. A proposal to abolish unofficial office accounts was offered and adopted. A proposal to prohibit the conversion of political funds to personal use was adopted. And the proposal discussed above to treat all proceeds from fund-raising events as campaign contributions was also adopted. Therefore, it would appear that a proposal to solicit funds for personal use would be contrary to the "spirit" of the House Rules adopted pursuant to H. Res. 287.

The final question concerns the propriety of a spouse raising funds through mass mail solicitation for the benefit of the Member. While the Select Committee recognizes the basic independence of the spouse, the spouse under these circumstances would be acting essentially on behalf of the Member. Thus, the Member would be conducting indirectly the very activities he would be prohibited from engaging in directly.

Consequently, the mass mail solicitation of funds by a spouse for a Member's use also appears to violate the "spirit" of House Rules.

SUMMARY OPINION

A direct mail solicitation by a Member of the House or the spouse of a Member constitutes a "fund-raising event" for purposes of House Rule XLIII, clause 7. Proceeds from a "fund-raising event" for a Member must be treated as "campaign contributions" and cannot be converted to personal use by the Member. Therefore, any such attempt to raise funds for personal use through a mass mailing would be in violation of House Rule XLIII, clause 7. Additionally, any such activity would appear to be contrary to the spirit of House Rules and, therefore, in violation of House Rule XLIII, clause 2.

Select Committee on Ethics Advisory Opinion No. 111>

SUBJECT

The Select Committee has been asked whether a Member could accept proceeds from a fund-raising event for the Member's unrestricted personal use, if the event were sponsored by a group independent of the Member.

BACKGROUND AND DISCUSSION

House Rule XLIII, clause 7, as amended on March 2, 1977, prohibits the conversion of proceeds from testimonial dinners or other fund-raising events to a Member's personal use. The Select Committee stated in Advisory Opinion No. 4 that a mass mailing constituted a fund-raising event for purposes of Rule XLIII, clause 7, and concluded that neither a Member nor his spouse could directly solicit funds for personal use by a fund-raising technique such as a mass mailing.

An additional question has been asked which concerns the acceptance of funds for a Member's unrestricted personal use that are raised by a group independent of the Member, his spouse, staff, or campaign committee.

As a general proposition, House Rules do not affect the actions of any individuals or organizations which are independent of a Member of Congress. The issue before the Select Committee, however, is not whether an independent group may conduct a fund-raising event, but whether a Member may accept the proceeds of such an event given in his behalf when such proceeds are for the Member's unrestricted personal use.

A major thrust of the provisions contained in the new House Rules was to severely limit the potential for Members of Congress to use their positions of influence for personal gain. In this context, therefore, it is irrelevant whether the Member himself solicits these funds, or whether the Member accepts funds for personal use. Thus, to allow a Member to accept such proceeds if raised by a paper "Dinner Committee," "Fund-raising Committee," or similar subterfuge would render Rule XLIII, clause 7, meaningless.

Finally, the Committee recognizes the distinction between the treatment of proceeds from a fund-raising event for purposes of Rule XLIII, clause 7, and acceptance of gifts for purposes of Rule XLIII, clause 4. Clause 4 does not prohibit the acceptance of gifts. Clause 7, however, addresses gifts from fund-raising events, specifying that proceeds from such events should not be treated as personal gifts, but as campaign contributions.

Guidance Concerning Political Activities of Members, Officers, and Employees of the House

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT LETTER OF NOVEMBER 21, 1985

Dear Colleague:

The purposes of this advisory letter is to provide Members with guidance concerning political activities which may be undertaken by Members, officers, and employees of the House of Representatives. The letter is occasioned by the recent issuance of this Committee's report concerning the results of its investigation of an alleged improper political solicitation. See H. Rept. 99-277, issued September 19, 1985. Since publication of the report, various Members have indicated (both formally and informally) their desire that the Committee provide some brief recitation and analysis of those activities which may be engaged in by Members and their staffs. The Committee believes and agrees that these requests for guidance merit a prompt and clear response to the issues raised. Accordingly, the following discussion is intended to clarify the Committee's thoughts and approach to such matters.

SOLICITATION OF EMPLOYEES

The issues raised by solicitation of a Federal employee (i.e., someone on a Member's staff) was addressed in detail in the Committee's recent report of September 19, 1985. In sum, it is illegal to coercively solicit a political contribution from such an individual. Both case law and the Department of Justice take the approach that, under 18 U.S.C. sec. 602, an individual is subject to prosecution where it is shown that a Federal employee was pressured to make a political contribution to a Federal election, such as one involving the election of a Member of Congress. The Committee adopts this analysis of the statute. In so doing, the Committee is mindful of the view that some have urged that coercion not be considered an element of the offense addressed by 18 U.S.C. sec. 602. The Committee is not persuaded that this would be a proper reading of the statute in light of the expressed analyses of the Department of Justice and the courts in implementing its provisions. While it may well be that coercion should n

LOCATION OF SOLICITATION

The Committee's September 19, 1985, report also addressed the matter of soliciting political contributions in a Federal building, an activity which is rendered illegal by 18 U.S.C. sec. 607. As reflected in the report, this Committee takes the view that section 607 embraces not only the location where a solicitation is received, but also the location from which it is prepared or distributed. It is this Committee's position that under no circumstances should any Federal resources be utilized to support the implementation of a political solicitation activity. Such resources would include using office space to draft, edit, type, duplicate, or assemble mailing materials, as well as the ultimate distribution of such matter. Similarly, this prohibition would also apply to the use of staff resources on "official" time to conduct such activities.

The September 19, 1985 report did, however, take the view that sections 602 and 607 are complementary provisions—the former insulating Federal employees from political shakedowns, the latter insulating the Federal workplace from such activities. This is not to say that noncoercive solicitations in a Federal area would avoid the attention and concern of this Committee. Indeed, the Committee emphasizes its view that no activities of a political solicitation nature should occur with the support of any Federal resources (staff or space) in order to avoid any question that a violation of 18 U.S.C. sec. 607 has occurred.

RECEIPT OF CONTRIBUTIONS

While not a focus of the recent report, several questions have been raised regarding the propriety of Members receiving political contributions in their offices. In this connection, the Committee invites Members' attention to 18 U.S.C. sec. 607(b). This provision states that the prohibition against receiving solicitations in a Federally protected area does not apply to contributions received by staff in a Member's office so long as the contribution was not solicited in a manner which directs the contributor to mail or deliver the contribution to a Federal area (i.e., Member's office) and provided that such contributions are transferred within seven days of receipt to a political committee. The Department of Justice guidance on this aspect of the statute also clearly indicates that the Department's Criminal Division believes Congress intended that Members be permitted to personally receive unsolicited contributions in their offices to the same extent as their staffs. The Committee concurs with this interpre

POLITICAL CONTRIBUTIONS FROM STAFF

Another issue on which guidance has been sought relates to the propriety of a Member receiving a political contribution from an individual on that Member's staff. Such contributions are expressly prohibited by law. The provisions of 18 U.S.C. sec. 603 make it a crime for an individual to make a political contribution to the employer or employing authority of the person making the contribution regardless of whether the employee is coerced or volunteers to make the contribution.

MEMBER TO MEMBER SOLICITATIONS

The September 19, 1985, report notes that Member to Member solicitations are not viewed as within the prohibitions of either 18 U.S.C. sec. 602 or 607 even where such solicitations occur in a Member's office. Indeed, there is precedent in the House of Representatives supporting this conclusion. Thus, while Members may engage in such activities, Member to staff solicitations, regardless of where they occur, raise the issues discussed above concerning application of 18 U.S.C. sec. 602. It is for this reason the Committee admonishes Members to be extremely cautious when pursuing political solicitation activities.

OTHER MATTERS

The Committee realizes that there well may be other questions relevant to the conduct of political activities not addressed in the foregoing discussion. Should such questions arise, the Committee suggests that interested Members contact the Committee staff in order to receive advice on the matters raised. Finally, the Committee invites all Members' attention to the Ethics Manual for Members, Officers, and Employees of the U.S. House of Representatives, and more specifically Chapter 101 thereof entitled, "Campaign funds and Practices," which contains a detailed discussion of such issues.

We hope this letter will be of assistance and clarification to you regarding the conduct of political activities.

Sincerely,

Julian C. Dixon

Chairman

Floyd D. Spence

Ranking Minority Member

Staff Campaign Outlays

MEMORANDUM OF JUNE 11, 1991

TO: All Members, Officers, and Employees of the U.S. House of Representatives

FROM: Committee on Standards of Official Conduct Louis Stokes, Chairman James V. Hansen, Ranking Minority Member

Members and congressional staff should be aware of a regulation issued by the Federal Election Commission (FEC) which was recently brought to the attention of this Committee. The regulation casts doubt on the legality of expenditures made by employees on behalf of their employing Members' campaigns, even if they expect swift reimbursement.

Employees of the House of Representatives are not subject to the Hatch Act. They are generally free to engage in either paid or volunteer campaign activities, as long as no official time or resources are used for such purposes, and provided staff are not compelled to do campaign work as a condition of continued congressional employment.

Under 18 U.S.C. sec. 603, a House employee may not make to his or her employing Member "any contribution within the meaning of section 301(8) of the Federal Election Campaign Act" (2 U.S.C. sec. 431(8)). Violations are punishable by imprisonment for up to three years and a fine. Staff may volunteer services on behalf of the employing Member since such voluntary efforts are not considered to be a "contribution." See 2 U.S.C. sec. 431(8)(B)(i).

The difficulty arises when a congressional employee finds it necessary to make an outlay on behalf of the campaign of an employing Member which will be reimbursed quickly. The FEC regulation, found at 11 C.F.R. sec. 116.5(b), was promulgated June 27, 1990. It provides in pertinent part as follows:

The payment by an individual from his or her personal funds, including a personal credit card, for the costs incurred in providing goods or services to, or obtaining goods or services that are used by or on behalf of a candidate or a political committee is a contribution….

The exigencies of a congressional campaign may require action by a campaign worker on short notice. An individual may be called upon, for example, to arrange a rental car for campaign use or pick up some yard signs, anticipating prompt reimbursement in each case. Under the above-cited regulation, such an individual is deemed to have made a contribution. If the individual is also a congressional employee of the candidate, the effect of the regulation appears to be to make the contribution a criminal act under 18 U.S.C. sec. 603.

To avoid possible problems, the FEC suggests alternative procedures that may be taken instead of relying on out-of-pocket outlays. Staff engaged in campaign work could be provided with checks drawn on campaign committee accounts, be given authority to use a campaign credit card, or use a campaign petty cash fund for transactions under $100.

Anyone desiring further information, including copies of the Committee's exchange of correspondence with the Federal Election Commission, should contact the Committee's Office of Advice and Education, at (202) 225-3787.

Chapter 9: Involvement With Official and Unofficial Organizations

Highlights

Members and employees of the House need to distinguish carefully between official and unofficial activities when they interact with private organizations.

A Legislative Service Organization (LSO) is an organization comprised solely of Members of Congress and financed exclusively from official allowances, which provides legislative support to the Members. LSO's are governed by regulations of the Committee on House Administration. Neither LSO's nor any less formal caucuses that are similarly supported with official funds may receive any outside income or contributions from unofficial sources.

Members may not permit any non-House organization or individual to use expressions or symbols that might erroneously convey official endorsement, particularly of a commercial enterprise.

Joint endeavors, undertaken with a combination of private resources and officials funds, are generally prohibited. This does not preclude the personal involvement of Members and employees with private undertakings, including lending their names to specific causes. However, congressional resources may not be used to support private activities and no official endorsement may be suggested. Members have greater leeway in undertaking cooperative programs with Federal, state, and local government agencies.

Chapter 9: Involvement With Official and Unofficial Organizations

Members and employees of the House of Representatives are continually presented with opportunities to interact with various groups and organizations. For example, Members may find it advantageous to pool resources in pursuit of a common legislative goal, staff may seek an informal forum in which to meet individuals in other offices and exchange ideas, or groups outside of Congress may seek support from Members for public and private initiatives. In addition, Members are often asked to lend their names to outside undertakings or otherwise to assist in advancing essentially private endeavors.

This chapter discusses the standards Members and employees must observe regarding the composition and activities of organizations they establish to support their official functions. The chapter also addresses restrictions on the ways in which a Member of Congress can work cooperatively with private entities. A primary consideration in any contemplated arrangement is the need to distinguish clearly between official congressional actions and other activities in which the Member engages.

House Rule 45 prohibits using outside funds or services to supplement congressional allowances. But the reverse is also true: Members and employees of the House are prohibited from using official resources for any private purpose.1

The decision to define an event as official or not generally lies within the discretion of the Member. This decision controls who can pay and how both Members and outside organizations can participate. If a Member determines that an activity is official, no private funding or in-kind support would be appropriate under House Rule 45. Conversely, if an event is deemed not to be an official function, resources provided by House allowances may not be utilized. An activity may not be treated as both official and unofficial.2 Thus, joint endeavors, which would be supported with a combination of private resources and official funds, are generally prohibited. This restriction precludes joint activities even with charitable or educational organizations, although not with other units of government. These considerations do not prevent the personal involvement of Members in various functions, including lending their names to support specific causes, as long as no appearance of official sponsorship is crea

Official Support Organizations

Official support organizations generally take one of two forms, either certified Legislative Service Organizations or informal caucuses or clubs.

Legislative Service Organizations

The term "Legislative Service Organization," or LSO, refers to a particular category of working groups, or caucuses, organized to provide legislative services and assistance to Members and certified by the Committee on House Administration. Through an LSO, Members may pool their official resources to pursue common legislative goals. Since LSO's are supported by official resources, they may not receive any private funding. In addition to the House rules applicable to all Members, officers, and employees, LSO's are subject to specific Committee on House Administration regulations.3

An LSO must meet the following criteria:

• The organization must consist solely of Members of the House or Members of the House and Senate, 30 of whom or two thirds of the organization's membership, whichever is less, attest that they are sponsors;

• It must operate solely to provide legislative service or other assistance to its members in the performance of official duties;

• Resources may be provided through allocation of expenses to, or dues or assessments from, the allowances of Members of Congress, but no income or contributions either in cash or in kind, may be received from any unofficial source;

• The organization may not be incorporated or hold separate tax exempt status; and

• Quarterly public disclosure reports must be filed with the Clerk of the House detailing receipts, expenditures, and activities.

Restrictions on LSO's derived from the principle that "Members should not be allowed to do collectively—through a legislative service organization—what the Rules of the House prohibited Members from doing individually."4 Thus, like any other congressional office, an LSO must comply with House Rule 45; no private resources, whether monetary or in-kind, may be used for its operation. Any group that receives private contributions or income may not receive support from official allowances and may not provide legislative services to Members. Conversely, an LSO may not use official resources to support the operations of a private organization. Like other congressional offices, however, LSO's may distribute to Members reports, analyses or research material prepared by private parties, as long as the true source of the material is disclosed.5

Because LSO's are considered extensions of the individual offices of participating Members, staff may be paid from the clerk hire allowance, and administrative costs may be paid via dues or assessments from the official expenses allowance or from Members' personal funds. In addition, because LSO's receive no private contributions or income from any source other than Congress or its Members, they may be located in House-controlled space.

Informal Member and Staff Organizations

Members and employees may also associate with caucuses and other groups not certified as LSO's. Informal Member caucuses are distinguishable from LSO's in that the former are dependent on the support of individual Members for their existence, while LSO's are recognized by the Committee on House Administration and may be supported directly by disbursements from official allowances (and by the House itself in the form of office space and facilities). House Rule 45 applies to both types of organizations, however, because each plays a direct role in assisting individual Members in the conduct of their official responsibilities. Thus, a caucus organized by a group of Members to assist them in official matters may not invite an individual not in Congress to be a member of the caucus, nor may any private individual or organization contribute funds or other resources to support the caucus.

Example 1.

A group of Members from agricultural states form an organization to support legislation benefiting farmers. It is certified as an LSO by the Committee on House Administration. Subject to that Committee's regulations, the Members may each contribute some of their official allowances to pay for staffing and operations of the organization.

Example 2.

A group of Members organize a caucus to assist them in foreign trade matters. An academic who has written extensively on foreign trade issues offers his assistance. While he may address the group, he may not be a regular member of the caucus.

Example 3.

A group of private individuals has formed a caucus to promote environmental legislation. Member A may join the caucus, but may not give it any official standing within the House, nor may any congressional resources, including staff time, be used to do the work of the caucus.

Example 4.

A trade association is interested in issues being considered by a group of Members who have formed an LSO. The association offers to "sponsor" the LSO by providing clerical assistance and hosting weekly breakfast meetings. The Members may not accept the offer.

Example 5.

A trade association is interested in issues being considered by a caucus of Members operating within the House. The association may host a luncheon for members of the caucus, as long as the lunch is not characterized as a caucus function. The invitations should come from the association, not the caucus, since it is a private event.

Some organizations operate within the House for social or occupational interchange, or the general welfare of their members. These associations may receive limited assistance from unofficial sources. For example, various staff clubs and associations, comprised of individuals such as administrative or legislative assistants, support their activities primarily through fees paid by the participants. Such organizations may be allowed to conduct meetings in House facilities. However, since these groups are formed primarily for the benefit of their members and do not directly contribute to the legislative process, they may receive no direct financial support from the House.

While informal organizations may receive some private assistance notwithstanding House Rule 45, other considerations limit the amount of such assistance that may be accepted. As discussed in Chapter 2, the House gift rule (Rule 43, clause 4) prohibits Members, officers, and employees from accepting gifts valued at more than $250 in a calendar year from one source. The receipt of something of value by a group of employees primarily for their own benefit would be a gift subject to the rule, although its value would be apportioned among all the recipients. Additionally, the Code of Ethics for Government Service prohibits any Federal employee from accepting "benefits which might be construed by reasonable persons as influencing the performance of official duties."6 Given the close relationship between House staff and their employing Members of Congress, individuals and groups of employees should exercise caution in accepting contributions.

Example 6.

An informal organization of staff assistants, which receives no House funding, is planning an open house to encourage new employees to join. The reception may be held in House facilities. A supermarket chain offers to provide sodas for the event. Since the benefit that any individual employee would receive would be well within the gift limit, the organization may accept the offer.

Private Entities with Shared Goals

The formal and informal House organizations described above often share goals with private non-House entities. Sometimes Members who have formed a House caucus are affiliated with a private foundation or institute with similar objectives. Members and House support organizations may cooperate with these private entities, subject to all the generally applicable restrictions on involvement with outside organizations. Where a private group supports objectives similar to those of a Member or caucus, they may coordinate activities as long as care is taken to prevent cross-infusion of public and private resources.

No private group may imply official House sponsorship. The letterheads of a House caucus and any outside organization with related goals should be sufficiently distinct as to avoid any confusion of identities. No outside organization may use any official funds or resources, including House office space, the frank, and staff time. If an employee works for both an official and an unofficial entity, he or she should keep careful time records documenting that neither organization is subsidizing the other. Public and private funds must be kept absolutely separate. While private groups may raise private funds, these funds may not be used to support any official functions. Official and unofficial organizations may not co-sponsor events, although Members, individually or collectively, may cooperate in privately sponsored events, as described below.

Conferences and Town Meetings

Members may participate in conferences and meetings in a variety of ways. They may plan official conferences or town meetings that are arranged, promoted, and put on entirely at public expense. Alternatively, they may hold town meetings as political events, organized and funded by their campaigns. No official resources, including the frank and official staff time, may be used in support of such political gatherings. Generally, it is up to the Member arranging the event to determine whether a particular meeting is official or political in nature.7 While Members may not "co-sponsor" or hold joint events with private entities, they may cooperate in private events by, for example, speaking, serving as honorary chairs, even signing letters of invitation on behalf of (and on the stationery of) private groups, provided the identity of the actual host is made clear.

Services provided by Federal, state and local government agencies do not fall within the prohibition of House Rule 45.8 Thus, Members may make use of government facilities and personnel, to the extent permitted by the participating agencies, to support official conferences on such subjects as government procurement, trade assistance, or other Federal programs. Private businesses may take part in such official conferences by manning booths and supplying information to participants, but they should not be identified or advertised as sponsors or hosts of the event in official mailings.

Registration fees may be collected to help defray unreimburseable expenses associated with official conferences, such as luncheons. Although Rule 45 prohibits unofficial office accounts, this Committee has consistently held since the rule's adoption that House Members may establish temporary, noninterest-bearing accounts to hold fees for official conferences. Registration fees should be calculated to cover costs not payable from official allowances without generating a surplus; nevertheless, in some instances a surplus will result. Two alternatives are then available. Excess funds either may be refunded on a pro rata basis to participants, or they may be donated to charity. It should be noted that in the case of a deficiency, the Member cannot use official funds to defray participants' costs.

If a Member holds conferences on a regular basis, a bank account may be maintained with just enough funds from any surplus to cover bank charges and fees. This avoids the multiple costs that would be incurred in closing and reopening accounts. However, maintenance of such accounts at more than a minimum level would be inconsistent with the spirit of the House Rule 45 prohibition on unofficial office accounts. Thus, any surplus from a conference beyond that necessary to keep the account open should be promptly refunded or donated to charity.

This is the only exception of this nature to Rule 45 that the Committee has approved, and it applies only to fees paid by conference attendees to cover their own costs. It would not be appropriate, for example, for a Member to collect funds from a private organization to pay participants' costs, or for a private source to sponsor a luncheon that was part of the official event.

Example 7.

Member A may sponsor an official procurement conference, with booths manned by both government and private organizations, but a private group may not be listed as co-sponsor of the event or subsidize the conference in any way. As an official event, the conference should be organized by official staff. Invitations may go out under the frank.

Example 8.

Member B wishes to have a luncheon as part of an official town meeting. Registration fees which cover each participant's meal may be collected by the Member's staff and temporarily deposited in a no-interest account, or may be directed to the facility providing the luncheon, but such fees may not be collected by a private third party.

Alternatively, a private entity may wish to involve a Member or group of Members in an event that it is hosting. The Members could be publicly identified as "cooperating" in the undertaking. However, the Member or Members could not utilize any congressional resources for the event, including official letterhead, the frank, or inside mail for sending invitations. In conjunction with this event, no private resources could be expended to subsidize legislative services or the Members' performance of official duties. The separate identity of the sponsor should be made clear to all participants, and no Member should take personal credit for an activity actually sponsored or hosted by another organization or individual. Instead, invitations and other literature should make clear that the private source is conducting the activity "in cooperation with" or "in conjunction with" the Member or Members.

Example 9.

Advocacy group Z was active in lobbying for Pub. L. No. 005, which was sponsored by Member C. After its enactment, Z plans to host a conference for its members and other interested parties explaining the impact of the new law. Because of C's prominent role in the law's passage, Z invites C to be the keynote speaker at the conference and wishes to list C's name on the invitations. Z may, with C's permission, send out the following invitations (on Z's letterhead and at Z's expense):

Advocacy Group Z in cooperation with Representative C invites you to a conference on Public Law No. 005

No official resources may be used for the conference.

Involvement With Outside Activities and Organizations

When Members work with outside organizations, the distinction between activities that may be considered "official" and those that may not is not always readily apparent. Some guidance may be found in regulations issued by the Committee on House Administration. Both House rule9 and Federal statute10 give that Committee responsibility for determining how official funds will be applied. Pursuant to this authority, regulations and accounting procedures for allowances and expenses of Members, committees, and employees of the House have been promulgated.11 These regulations identify a wide range of activities and specific expenses that may be supported from official allowances, and thus are reimbursable, as well as expenses that may not be reimbursed. The regulations specifically preclude reimbursement for some expenses that might otherwise appear to support official and representational duties (e.g., certain travel outside of the district, holiday greeting cards).

12 The conclusion reached in that debate was that the individual Member must determine if an activity, and the concomitant expense, is more properly characterized as official or campaign-related. In its Final Report to the 95th Congress, the Select Committee on Ethics concurred in this position.13

Congressional Arts Competition

One instance where cooperation with private groups has been explicitly recognized14 is the annual competition among high school students in each congressional district to select a work of art to hang in the Capitol. Members may announce their support for the competition in official letters and news releases, staff may provide administrative assistance, a local arts organization or ad hoc committee may select the winner, and a corporation may underwrite costs such as prizes and flying the winner to Washington. Private involvement with the "congressional arts competition" in this manner is not viewed as a subsidy of normal operations of the congressional office.

Expressions or Symbols of Official Sponsorship

Members of Congress communicate with the public in various capacities. However, communications of a political or private nature, whether sent by a Member or by organizations outside the House, may not be prepared or mailed at official expense. In addition, such communications should not carry expressions or symbols that might improperly indicate official sponsorship or endorsement.

House Rule 43, clause 1115 provides as follows:

A Member of the House of Representative shall not authorize or otherwise allow a non-House individual, group, or organization to use the words "Congress of the United States", "House of Representatives", or "official business", or any combination of words thereof, on any letterhead or envelope.

This rule is designed to prevent private organizations from using facsimiles of congressional stationery to solicit support or contributions, thereby implying that the message is endorsed by the Congress or is related to the official business of a Member. In providing a general interpretation of the rule, this Committee found that "the use of congressional letterhead facsimiles by private organizations is a deliberate misrepresentation which reflects discredit upon the House of Representatives."16

The rule encompasses reproduction of an official communication in another publication, as well as direct use of official-appearing documents. Even if the specific words mentioned in the rule are not used, authorizing a non-House individual or group to use letterhead, expressions, or symbols conveying the impression of an official communication from the Congress would violate the spirit of House rules,17 as well as other statutory provisions, as discussed below.

The prohibition of Rule 43, clause 11, is not intended to restrict a Member's official communications or the ability to lend one's name in support of a private group. Thus, a Member's name and title (i.e., Member of Congress) may appear in the letterhead of an organization with which the Member holds an actual or honorary position, provided the letterhead does not indicate an official communication from the Congress.

With respect to the solicitation of funds or other items of value, the Ethics Reform Act of 198918 enacted a new, government-wide restriction. This provision, codified at 5 U.S.C. sec. 7353, now bars Members, officers, and employees of the House of Representatives from asking for or accepting anything of value from anyone who seeks official action from the House, does business with the House, or has interests that may be substantially affected by the performance of official duties. The only exceptions are those expressly permitted by the Committee on Standards of Official Conduct, the supervising ethics office for the House. These statutory restrictions cover the solicitation of "anything of value," regardless of whether the official personally benefits from it.

The Committee has granted a blanket exception to section 7353 to allow Members and employees of the House to solicit funds on behalf of charitable organizations, provided that no official resources are used, no official endorsement is implied, and no direct personal benefit results.19 Private solicitations must be on a non-House group's own letterhead and they may not be franked.20

A Member is responsible for assuring that his or her employees are aware of and adhere to these and other rules, and for assuring that resources provided for support of official duties are applied to the proper purposes.21 In the 101st Congress, the Committee determined that a Member was "remiss in his oversight and administration of his congressional office" regarding a mailing sent out by staff over his signature on his official letterhead.22 The mailing did not comport with House Rule 43, clause 11, in that it promoted a cruise sponsored by a private organization and requested that follow-up contacts go to the Member's congressional office.

Example 10.

Member A is an honorary, unpaid board member of a charity. A may sign a fundraising letter for the charity, as a Member of Congress, on the organization's own letterhead, in a mailing paid for at private expense.

Support for Commercial Enterprises

Members and employees of the House are frequently approached by individuals or organizations seeking assistance for business undertakings. Obtaining information for constituents regarding government contracts and services, as well as helping them deal with government regulations, is an important aspect of a Member's representational duties. In providing such services, care should be exercised never to "discriminate unfairly by the dispensing of special favors."23 Thus, Members or employees should undertake for one individual or business no more than they would be willing to do for others similarly situated. Members and staff should also avoid becoming too closely affiliated with a particular enterprise, to prevent any appearance they are accruing benefits "by virtue of influence improperly exerted from [a] position in Congress."24

The prohibition against use of House resources to support unofficial undertakings clearly applies to support of business endeavors. Thus, an outside entity should never be permitted to use congressional stationery to promote a commercial or other unofficial endeavor. When responding to requests for support, Members and staff should draft communications so that they do not lend themselves to misinterpretation as an official endorsement from the Congress.25 Various House regulations restrict the mailing of commercial materials under the frank and limit the display or distribution of commercial materials in House office buildings.26

Unofficial Representational Activities

Several provisions of the Federal Criminal Code and House rules restrict the ability of Members and staff to become involved with outside organizations in ways that require interaction with the Federal Government. Members, officers, and employees are prohibited by 18 U.S.C. sec. 203 from asking for or receiving compensation for "representational services" rendered in relation to a matter or proceeding in which the United States is a party or has a direct and substantial interest. Included are proceedings before any Government department or agency. Additionally, House Rule 43, clause 3, prohibits Members and their staffs from receiving compensation by virtue of influence improperly exerted from a position in Congress.

Even absent compensation, employees are restricted by law and rule from private representation of others before the United States Government or the pursuit of others' Federal claims when not in the proper discharge of official duties. Section 205 of title 18 prohibits employees from acting as agent or attorney for another person or organization in prosecuting a claim against the United States or in connection with "any covered matter." A covered matter includes "any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter."27

These provisions have generally been enforced in instances where an official's public duties have conflicted with private interests. Enforcement of the Criminal Code is the responsibility of the Department of Justice.

Another provision that would apply to an employee seeking to represent others in Federal matters is House Rule 41. That rule states:

No person shall be an officer or employee of the House, or continue in its employment, who shall be an agent for the prosecution of any claim against the Government or be interested in such claim otherwise than as an original claimant or than in the proper discharge of official duties.

As with 18 U.S.C. sec. 205, there is no requirement in the rule that the representation involve any compensation.

General ethical standards and rules restrict the ability of both Members and employees to engage in undertakings inconsistent with congressional responsibilities. Even the appearance of a conflict may adversely affect public perceptions and confidence. No special advantage should be provided to an outside organization with which a Member is affiliated. Thus, the Committee has consistently advised Members not to take an active role in lobbying Congress on behalf of a private organization since that would conflict with a Member's general obligation to the public.

Example 11.

Employee A has developed expertise in a subject. Whether or not that knowledge was gained through her congressional employment, she may not represent others in the area of her expertise before any Government agency, with or without compensation.

Example 12.

Employee B may not help a private, not-for-profit organization in his spare time by lobbying Congress or executive agencies.

Example 13.

Member C may sit on the board of an organization which, among other things, lobbies Congress, but the Member should not personally supervise the organization's lobbying activities since such action on behalf of a single private group would appear inconsistent with her responsibilities to the public at large.

Mailing Lists

Regulations of the Committee on House Administration provide that expenses incurred in the procurement, compilation, and updating of mailing lists of residents of a Member's district may be reimbursed from the official expenses allowance. However, such lists—procured, compiled, maintained, or produced with appropriated funds—may only be used to support the conduct of official and representational duties. No name or address taken from any such list may be affixed to an item designed for mailing unless the item bears the Member's frank.27

Member's official allowances are available to support legislative and representational services to the congressional district from which the Member was elected.28 On occasion, a Member's publicized involvement in legislation or an issue of national concern will generate significant correspondence from outside the district. Such mail may strain the Member's official resources. The names gathered may also comprise a mailing list that would be potentially valuable to organizations outside the Congress. However, either permitting a private organization to respond to letters received by a Member in an official capacity or providing outside groups access to an official mailing list would violate House rules and Committee on House Administration regulations. Another Member's office is not considered an outside organization. Thus, if a Member is unable or unwilling to respond to nonconstituent inquiries, he or she may refer the correspondence to another Representative for response.

Unofficial computerized lists—whether political or for another purpose—may not be maintained using House facilities.

Further, using such a computerized list at no cost could be inconsistent with House Rule 45, prohibiting outside subsidy of official activities, and/or Rule 43, clause 6, restricting use of campaign resources to campaign purposes. However, a Member may purchase a mailing list from an unofficial entity (including his or her own campaign committee), at fair market value, provided the list is available on the same terms to any other organization that wants to purchase it (including the campaign of the Member's opponent). For the purchase to be reimbursable from official allowances, it would have to meet the criteria ordinarily attendant to such expenses. In addition, the contents of any computer tape would have to be purged of any campaign or politically related data before it could be used officially.

These rules should not be interpreted technically so as to infringe upon a Member's ability to communicate with constituents. Members may receive membership lists, sets of labels, or names from organizations operating in their districts if those lists, labels, or names either form the basis for an official mailing or are added to the Members's data base with the organization's permission. In either instance, a Member may not accept a mailing list unless the source makes it generally available on similar terms to others.

Example 14.

Member A may not share with an outside organization the names of individuals who have written to him on a particular issue.

Example 15.

Member B may use official funds to purchase from her campaign committee a list of constituents, as long as any other person could also purchase the list for the same price, and political identifiers are deleted from the list.

Example 16.

The local Chamber of Commerce maintains a mailing list of businesses in Member C's district. The Chamber may provide Member C with a set of labels for use on an official mailing on the same terms as it would give the list to others. The office may not use the mailing to help the Chamber update or correct its list.

Appendix to Chapter 9

Committee on Standards of Official Conduct Advisory Opinion No. 51>

SUBJECT

General interpretation of House Rule XLIII, Clause 11.

BACKGROUND AND DISCUSSION

House Rule XLIII, clause 11, adopted on January 15, 1979, provides as follows:

A Member of the House of Representatives shall not authorize or otherwise allow a non-House individual, group, or organization to use the words "Congress of the United States", "House of Representatives", or "official business", or any combination of words thereof, on any letterhead or envelope.

This addition to the Code of Official Conduct took effect upon adoption. The primary purpose of clause 11 is to prohibit Members from authorizing private organizations to use a facsimile of their congressional stationery to solicit contributions or political support in a direct mail appeal. Such use of congressional letterhead by non-House groups is clearly intended to convey the impression that the solicitation is endorsed by the Congress or is related to the official business of the Member who signs the letter. In adopting clause 11, the House has determined that the use of congressional letterhead facsimiles by private organizations is a deliberate misrepresentation which reflects discredit upon the House of Representatives.

Rule XLIII, clause 11, generally would prohibit a Member from authorizing a non-House individual or group to use that Member's congressional stationery, or any letterhead that purports to be an official communication from the Congress, in any mailing paid for with non-appropriated funds. This prohibition would apply to any letterhead designed in such a manner as to convey the impression that the letter is an official communication. The Committee emphasizes that Rule XLIII, clause 2, directs Members "to adhere to the spirit and the letter of the Rules of the House of Representatives…." Therefore, since clause 11 is intended to prohibit solicitations by private interest groups on facsimiles of congressional stationery, it would appear to be a violation of the spirit of that rule if a Member authorized a non-House group to use letterhead that did not contain the words prohibited by clause 11, but which was designed to convey the impression that it is an official communication from the Congress. For ex

The clause 11 prohibition is not intended in any way to restrict a Member's communication with the public or his right to lend his name to any organization or interest group. The rule imposes no restriction on a Member's freedom to sign a fund-raising appeal or other solicitation of political support on a non-House group's own letterhead, and be identified as a Member of Congress. Similarly, a Member's name and title may appear in the letterhead of a non-House organization (e.g., if the Member serves in an official capacity or honorary position with that organization), provided that the letterhead does not purport to be an official communication from the Congress.

The terms "non-House individual, group, or organization" as used in the rule would not extend to a Member's principal campaign committee. The Committee understands that the clause 11 prohibition on lending congressional letterhead to private groups was not intended to prohibit a Member from using a facsimile of official stationery in fund-raising activities for his own campaign.2 This interpretation is based on the debate in the Democratic Caucus which recommended adoption of clause 11 on December 6, 1978, and on the legislative history of a similar amendment that was offered to the Ethics in Government Act during the 95th Congress (see Congressional Record, September 20, 1978, page H10212). It should also be noted that the Senate Select Committee on Ethics issued an advisory opinion imposing comparable prohibitions on use of official stationery by non-Senate groups, and did not apply those prohibitions to a Senator's campaign committee.

The Committee emphasizes again in this regard that the clear intent of clause 11 is to prohibit special interest groups and other private organizations from using congressional letterhead for political solicitations. Such use of congressional stationery facsimiles conveys the false impression that the private group is sponsored or endorsed by the House of Representatives. This is not the case when a Member, strictly on his behalf rather than for a third party, uses a facsimile of his personalized stationery for campaign fund raising appeals or other political mailings. With respect to campaign solicitations, the Committee notes that such letters must include a notice regarding the availability of campaign reports filed with the Federal Election Commission, as required by title 2 of the United States Code, section 435.) 3) Moreover, with respect to other political mailings, the Committee does not believe that it is improper for a Member to use his congressional letterhead to send, for example, thank you notes to contributors or other politically-related letters which may not be mailed under the frank. The Committee is confident that use of a Member's personalized congressional letterhead for political mailings on his own behalf would not be misinterpreted as an official communication from the House of Representatives or an endorsement by the Congress. In sum, the abuse of congressional stationery that clause 11 is designed to correct is not present in the case of a Member's campaign committee, nor was the rule intended to prohibit a Member's use of his congressional letterhead for political mailings.3

The prohibitions of clause 11 also would not apply to the Democratic and Republican Congressional Campaign Committees, nor would it apply to the various informal Member organizations or caucuses composed solely of Members of Congress. The ad hoc Member groups, which are quasi-official in nature, and the party campaign committees would not be considered "non-House organizations" for purpose of Rule XLIII, clause 11.

Appendices

\* Minor punctuation corrections have been made to original statutory provisions.

Text of selected rules, regulations, and statutes relating to standards of official conduct

House Rule VIII (8) duties of the members

1. Every Member shall be present within the Hall of the House during its sittings, unless excused or necessarily prevented; and shall vote on each question put, unless he has a direct personal or pecuniary interest in the event of such question.

2. Pairs shall be announced by the Clerk immediately before the announcement by the Chair of the result of the vote, by the House or Committee of the Whole from a written list furnished him, and signed by the Member making the statement to the Clerk, which list shall be published in the Record as a part of the proceedings, immediately following the names of those not voting. However, pairs shall be announced but once during the same legislative day.

3. (a) A Member may not authorize any other individual to cast his vote or record his presence in the House or Committee of the Whole.

(b) No individual other than a Member may cast a vote or record a Member's presence in the House or Committee of the Whole.

(c) A Member may not cast a vote for any other Member or record another Member's presence in the House or Committee of the Whole.

House Rule IX (9) questions of privilege

Questions of privilege shall be, first those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; second, the rights, reputation, and conduct of Members, individually, in their representative capacity only; and shall have precedence of all other questions, except motions to adjourn.

House Rule X (10) establishment and jurisdiction of standing committees

The Committees and Their Jurisdiction

1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned to it by this clause and clauses 2, 3, and 4; and all bills, resolutions, and other matters relating to subjects within the jurisdiction of any standing committee as listed in this clause shall (in accordance with and subject to clause 5) be referred to such committees, as follows: \* \* \*

(t) Committee on Standards of Official Conduct.

(1) Measures relating to the Code of Official

In addition to its legislative jurisdiction under the preceding provision of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the functions with respect to recommendations, studies, investigations, and reports which are provided for in clause 4(e), and the functions designated in titles I and V of the Ethics in Government Act of 1978 and sections 7342, 7351, and 7353 of title 5, United States Code. \* \* \* Additional Functions of Committees \* \* \*

4. (e)(1) The Committee on Standards of Official Conduct is authorized: (A) to recommend to the House from time to time such administrative actions as it may deem appropriate to establish or enforce standards of official conduct for Members, officers, and employees of the House, and any letter of reproval or other administrative action of the committee pursuant to an investigation under subdivision (B) shall only be issued or implemented as a part of a report required by such subdivision; (B) to investigate, subject to subparagraph (2) of this paragraph, any alleged violation, by a Member, officer, or employee of the House, of the Code of Official Conduct or of any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his duties or the discharge of his responsibilities, and after notice and hearing (unless the right to a hearing is waived by the Member, officer, or employee), shall report to the House its findings of fact and recommendations, if any, upon the final disposition of any such investigation, and such action as the committee may deem appropriate in the circumstances; (C) to report to the appropriate Federal or State authorities, with the approval of the House, any substantial evidence of a violation, by a Member, officer, or employee of the House, of any law applicable to the performance of his duties or the discharge of his responsibilities, which may have been disclosed in a committee investigation; (D) to give consideration to the request of any Member, officer, or employee of the House for an advisory opinion with respect to the general propriety of any current or proposed conduct of such Member, officer, or employee1 and, with appropriate deletions to assure the privacy of the individual concerned, to publish such opinion for the guidance of other Members, officers, and employees of the House; and (E) to give consideration to the request of any Member, officer, or employee of the House for a written waiver in exceptional circumstances with respect to clause 4 of rule XLIII.

(2)(A) No resolution, report, recommendation, or advisory opinion relating to the official conduct of a Member, officer, or employee of the House shall be made by the Committee on Standards of Official Conduct, and no investigation of such conduct shall be undertaken by such committee, unless approved by the affirmative vote of a majority of the members of the committee.

(B) Except in the case of an investigation undertaken by the committee on its own initiative, the committee may undertake an investigation relating to the official conduct of an individual Member, officer, or employee of the House of Representatives only—

(i) upon receipt of a complaint, in writing and under oath, made by or submitted to a Member of the House and transmitted to the committee by such Member, or

(ii) upon receipt of a complaint, in writing and under oath, directly from an individual not a Member of the House if the committee finds that such complaint has been submitted by such individual to not less than three Members of the House who have refused, in writing, to transmit such complaint to the committee.

(C) No investigation shall be undertaken by the committee of any alleged violation of a law, rule, regulation, or standard of conduct not in effect at the time of the alleged violation; nor shall any investigation be undertaken by the committee of any alleged violation which occurred before the third previous Congress unless the committee determines that the alleged violation is directly related to an alleged violation which occurred in a more recent Congress.

(D) A member of the committee shall be ineligible to participate, as a member of the committee, in any committee proceeding relating to his or her official conduct. In any case in which a member of the committee is ineligible to act as a member of the committee under the preceding sentence, the Speaker of the House shall designate a Member of the House from the same political party as the ineligible member of the committee to act as a member of the committee in any committee proceeding relating to the official conduct of such ineligible member.

(E) A member of the committee may disqualify himself from participating in any investigation of the conduct of a Member, officer, or employee of the House upon the submission in writing and under oath of an affidavit of disqualification stating that he cannot render an impartial and unbiased decision in the case in which he seeks to disqualify himself. If the committee approves and accepts such affidavit of disqualification, the chairman shall so notify the Speaker and request the Speaker to designate a Member of the House from the same political party as the disqualifying member of the committee to act as a member of the committee in any committee proceeding relating to such investigation.

(F) No information or testimony received, or the contents of a complaint or the fact of its filing, shall be publicly disclosed by any committee or staff member unless specifically authorized in each instance by a vote of the full committee. \* \* \*Election and Membership of Committees; Chairman; Vacancies; Select and Conference Committees \* \* \*

6. (a) \* \* \* (2) One-half of the members of the Committee on Standards of Official Conduct shall be from the majority party and one-half shall be from the minority party. No Member shall serve as a member of the Committee on Standards of Official Conduct during more than 3 Congresses in any period of 5 successive Congresses (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress.)

House Rule XI (11) rules of procedure for committees

\* \* \*

Open meetings and hearings \* \* \*

(g)(2) \* \* \* No Member may be excluded from nonparticipatory attendance at any hearing of any committee or subcommittee, with the exception of the Committee on Standards of Official Conduct, unless the House of Representatives shall by majority vote authorize a particular committee or subcommittee, for purposes of a particular series of hearings on a particular article of legislation or on a particular subject of investigation, to close its hearings to Members by the same procedures designated in this subparagraph for closing hearings to the public: Provided, however, That the committee or subcommittee may by the same procedure vote to close one subsequent day of hearing except that the Committee on Appropriations, the Committee on Armed Services, and the Permanent Select Committee on Intelligence and the subcommittees therein may, by the same procedure, vote to close up to five additional consecutive days of hearings. \* \* \*

Prohibition against committee meetings during five-minute rule and during joint sessions and joint meetings

(i)(1) No committee of the House (except the Committee on Appropriations, the Committee on the Budget, the Committee on House Administration, the Committee on Rules, the Committee on Standards of Official Conduct, and the Committee on Ways and Means) may sit, without special leave, while the House is reading a measure for amendment under the five-minute rule. For purposes of this subparagraph special leave will be granted unless 10 or more Members object. \* \* \* Privileged Reports and Amendments \* \* \*

4. (a) The following committees shall have leave to report at any time on the matters herein stated, namely: \* \* \*

[T]he Committee on Standards of Official Conduct—on resolutions recommending action by the House of Representatives with respect to an individual Member, officer, or employee of the House of Representatives as a result of any investigation by the committee relating to the official conduct of such Member, officer, or employee of the House of Representatives.

House Rule XXXII (32) of admission to the floor

1. The persons hereinafter named, and none other, shall be admitted to the Hall of the House or rooms leading thereto, viz: \* \* \*

[O]ne attorney to accompany any Member who is the respondent in an investigation undertaken by the Committee on Standards of Official Conduct when the recommendation of such committee is under consideration.

House Rule XLI (41) qualification of officers and employees

No person shall be an officer or employee of the House, or continue in its employment, who shall be an agent for the prosecution of any claim against the Government or be interested in such claim otherwise than as an original claimant or than in the proper discharge of official duties.

House Rule XLIII (43) code of official conduct

There is hereby established by and for the House of Representatives the following code of conduct, to be known as the "Code of Official Conduct":

1. A Member, officer, or employee of the House of Representatives shall conduct himself at all times in a manner which shall reflect creditably on the House of Representatives.

2. A Member, officer, or employee of the House of Representatives shall adhere to the spirit and the letter of the Rules of the House of Representatives and to the rules of duly constituted committees thereof.

3. A Member, officer, or employee of the House of Representatives shall receive no compensation nor shall he permit any compensation to accrue to his beneficial interest from any source, the receipt of which would occur by virtue of influence improperly exerted from his position in the Congress.

4. A Member, officer, or employee of the House of Representatives shall not accept gifts (other than personal hospitality of an individual or with a fair market value of $100 or less), as adjusted under section 102(a)(2)(A) of the Ethics in Government Act of 1978) 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, directly or indirectly, from any person (other than from a relative) except to the extent permitted by written waiver granted in exceptional circumstances by the Committee on Standards of Official Conduct pursuant to clause 4(e)(1)(E) of rule X.2

5. A Member, officer, or employee of the House of Representatives, shall accept no honorarium for a speech, writing for publication, or other similar activity.

6. A Member of the House of Representatives shall keep his campaign funds separate from his personal funds. A Member shall convert no campaign funds to personal use in excess of reimbursement for legitimate and verifiable campaign expenditures and shall expend no funds from his campaign account not attributable to bona fide campaign or political purposes.

7. A Member of the House of Representatives shall treat as campaign contributions all proceeds from testimonial dinners or other fund raising events.

8. A Member or officer of the House of Representatives shall retain no one under his payroll authority who does not perform official duties commensurate with the compensation received in the offices of the employing authority. In the case of committee employees who work under the direct supervision of a Member other than a chairman, the chairman may require that such Member affirm in writing that the employees have complied with the preceding sentence (subject to clause 6 of rule XI) as evidence of the chairman's compliance with this clause and with clause 6 of rule XI.

9. A Member, officer, or employee of the House of Representatives shall not discharge or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex (including marital or parental status), age, or national origin, but may take into consideration the domicile or political affiliation of such individual.

10. A Member of the House of Representatives who has been convicted by a court of record for the commission of a crime for which a sentence of two or more years' imprisonment may be imposed should refrain from participation in the business of each committee of which he is a member and should refrain from voting on any question at a meeting of the House, or of the Committee of the Whole House, unless or until judicial or executive proceedings result in reinstatement of the presumption of his innocence or until he is reelected to the House after the date of such conviction.

11. A Member of the House of Representatives shall not authorize or otherwise allow a non-House individual, group, or organization to use the words "Congress of the United States", "House of Representatives", or "Official Business", or any combination of words thereof, on any letterhead or envelope.

12. (a) Except as provided by paragraph (b), any employee of the House of Representatives who is required to file a report pursuant to rule XLIV shall refrain from participating personally and substantially as an employee of the House of Representatives in any contact with any agency of the executive or judicial branch of Government with respect to nonlegislative matters affecting any nongovernmental person in which the employee has a significant financial interest.

(b) Paragraph (a) shall not apply if an employee first advises his employing 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 Committee on Standards of Official Conduct.

As used in this Code of Official Conduct of the House of Representatives—(a) the terms "Member" and "Member of the House of Representatives" include the Resident Commissioner from Puerto Rico and each Delegate to the House; and (b) the term "officer or employee of the House of Representatives" means any individual whose compensation is disbursed by the Clerk of the House of Representatives.

For the purposes of clause 4 of this Code of Official Conduct, the term "relative" means, with respect to any Member, officer, or employee of the House of Representatives, an individual who is related as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of such Member, officer, or employee, and shall be deemed to include the fiance or fiancee of the Member, officer, or employee.

House Rule XLV (45) prohibition of unofficial office accounts

1. On or after January 3, 1978, no Member may maintain or have maintained for his use an unofficial office account.

2. After the date of adoption of this rule, no funds may be paid into any unofficial office account.

3. Notwithstanding any other provision of this rule, if an amount from the Official Expenses Allowance of a Member is paid into the House Recording Studio revolving fund for telecommunications satellite services, the Member may accept reimbursement from non-political entities in that amount for transmission to the Clerk of the House of Representatives for credit to the Official Expenses Allowance.

4. For purposes of this rule—

(a) the term "unofficial office account" means an account or repository into which funds are received for the purpose of defraying otherwise unreimbursed expenses allowable under section 162(a) of the Internal Revenue Code of 1954 as ordinary and necessary in the operation of a congressional office, and includes any newsletter fund referred to in section 527(g) of the Internal Revenue Code of 1954; and

(b) the term "Member" means any Member of, Delegate to, or Resident Commissioner in, the House of Representatives.

House Rule XLVI (46) limitations on the use of the frank

1. Any franked mail which is mailed by a Member under section 3210(d) of title 39, United States Code, shall be mailed at the equivalent rate of postage which assures that such mail will be sent by the most economical means practicable.

2. A Member shall, before making any mass mailing, submit a sample or description of the mail matter involved to the House Commission on Congressional Mailing Standards for an advisory opinion as to whether such proposed mailing is in compliance with applicable provisions of law, rule, or regulation.

3. Any mass mailing which otherwise is frankable by a Member under the provisions of section 3210(f) of title 39, United States Code, shall not be frankable unless the cost of preparing and printing such mass mailing is defrayed exclusively from funds made available in any appropriations Act. 4. A Member may not send any mass mailing outside the congressional district of the Member, except that—

(a) a Member may send mass mailings to any area in a county, if any part of the county adjoins or is inside the congressional district of the Member; and

(b) in the case of redistricting, on and after the date referred to in section 3210(d)(1)(B) of title 39, United States Code, a Member may send mass mailings to the additional area described in that section.

5. In the case of any Representative in the House of Representatives, other than a Representative at Large, who is a candidate for any statewide public office, any mass mailing shall not be frankable under section 3210 of title 39, United States Code, when the same is delivered to any address which is not located in the area constituting the congressional district from which any such individual was elected.

6. In the case of any Member, any mass mailing shall not be frankable under section 3210 of title 39, United States Code, when the same is postmarked less than sixty days immediately before the date of any primary or general election (whether regular, special, or runoff) in which such Member is a candidate for public office. If mail matter is of a type which is not customarily postmarked, the date on which such matter would have been postmarked if it were of a type customarily postmarked shall apply.

7. For purposes of this rule—

(a) The term "mass mailing" means, with respect to a session in Congress, any mailing of newsletters or other pieces of mail with substantially identical content (whether such mail is deposited singly or in bulk, or at the same time or different time), totaling more than 500 pieces in that session, except that such term does not include any mailing—

(1) of matter in direct response to a communication from a person to whom the matter is mailed;

(2) from a Member to other Members of Congress, or to Federal, State, or local government officials; or

(3) of a news release to the communications media.

(b) The term "Member" means any Member of the House of Representatives, a Delegate to the House of Representatives, or the Resident Commissioner in the House of Representatives.

(c) The term "Members of Congress" means Senators and Representatives in, and Delegates and Resident Commissioners to, the Congress.

House Rule XLVII (47) limitations on outside employment and earned income

1. (a)(1) Except as provided by subparagraph (2), in calendar year 1991 or thereafter, a Member or an officer or employee of the House may not—

(A) 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; or

(B) receive any honorarium.

(2) In the case of any individual who becomes a Member or an officer or employee of the House during calendar year 1991 or thereafter, such individual may not have outside earned income attributable to the portion of that calendar year which occurs after such individual becomes a Member, 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, officer, or employee during such calendar year and the denominator of which is 365.

(3) In calendar year 1991 or thereafter, any payment in lieu of an honorarium which is made to a charitable organization on behalf of a Member, officer, or employee of the House may not be received by such individual. 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.

(b)(1) Except as provided by subparagraph (2), in calendar year 1990, a Member may not have outside earned income (including honoraria received in such calendar year) which exceeds 30 percent of the annual pay as a Member to which the Member was entitled in 1989.

(2) In the case of any individual who becomes a member during calendar year 1990, such individual may not have outside earned income (including honoraria) attributable to the portion of that calendar year which occurs after such individual becomes a Member which exceeds 30 percent of $89,500 multiplied by a fraction the numerator of which is the number of days such individual is a Member during such calendar year and the denominator of which is 365.

2. On or after January 1, 1991, a Member or an officer or employee of the House 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;

(4) serve for compensation as an officer or member of the board of any association, corporation, or other entity; or

(5) receive compensation for teaching without the prior notification and approval of the Committee on Standards of Official Conduct.

3. For the purposes of this rule—

(a) The term "Member" means any Member of the House of Representatives, a Delegate to the House of Representatives, or the Resident Commissioner in the House of Representatives.

(b)(1) Except as provided by paragraph (2), the term "officer or employee of the House" means any individual (other than a Member) whose pay is disbursed by the Clerk and who is paid at a rate 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.1

(2) When used with respect to honoraria, the term "officer or employee of the House" means any individual (other than a Member) whose salary is disbursed by the Clerk.

(c) The term "honorarium" means a payment of money or any thing of value for an appearance, speech, or article, by a Member or an officer or employee of the House, 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 any such expenses to the extent that they are not paid or reimbursed.

(d) The term "travel expenses" means, with respect to a Member or an officer or employee of the House, or a relative of such individual, the cost of transportation, and the cost of lodging and meals while away from his or her or principal place of employment.

(e) The term "outside earned income" means, with respect to a Member, officer, or employee, wages, salaries, fees and other amounts received or to be received as compensation for personal services actually rendered but does not include—

(1) the salary of such individual as a Member, officer or employee;

(2) any compensation derived by such individual for personal services actually rendered prior to the effective date of this rule or becoming such a Member, officer or employee, whichever occurs later;

(3) any amount paid by, or on behalf of, a Member, officer or employee, to a tax-qualified pension, profit-sharing, or stock bonus plan and received by such individual from such a plan;

(4) in the case of a Member, officer or employee engaged in a trade or business in which the individual or his family holds a controlling interest and in which both personal services and capital are income-producing factors, any amount received by such individual so long as the personal services actually rendered by the individual in the trade or business do not generate a significant amount of income; and

(5) copyright royalties received from established publishers pursuant to usual and customary contractual terms.

Outside earned income shall be determined without regard to any community property law.

(f) The term "charitable organization" means an organization described in section 170(c) of the Internal Revenue Code.

House Rule XLVIII (48) permanent select committee on intelligence

1. (a) There is hereby established a permanent select committee to be known as the Permanent Select Committee on Intelligence (hereinafter in this rule referred to as the "select committee." \* \* \*

5. No employee of the select committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the House (including the jurisdiction of the Committee on Standards of Official Conduct and of the select committee as to the security of such information during and after the period of his employment or contractual agreement with such committee); \* \* \* \* \* \*

7. (d) The Committee on Standards of Official Conduct shall investigate an unauthorized disclosure of intelligence or intelligence-related information by a Member, officer, or employee of the House in violation of paragraph (c) and report to the House concerning any allegation which it finds to be substantiated.

House Rule LI (51) employment practices

1. The provisions of the Fair Employment Practice Resolution, House Resolution 558 of the 100th Congress, are applicable to Members, officers, employees and employment positions of the House.

2. The Committee on House Administration shall have authority to issue rules and regulations applying the rights and protections of the Fair Labor Standards Act in the House, including, but not limited to, determination of exemption categories, permitting the use of compensatory time as compensation under the maximum work week provisions of the Act, describing the recordkeeping requirements and providing that such recordkeeping provisions do not apply with respect to employees exempted pursuant to the Committee's Rules and Regulations.

[The text of the Fair Employment Practices Resolution (H. Res. 558, 100th Congress) reads as follows:]

SECTION 1. SHORT TITLE.

This resolution may be cited as the "Fair Employment Practices Resolution".

SEC. 2. NONDISCRIMINATION IN HOUSE OF REPRESENTATIVES EMPLOYMENT

(a) In General.—Personnel actions affecting employment positions in the House of Representatives shall be made free from discrimination based on race, color, national origin, religion, sex (including marital or parental status), handicap, or age.

(b) Interpretations.—Interpretations under subsection (a) shall reflect the principles of current law, as generally applicable to employment.

(c) Construction.—Subsection (a) does not prohibit the taking into consideration of—

(1) the domicile of an individual with respect to a position under the clerk-hire allowance; or

(2) the political affiliation of an individual with respect to a position under the clerk-hire allowance or a position on the staff of a committee.

SEC. 3. PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.

The procedure for consideration of alleged violations of section 2 consists of 3 steps as follows:

(1) Step I, Counseling and Mediation, as set forth in section 5.

(2) Step II, Formal Complaint, Hearing, and Review by the Office of Fair Employment Practices, as set forth in section 6.

(3) Step III, Final Review by Review Panel, as set forth in section 7.

SEC. 4. ESTABLISHMENT OF OFFICE OF FAIR EMPLOYMENT PRACTICES.

There is established an Office of Fair Employment Practices (hereafter in this resolution referred to as the "Office"), which shall carry out functions assigned under this resolution. Employees of the Office shall be appointed by, and serve at the pleasure of, the Chairman and the ranking minority party member of the Committee on House Administration, acting jointly, and shall be under the administrative direction of the Clerk of the House of Representatives. The Office shall be located in the District of Columbia and shall begin operation not more than 90 days after the date on which this resolution is agreed to.

SEC. 5. STEP I: COUNSELING AND MEDIATION.

(a) Counseling.—An individual aggrieved by an alleged violation of section 2 may request counseling by counselors in the Office, who shall provide information with respect to rights and related matters under that section. A request for counseling shall be made not later than 180 days after the alleged violation and may be oral or written, at the option of the individual. The period for counseling is 30 days. The Office may not notify the employing authority of the counseling before the beginning of mediation or the filing of a formal complaint, whichever occurs first.

(b) Mediation.—If, after counseling, the individual desires to proceed, the Office shall attempt to resolve the alleged violation through mediation between the individual and the employing authority.

SEC. 6. STEP II: FORMAL COMPLAINT, HEARING, AND REVIEW BY THE OFFICE OF FAIR EMPLOYMENT PRACTICES.

(a) Formal Complaint and Request for Hearing.—Not later than 15 days after the end of the counseling period, the individual may file a formal complaint with the Office. Not later than 10 days after filing the formal complaint, the individual may file with the Office a written request for a hearing on the complaint.

(b) Hearing.—The hearing shall be conducted—

(1) not later than 10 days after filing of the written request under subsection (a), except that the Office may authorize a delay of not more than 30 days for investigation;

(2) on the record by an employee of the Office; and

(3) to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 555 and 556 of title 5, United States Code.

(c) Decision.—Not later than 20 days after the hearing, the Office shall issue a written decision to the parties. The decision shall clearly state the issues raised by the complaint, and shall contain a determination as to whether a violation of section 2 has occurred.

SEC. 7. STEP III: FINAL REVIEW BY REVIEW PANEL.

(a) In General.—Not later than 20 days after issuance of the decision under section 6, any party may seek final review of the decision by filing a written request with the Office. The final review shall be conducted by a panel constituted at the beginning of each Congress and composed of—

(1) 2 elected officers of the House of Representatives, appointed by the Speaker;

(2) 2 employees of the House of Representatives appointed by the minority leader of the House of Representatives;

(3) 2 members of the Committee on House Administration (one of whom shall be appointed as chairman of the panel), appointed by the Chairman of that Committee; and

(4) 2 members of the Committee on House Administration, appointed by the ranking minority party member of that Committee. If any member of the panel withdraws from a particular review, the appointing authority for such member shall appoint another officer, employee, or Member of the House of Representatives, as the case may be, to be a temporary member of the panel for purposes of that review only.

(b) Review and Decision.—The review under this section shall consist of a hearing (conducted in the manner described in section 6(b)(3)), if such hearing is considered necessary by the panel, and an examination of the record, together with any statements or other documents the panel deems appropriate. A tie vote by the panel is an affirmation of the decision of the Office. The panel shall complete the review and submit a written decision to the parties and to the Committee on House Administration not later than 30 days after filing of the request under subsection (a).

SEC. 8. RESOLUTION BY AGREEMENT.

If, after a formal complaint is filed under section 6, the parties resolve the issues involved, the parties shall enter into a written agreement, which shall be effective—

(1) in the case of a matter under review by the Office under section 6, if approved by the Office; and

(2) in the case of a matter under review by a panel under section 7, if approved by the panel.

SEC. 9. REMEDIES.

The Office or a review panel, as the case may be, may order the following remedies:

(1) Monetary compensation, to be paid from the contingent fund of the House of Representatives.

(2) In the case of a serious violation, a payment in addition to compensation under paragraph (2), to be paid from the clerk-hire allowance of a Member of the House, or from personnel funds of a committee of the House or other entity, as appropriate.

(3) Injunctive relief.

(4) Costs and attorney fees.

(5) Employment, reinstatement to employment, or promotion (with or without back pay).

SEC. 10. COSTS OF ATTENDING HEARINGS.

An individual with respect to whom a hearing is held under this resolution shall be reimbursed for actual and reasonable costs of attending the hearing, if the individual resides outside the District of Columbia.

SEC. 11. PROHIBITION OF INTIMIDATION.

Any intimidation of, or reprisal against, any person by an employing authority because of the exercise of a right under this resolution is a violation of section 2.

SEC. 12. CLOSED HEARINGS AND CONFIDENTIALITY.

All hearings under this resolution shall be closed. All information relating to any procedure under this resolution is confidential, except that a decision of the Office under section 6 or a decision of a review panel under section 7 shall be published, if the decision constitutes a final disposition of the matter.

SEC. 13. EXCLUSIVITY OF PROCEDURES AND REMEDIES.

The procedures and remedies under this resolution are exclusive except to the extent that the Rules of the House of Representatives and the rules of the House Committee on Standards of Official Conduct provide for additional procedures and remedies.

SEC. 14. DEFINITIONS.

As used in this resolution—

(1) the term "employment position" means, with respect to the House of Representatives, a position the pay for which is disbursed by the Clerk of the House of Representatives, and any employment position in a legislative service organization or other entity that is paid through funds derived from the clerk-hire allowance;

(2) the term "employing authority" means, the Member of the House of Representatives or elected officer of the House of Representatives with the power to appoint the employee;

(3) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress; and

(4) the term "elected officer of the House of Representatives" means an elected officer of the House of Representatives (other than the Speaker and the Chaplain).

Code of Ethics for Government Service

72 STAT., PART 2, B12 (1958), H. CON. RES. 175, 85TH CONG.

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the following Code of Ethics should be adhered to by all Government employees, including officeholders:

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

1. Put loyalty to the highest moral principals and to country above loyalty to Government persons, party, or department.

2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

7. Engage in no business with the Government, either directly or indirectly which is inconsistent with the conscientious performance of his governmental duties.

8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

9. Expose corruption wherever discovered.

10. Uphold these principles, ever conscious that public office is a public trust.

(Passed July 11, 1958.)

Title I, Ethics in Government Act of 1978, As Amended

House Rule XLIV (44)

financial disclosure 5 U.S.C. APPENDIX 6, secs. 101-111 (As amended by Public Laws 101-194, 101-280, 101-650, 102-25, and 102-90)1

Financial Disclosure Requirements of Federal Personnel

Persons Required to File

Sec. 101. (a) Within thirty days of assuming the position of an officer or employee described in subsection (f), an individual shall file a report containing the information described in section 102(b) unless the individual has left another position described in subsection (f) within thirty days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.

(b)(1) Within five days of the transmittal by the President to the Senate of the nomination of an individual (other than an individual nominated for appointment to a position as a Foreign Service Officer or a grade or rank in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code, is 0-6 or below) to a position, appointment to which requires the advice and consent of the Senate, such individual shall file a report containing the information described in section 102(b). Such individual shall, not later than the date of the first hearing to consider the nomination of such individual, make current the report filed pursuant to this paragraph by filing the information required by section 102(a)(1)(A) with respect to income and honoraria received as of the date which occurs five days before the date of such hearing. Nothing in this Act shall prevent any Congressional committee from requesting, as a condition of confirmation, any additional financial

(2) An individual whom the President or the President-elect has publicly announced he intends to nominate to a position may file the report required by paragraph (1) at any time after that public announcement, but not later than is required under the first sentence of such paragraph.

(c) Within thirty days of becoming a candidate as defined in section 301 of the Federal Election Campaign Act of 1971, in a calendar year for nomination or election to the office of President, Vice President, or Member of Congress, or on or before May 15 of that calendar year, whichever is later, but in no event later than 30 days before the election, and on or before May 15 of each successive year an individual continues to be a candidate, an individual other than an incumbent President, Vice President, or Member of Congress shall file a report containing the information described in section 102(b). Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

(d) Any individual who is an officer or employee described in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 102(a).

(e) Any individual who occupies a position described in subsection (f) shall, on or before the thirtieth day after termination of employment in such position, file a report containing the information described in section 102(a) covering the preceding calendar year if the report required by subsection (d) has not been filed and covering the portion of the calendar year in which such termination occurs up to the date the individual left such office or position, unless such individual has accepted employment in another position described in subsection (f).

(f) The officers and employees referred to in subsections (a), (d), and (e) are:

(1) the President;

(2) the Vice President;

(3) each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, [whose position is classified at GS-16 or above of the General Schedule prescribed by section 5332 of title 5, United States Code, or the rate of basic pay for which is fixed (other than under the General Schedule) at a rate equal to or greater than the minimum rate of basic pay fixed for GS-16] who occupies a position classified above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule; each member of a uniformed service whose pay grade is at or in excess of 0-7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined by the Director of the Office of Government Ethics to be of equal classification;

(4) each employee appointed pursuant to section 3105 of title 5, United States Code;

(5) any employee not described in paragraph (3) who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policymaking character, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government;

(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service or Postal Rate Commission [whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed for GS-16] who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule;

(7) the Director of the Office of Government Ethics and each designated agency ethics official;

(8) any civilian employee not described in paragraph (3), employed in the Executive Office of the President (other than special government employee) who holds a commission of appointment from the President;

(9) a Member of Congress as defined under section 109(12);

(10) an officer or employee of the Congress as defined under section 109(13);

(11) a judicial officer as defined under section 109(10); and

(12) a judicial employee as defined under section 109(8).

(g)(1) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the supervising ethics office for each branch, but the total of such extensions shall not exceed ninety days.

(2)(A) In the case of an individual who is serving in the Armed Forces, or serving in support of the Armed Forces, in an area while that area is designated by the President by Executive order as a combat zone for purposes of section 112 of the Internal Revenue Code of 1986, the date for the filing of any report shall be extended so that the date is 180 days after the later of—

(i) the last day of the individual's service in such area during such designated period; or

(ii) the last day of the individual's hospitalization as a result of injury received or disease contracted while serving in such area.

(B) The Office of Government Ethics, in consultation with the Secretary of Defense, may prescribe procedures under this paragraph.

(h) The provisions of subsections (a), (b), and (e) shall not apply to an individual who, as determined by the designated agency ethics official or Secretary concerned (or in the case of a Presidential appointee under subsection (b), the Director of the Office of Government Ethics), the congressional ethics committees, or the Judicial Conference, is not reasonably expected to perform the duties of his office or position for more than sixty days in a calendar year, except that if such individual performs the duties of his office or position for more than sixty days in a calendar year—

(1) the report required by subsections (a) and (b) shall be filed within fifteen days of the sixtieth day, and

(2) the report required by subsection (e) shall be filed as provided in such subsection.

(i) The supervising ethics office for each branch may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position less than one hundred and thirty days in a calendar year, but only if the supervising ethics office determines that—

(1) such individual is not a full-time employee of the Government,

(2) such individual is able to provide services specially needed by the Government,

(3) it is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and

(4) public financial disclosure by such individual is not necessary in the circumstances.

Contents of Reports

Sec. 102. (a) Each report filed pursuant to section 101 (d) and (e) shall include a full and complete statement with respect to the following:

(1)(A) The source, type, and amount or value of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating $200 or more in value and, effective January 1, 1991, the source, date, and amount of payments made to charitable organizations in lieu of honoraria, and the reporting individual shall simultaneously file with the applicable supervising ethics office, on a confidential basis, a corresponding list of recipients of all such payments, together with the dates and amounts of such payments.

(B) The source and type of income which consists of dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds $200 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within:

(i) not more than $1,000,

(ii) greater than $1,000 but not more than $2,500,

(iii) greater than $2,500 but not more than $5,000,

(iv) greater than $5,000 but not more than $15,000,

(v) greater than $15,000 but not more than $50,000,

(vi) greater than $50,000 but not more than $100,000,

(vii) greater than $100,000 but not more than $1,000,000, or

(viii) greater than $1,000,000.

(2)2 [(A) The identity of the source and a brief description (including a travel itinerary, dates, and nature of expenses provided) of any gifts of transportation, lodging, food, or entertainment aggregating $250 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of $75 or less need not be aggregated for purposes of this subparagraph.]

[(B) The identity of the source, a brief description, and the value of all gifts other than transportation, lodging, food, or entertainment aggregating $100 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any gift with a fair market value of $75 or less need not be aggregated for purposes of this subparagraph.]

(A) The identity of the source, a brief description, and the value of all gifts aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater, received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of $100 or less, as adjusted at the same time and by the same percentage as the minimal value is adjusted, need not be aggregated for purposes of this subparagraph.

[(C)](B) The identity of the source and a brief description (including a travel itinerary, dates, and nature of expenses provided) of reimbursements received from any source aggregating [$250 or more in value] more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater, and received during the preceding calendar year.

[(D)](C) In an unusual case, a gift need not be aggregated under subparagraph (A) [or (B)] if a publicly available request for a waiver is granted.

(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds $1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse, or by a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse, or any deposits aggregating $5,000 or less in a personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

(4) The identity and category of value of the total liabilities owed to any creditor other than a spouse, or a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse which exceed $10,000 at any time during the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds $10,000 as of the close of the preceding calendar year need be reported under this paragraph.

(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds $1,000—

(A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or

(B) in stocks, bonds, commodities futures, and other forms of securities. Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

(6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the two-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

(B) If any person, other than the United States Government, paid a nonelected reporting individual compensation in excess of $5,000 in any of the two calendar years prior to the calendar year during which the individual files his first report under this title, the individual shall include in the report—

(i) the identity of each source of such compensation; and

(ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

(b)(1) Each report filed pursuant to subsections (a), (b), and (c) of section 101 shall include a full and complete statement with respect to the information required by—

(A) paragraph (1) of subsection (a) for the year of filing and the preceding calendar year,

(B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than thirty-one days before the filing date, and

(C) paragraphs (6) and (7) of subsection (a) as of the filing date but for periods described in such paragraphs.

(2)(A) In lieu of filling out one or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the supervising ethics office for the branch in which such individual serves or pursuant to a specific written determination by such office for a reporting individual.

(B) In lieu of indicating the category of amount or value of any item contained in any report filed under this title, a reporting individual may indicate the exact dollar amount of such item.

(c) In the case of any individual described in section 101(e), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

(d)(1) The categories for reporting the amount or value of the items covered in paragraphs (3), (4), and (5) of subsection (a) are as follows:

(A) not more than $15,000;

(B) greater than $15,000 but not more than $50,000;

(C) greater than $50,000 but not more than $100,000;

(D) greater than $100,000 but not more than $250,000;

(E) greater than $250,000 but not more than $500,000;

(F) greater than $500,000 but not more than $1,000,000; and

(G) greater than $1,000,000.

(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value

(e)(1) Except as provided in the last sentence of this paragraph, each report required by section 101 shall also contain information listed in paragraphs (1) through (5) of subsection (a) of this section respecting the spouse or dependent child of the reporting individual as follows:

(A) The source of items of earned income earned by a spouse from any person which exceed $1,000 and the source and amount of any honoraria received by a spouse, except that, with respect to earned income (other than honoraria), if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

(B) All information required to be reported in subsection (a)(1)(B) with respect to income derived by a spouse or dependent child from any asset held by the spouse or dependent child and reported pursuant to subsection (a)(3).

(C) In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

(D) In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.

(E) In the case of items described in paragraphs (3) through (5) of subsection (a), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

Reports required by subsections (a), (b), and (c) of section 101 shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

(A) any qualified blind trust (as defined in paragraph (3));

(B) a trust—

(i) which was not created directly by such individual, his spouse, or any dependent child, and

(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of; or

(C) an entity described under the provisions of paragraph (8),

but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust or other entity under subsection (a)(1)(B) of this section.

(3) For purpose of this subsection, the term "qualified blind trust" includes any trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

(A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is a financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who—

(I) is independent of and not associated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party; and

(II) is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and

(III) is not a relative of any interested party.

(ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust—

(I) is independent of and not associated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;

(II) is not a partner of, or involved in any joint venture or other investment with, any interested party; and

(III) is not a relative of any interested party.

(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.

(C) The trust instrument which establishes the trust provides that—

(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

(iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than $1,000;

(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1) of this section, but such report shall not identify any asset or holding;

(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual crea; and

(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office.

(E) For purposes of this subsection, "interested party" means a reporting individual, his spouse, and any minor or dependent child; "broker" has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and "investment adviser" includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.

(F) Any trust qualified by a supervising ethics office before the effective date of title II of the Ethics Reform Act of 1989 shall continue to be governed by the law and regulations in effect immediately before such effective date.

(4)(A) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of any applicable conflict of interest statutes, regulations, or rules of the Federal Government (including section 208 of title 18, United States Code), until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than $1,000.

(B)(i) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or the spouse, dependent child, or minor child of such a person, if the supervising ethics office for such reporting individual finds that—

(I) the assets placed in the trust consist of a well-diversified portfolio of readily marketable securities;

(II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual's primary area of responsibility;

(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraphs (3)(C)(iii) and (iv) of this subsection, from making public or informing any interested party of the sale of any securities;

(IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v) of this subsection, to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and

(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust established prior to the effective date of this Act which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A).

(ii) In any instance covered by subparagraph (B) in which the reporting individual is an individual whose nomination is being considered by a congressional committee, the reporting individual shall inform the congressional committee considering his nomination before or during the period of such individual's confirmation hearing of his intention to comply with this paragraph.

(5)(A) The reporting individual shall, within thirty days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of—

(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d) of this section.

This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7) of this subsection.

(B) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.

(C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall—

(i) notify his supervising ethics office of such dissolution, and

(ii) file with such office a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (d) of this section of each such asset.

(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 105 and the provisions of that section shall apply with respect to such documents and lists.

(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within five days of the date of the communication.

(6)(A) A trustee of a qualified blind trust shall not knowingly and willfully, or negligently, (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

(B) A reporting individual shall not knowingly and willfully, or negligently, (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection or (ii) fail to file any document required by this subsection.

(C)(i) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $10,000.

(ii) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed $5,000.

(7) Any trust may be considered to be a qualified blind trust if—

(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;

(B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the supervising ethics office, including the category of value of each asset as determined under subsection (d) of this section, are filed with such office and made available to the public as provided under paragraph (5)(D) of this subsection; and

(C) the supervising ethics office determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.

(8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

(A)(i) the fund is publicly traded; or

(ii) the assets of the fund are widely diversified; and

(B) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

(h) A report filed pursuant to subsection (a), (d), or (e) of section 101 need not contain the information described in subparagraphs (A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not an officer or employee of the Federal Government.

(i) A reporting individual shall not be required under this title to report—

(1) financial interests in or income derived from—

(A) any retirement system under title 5, United States Code (including the Thrift Savings Plan under subchapter III of chapter 84 of such title); or

(B) any other retirement system maintained by the United States for officers or employees of the United States, including the President, or for members of the uniformed services; or

(2) benefits received under the Social Security Act.

Filing of Reports

Sec. 103. (a) Except as otherwise provided in this section, the reports required under this title shall be filed by the reporting individual with the designated agency ethics official at the agency by which he is employed (or in the case of an individual described in section 101(e), was employed) or in which he will serve. The date any report is received (and the date of receipt of any supplement report) shall be noted on such report by such official.

(b) The President, the Vice President, and independent counsel and persons appointed by independent counsel under chapter 40 of title 28, United States Code, shall file reports required under this title with the Director of the Office of Government Ethics.

(c) Copies of the reports required to be filed under this title by the Postmaster General, the Deputy Postmaster General, the Governors of the Board of Governors of the United States Postal Service, designated agency ethics officials, employees described in section 105(a)(2)(A) or (B), 106(a)(1)(A) or (B), or 107(a)(1)(A) or (b)(1)(A)(i), of title 3, United States Code, candidates for the office of President or Vice President and officers and employees in (and nominees to) offices or positions which require confirmation by the Senate or by both Houses of Congress other than individuals nominated to be judicial officers and those referred to in subsection (f) shall be transmitted to the Director of the Office of Government Ethics. The Director shall forward a copy of the report of each nominee to the congressional committee considering the nomination.

(d) Reports required to be filed under this title by the Director of the Office of Government Ethics shall be filed in the Office of Government Ethics and, immediately after being filed, shall be made available to the public in accordance with this title.

(e) Each individual identified in section 101(c) who is a candidate for nomination or election to the Office of President or Vice President shall file the reports required by this title with the Federal Election Commission.

(f) Reports required of members of the uniformed services shall be filed with the Secretary concerned.

(g) Each supervising ethics office shall develop and make available forms for reporting the information required by this title.

(h)(1) The reports required under this title shall be filed by a reporting individual with—

(A)(i)(I) the Clerk of the House of Representatives, in the case of a Representative in Congress, a Delegate to Congress, the Resident Commissioner from Puerto Rico, an officer or employee of the Congress whose compensation is disbursed by the Clerk of the House of Representatives, an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the Congressional Budget Office, the Government Printing Office, the Library of Congress, or the Copyright Royalty Tribunal (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico; and

(II) the Secretary of the Senate, in the case of a Senator, an officer or employee of the Congress whose compensation is disbursed by the Secretary of the Senate, an officer or employee of the General Accounting Office, the Office of Technology Assessment, or the Office of the Attending Physician (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Senator; and

(ii) in the case of an officer or employee of the Congress as described under section 101(f)(10) who is employed by an agency or commission established in the legislative branch after the date of the enactment of the Ethics Reform Act of 1989—

(I) the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, as designated in the statute establishing such agency or commission; or

(II) if such statute does not designate such committee, the Secretary of the Senate for agencies and commissions established in even numbered calendar years, and the Clerk of the House of Representatives for agencies and commissions established in odd numbered calendar years; and

(B) the Judicial Conference with regard to a judicial officer or employee described under paragraphs (11) and (12) of section 101(f) (including individuals terminating service in such office or position under section 101(e) or immediately preceding service in such office or position).

(2) The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such committee.

(i) A copy of each report filed under this title by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk of the House of Representatives or Secretary of the Senate, as the case may be, to the appropriate State officer designated under section 316(a) of the Federal Election Campaign Act of 1971 of the State represented by the Member or in which the individual is a candidate, as the case may be, within the 30-day period beginning on the day the report is filed with the Clerk or Secretary.

(j)(1) A copy of each report filed under this title with the Clerk of the House of Representatives shall be sent by the Clerk to the Committee on Standards of Official Conduct of the House of Representatives within the 7-day period beginning on the day the report is filed.

(2) A copy of each report filed under this title with the Secretary of the Senate shall be sent by the Secretary to the Select Committee on Ethics of the Senate within the 7-day period beginning on the day the report is filed.

(k) In carrying out their responsibilities under this title with respect to candidates for office, the Clerk of the House of Representatives and the Secretary of the Senate shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis a complete list of names and addressees of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible.

Failure to File or Filing False Reports

Sec. 104. (a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 102. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed $10,000.

(b) The head of each agency, each Secretary concerned, the Director of the Office of Government Ethics, each congressional ethics committee, or the Judicial Conference, as the case may be, shall refer to the Attorney General the name of any individual which such official or committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported. Whenever the Judicial Conference refers a name to the Attorney General under this subsection, the Judicial Conference also shall notify the judicial council of the circuit in which the named individual serves of the referral.

(c) The President, the Vice President, the Secretary concerned, the head of each agency, the Office of Personnel Management, a congressional ethics committee, and the Judicial Conference, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of—

(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or (B) if a filing extension is granted to such individual under section 101(g), the last day of the filing extension period, shall, at the direction of and pursuant to regulations issued by the supervising ethics office, pay a filing fee of $200. All such fees shall be deposited in the miscellaneous receipts of the Treasury. The authority under this paragraph to direct the payment of a filing fee may be delegated by the supervising ethics office in the executive branch to other agencies in the executive branch.

(2) The supervising ethics office may waive the filing fee under this subsection in extraordinary circumstances.

Custody of and Public Access to Reports

Sec. 105 (a) Each agency, each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall make available to the public, in accordance with subsection (b), each report filed under this title with such agency or office or with the Clerk or the Secretary of the Senate, except that—

(1) this section does not require public availability of a report filed by any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds or has found that, due to the nature of the office or position occupied by such individual, public disclosure of such report would, by3 revealing the identity of the individual or other sensitive information, compromise the national interest of the United States; and such individuals may be authorized, notwithstanding section 104(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds or has found that such filing is necessary in the national interest; and

(2) any report filed by an independent counsel whose identity has not been disclosed by the division of the court under chapter 40 of title 28, United States Code, and any report filed by any person appointed by that independent counsel under such chapter, shall not be made available to the public under this title.

(b)(l) Except as provided in the second sentence of this subsection, each agency, each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall, within thirty days after any report is received under this title by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101(g). The agency, office, Clerk, or Secretary of the Senate, as the case may be, may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing

(2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

(A) that person's name, occupation and address;

(B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

(C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

(c)(1) It shall be unlawful for any person to obtain or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed $10,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

(d) Any report filed with or transmitted to an agency or supervising ethics office or to the Clerk of the House of Representatives or the Secretary of the Senate pursuant to this title shall be retained by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be. Such report shall be made available to the public for a period of six years after receipt of the report. After such six-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such reports shall be destroyed one year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigati

Review of Reports

Sec. 106. (a)(l) Each designated agency ethics official or Secretary concerned shall make provisions to ensure that each report filed with him under this title is reviewed within sixty days after the date of such filing, except that the Director of the Office of Government Ethics shall review only those reports required to be transmitted to him under this title within sixty days after the date of transmittal.

(2) Each congressional ethics committee and the Judicial Conference shall make provisions to ensure that each report filed under this title is reviewed within sixty days after the date of such filing.

(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, the Secretary concerned, the designated agency ethics official, a person designated by the congressional ethics committee, or a person designated by the Judicial Conference, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

(2) If the Director of the Office of Government Ethics, the Secretary concerned, the designated agency ethics official, a person designated by the congressional ethics committee, a person designated by the Judicial Conference, after reviewing any report under subsection (a)—

(A) believes additional information is required to be submitted, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.

(3) If the Director of the Office of Government Ethics, the Secretary concerned, the designated agency ethics official, a person designated by a congressional ethics committee, or a person designated by the Judicial Conference, reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official or committee shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official or committee be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—(A) divestiture,

(B) restitution,

(C) the establishment of a blind trust,

(D) request for an exemption under section 208(b) of title 18, United States Code, or

(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such rules or regulations as the supervising ethics office may prescribe.

(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position in the executive branch (other than in the Foreign Service or the uniformed services), appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate action.

(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the Foreign Service or the uniformed services, the Secretary concerned shall take appropriate action.

(6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee, the matter shall be referred to the head of the appropriate agency, the congressional ethics committee, or the Judicial Conference, for appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the Director of the Office of Government Ethics shall recommend to the Governors of the Board of Governors of the United States Postal Service the action to be taken.

(7) Each supervising ethics office may render advisory opinions interpreting this title within its respective jurisdiction. Notwithstanding any other provision of law, the individual to whom public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.

Confidential Reports and Other Additional Requirements

Sec. 107. (a)(1) Each supervising ethics office may require officers and employees under its jurisdiction (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as the supervising ethics office may prescribe. The information required to be reported under this subsection by the officers and employees of any department or agency shall be set forth in rules or regulations prescribed by the supervising ethics office, and may be less extensive than otherwise required by this title, or more extensive when determined by the supervising ethics office to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 101 shall not be required to file a confidential report pursuant to this subsection, except

(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

(3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.

(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, rule, or regulation.

Authority of Comptroller General

Sec. 108. (a) The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities.

(b) No later than December 31, 1992, and regularly thereafter, the Comptroller General shall conduct a study to determine whether the provisions of this title are being carried out effectively. Definitions Sec. 109.4 For the purposes of this title, the term—

(1) "congressional ethics committees" means the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives;

(2) "dependent child" means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who

(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986;

(3) "designated agency ethics official" means an officer or employee who is designated to administer the provisions of this title within an agency;

(4) "executive branch" includes each Executive agency (as defined in section 105 of title 5, United States Code), other than the General Accounting Office, and any other entity or administrative unit in the executive branch;

(5) "gift" means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

(A) bequest and other forms of inheritance;

(B) suitable mementos of a function honoring the reporting individual;

(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

(D) food and beverages which are not consumed in connection with a gift of overnight lodging;

(E) communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals; or

(F) consumable products provided by home-State businesses to the offices of a reporting individual who is an elected official, if those products are intended for consumption by persons other than such reporting individual;

(6) "honoraria" has the meaning given such term in section 505 of this Act;

(7) "income" means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

(8) "judicial employee" means any employee of the judicial branch of the Government, of the United States Sentencing Commission, of the Tax Court, of the Claims Court, of the Court of Veterans Appeals, or of the United States Court of Military Appeals, who is not a judicial officer and who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, or [who is paid at a rate of basic pay equal to or greater than the minimum rate of basic pay in effect for grade GS-16 of the General Schedule] who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule;

(9) "Judicial Conference" means the Judicial Conference;

(10) "judicial officer" means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the United States courts of appeals, United States district courts, including the district courts in Guam, the Northern Mariana Islands, and the Virgin Islands, Court of Appeals for the Federal Circuit, Court of International Trade, Tax Court, Claims Court, Court of Veterans Appeals, United States Court of Military Appeals, and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior;

(11) "legislative branch" includes—

(A) the Architect of the Capitol;

(B) the Botanic Gardens;

(C) the Congressional Budget Office;

(D) the General Accounting Office;

(E) the Government Printing Office;

(F) the Library of Congress;

(G) the United States Capitol Police;

(H) the Office of Technology Assessment; and

(I) any other agency, entity, office, or commission established in the legislative branch; (12) "Member of Congress" means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;

(13) "officer or employee of the Congress" means—

(A) any individual described under subparagraph (B), other than a Member of Congress or the Vice President, whose compensation is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives;

(B)(i) each officer or employee of the legislative branch [who is compensated for at least 60 days at a rate of basic pay equal to or greater than the annual rate of basic pay in effect for grade GS-16 of the General Schedule] who, for at least 60 days, occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule; and

(ii) at least one principal assistant designated for purposes of this paragraph by each Member who does not have an employee [compensated at a rate equal to or in excess of the annual rate of basic bay in effect for grade GS-16 of the General Schedule] who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule;

(14) "personal hospitality of any individual" means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

(15) "reimbursement" means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

(A) provided by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(16) "relative" means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual;

(17) "Secretary concerned" has the meaning set forth in section 101(8) of title 10, United States Code, and, in addition, means—

(A) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration;

(B) the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service; and

(C) the Secretary of State, with respect to matters concerning the Foreign Service;

(18) "supervising ethics office" means—

(A) the Senate Committee on Ethics of the Senate, for Senators, officers and employees of the Senate, and other officers or employees of the legislative branch required to file financial disclosure reports with the Secretary of the Senate pursuant to section 103(h) of this title;

(B) the Committee on Standards of Official Conduct of the House of Representatives, for Members, officers and employees of the House of Representatives and other officers or employees of the legislative branch required to file financial disclosure reports with the Clerk of the House of Representatives pursuant to section 103(h) of this title;

(C) the Judicial Conference for judicial officers and judicial employees; and

(D) the Office of Government Ethics for all executive branch officers and employees; and

(19) "value" means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

Notice of Actions Taken to Comply With Ethics Agreements

Sec. 110. (a) In any case in which an individual agrees with that individual's designated agency ethics official, the Office of Government Ethics, a Senate confirmation committee, a congressional ethics committee, or the Judicial Conference, to take any action to comply with this Act or any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing the designated agency ethics official, the Office of Government Ethics, the appropriate committee of the Senate, the congressional ethics committee, or the Judicial Conference, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than three months after the date of the agreement, if no date for action is so specified.

(b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with such individual's designated agency ethics official or the appropriate supervising ethics office within the time prescribed in the last sentence of subsection (a).

Administration of Provisions

Sec. 111. The provisions of this title shall be administered by—

(1) the Director of the Office of Government Ethics, the designated agency ethics official, or the Secretary concerned, as appropriate, with regard to officers and employees described in paragraphs (1) through (8) of section 101(f);

(2) the Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives, as appropriate, with regard to officers and employees described in paragraphs (9) and (10) of section 101(f); and

(3) the Judicial Conference, in the case of an officer or employee described in paragraphs (11) and (12) of section 101(f).

The Judicial Conference may delegate any authority it has under this title to an ethics committee established by the Judicial Conference.

House Rule XLIV (44)

1. A copy of each report filed with the Clerk under title I of the Ethics in Government Act of 1978 shall be sent by the Clerk within the seven-day period beginning the date on which the report is filed to the Committee on Standards of Official Conduct. By August 1 of each year, the Clerk shall compile all such reports sent to him by Members within the period beginning on January 1 and ending on June 15 of each year and have them printed as a House document, which document shall be made available to the public.

2. For the purposes of this rule, the provisions of title I of the Ethics in Government Act shall be deemed to be a rule of the House as it pertains to Members, officers, and employees of the House of Representatives.

Foreign Gifts and Decorations Act

5 U.S.C. sec. 7342

sec. 7342. Receipt and disposition of foreign gifts and decorations

(a) For the purpose of this section—

(1) "employee" means—

(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the Postal Rate Commission;

(B) an expert or consultant who is under contract under section 3109 of this title with the United States or any agency, department, or establishment thereof, including, in the case of an organization performing services under such section, any individual involved in the performance of such services;

(C) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the government of the District of Columbia;

(D) a member of a uniformed service;

(E) the President and the Vice President;

(F) a Member of Congress as defined by section 2106 of this title (except the Vice President) and any Delegate to the Congress; and

(G) the spouse of an individual described in subparagraphs (A) through (F) (unless such individual and his or her spouse are separated) or a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of such an individual, other than a spouse or dependent who is an employee under subparagraphs (A) through (F);

(2) "foreign government" means—

(A) any unit of foreign governmental authority, including any foreign national, State, local, and municipal government;

(B) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (A); and

(C) any agent or representative of any such unit or such organization, while acting as such;

(3) "gift" means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

(4) "decoration" means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government;

(5) "minimal value" means a retail value in the United States at the time of acceptance of $100 or less, except that—

(A) on January 1, 1981, and at 3 year intervals thereafter, "minimal value" shall be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period; and

(B) regulations of an employing agency may define "minimal value" for its employees to be less than the value established under this paragraph; and

(6) "employing agency" means—

(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e)(1), and (g)(2)(B) shall be carried out by the Clerk of the House;

(B) the Select Committee on Ethics of the Senate, for Senators and employees of the Senate, except that those responsibilities (other than responsibilities involving approval of the employing agency) specified in subsections (c)(2), (d), and (g)(2)(B) shall be carried out by the Secretary of the Senate;

(C) the Administrative Office of the United States Courts, for judges and judicial branch employees; and

(D) the department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees.

(b) An employee may not—

(1) request or otherwise encourage the tender of a gift or decoration; or

(2) accept a gift or decoration, other than in accordance with the provisions of subsections (c) and (d).

(c)(1) The Congress consents to—

(A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

(B) the accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that—

(i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States; and

(ii) an employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency and any regulations which may be prescribed by the employing agency.

(2) Within 60 days after accepting a tangible gift of more than minimal value (other than a gift described in paragraph (1)(B)(ii)), an employee shall—

(A) deposit the gift for disposal with his or her employing agency; or

(B) subject to the approval of the employing agency, deposit the gift with that agency for official use.

Within 30 days after terminating the official use of a gift under subparagraph (B), the employing agency shall forward the gift to the Administrator of General Services in accordance with subsection (e)(1) or provide for its disposal in accordance with subsection (e)(2).

(3) When an employee deposits a gift of more than minimal value for disposal or for official use pursuant to paragraph (2), or within 30 days after accepting travel or travel expenses as provided in paragraph (1)(B)(ii) unless such travel or travel expenses are accepted in accordance with specific instructions of his or her employing agency, the employee shall file a statement with his or her employing agency or its delegate containing the information prescribed in subsection (f) for that gift.

(d) The Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the employing agency of such employee. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within sixty days of acceptance, with the employing agency for official use, for forwarding to the Administrator of General Services for disposal in accordance with subsection (e)(1), or for disposal in accordance with subsection (e)(2).

(e)(1) Except as provided in paragraph (2), gifts and decorations that have been deposited with an employing agency for disposal shall be (A) returned to the donor, or (B) forwarded to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949. However, no gift or decoration that has been deposited for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. Gifts and decorations may be sold by negotiated sale.

(2) Gifts and decorations received by a Senator or an employee of the Senate that are deposited with the Secretary of the Senate for disposal, or are deposited for an official use which has terminated, shall be disposed of by the Commission on Arts and Antiquities of the United States Senate. Any such gift or decoration, may be returned by the Commission to the donor or may be transferred or donated by the Commission, subject to such terms and conditions as it may prescribe, (A) to an agency or instrumentality of (i) the United States, (ii) a State, territory, or possession of the United States, or a political subdivision of the foregoing, or (iii) the District of Columbia, or (B) to an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code. Any such gift or decoration not disposed of as provided in the preceding sentence shall be forwarded to the Administrator of General Services for disposal in accorda

(f)(1) Not later than January 31 of each year, each employing agency or its delegate shall compile a listing of all statements filed during the preceding year by the employees of that agency pursuant to subsection (c)(3) and shall transmit such listing to the Secretary of State who shall publish a comprehensive listing of all such statements in the Federal Register.

(2) Such listings shall include for each tangible gift reported—

(A) the name and position of the employee;

(B) a brief description of the gift and the circumstances justifying acceptance;

(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift;

(D) the date of acceptance of the gift;

(E) the estimated value in the United States of the gift at the time of acceptance; and

(F) disposition or current location of the gift.

(3) Such listings shall include for each gift of travel or travel expenses—

(A) the name and position of the employee;

(B) a brief description of the gift and the circumstances justifying acceptance; and

(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

(4) In transmitting such listings for the Central Intelligence Agency, the Director of Central Intelligence may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

(g)(1) Each employing agency shall prescribe such regulations as may be necessary to carry out the purpose of this section. For all employing agencies in the executive branch, such regulations shall be prescribed pursuant to guidance provided by the Secretary of State. These regulations shall be implemented by each employing agency for its employees.

(2) Each employing agency shall—

(A) report to the Attorney General cases in which there is reason to believe that an employee has violated this section;

(B) establish a procedure for obtaining an appraisal, when necessary, of the value of gifts; and

(C) take any other actions necessary to carry out the purpose of this section.

(h) The Attorney General may bring a civil action in any district court of the United States against any employee who knowingly solicits or accepts a gift from a foreign government not consented to by this section or who fails to deposit or report such gift as required by this section. The court in which such action is brought may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus $5,000.

(i) The President shall direct all Chiefs of a United States Diplomatic Mission to inform their host governments that it is a general policy of the United States Government to prohibit United States Government employees from receiving gifts or decorations of more than minimal value.

(j) Nothing in this section shall be construed to derogate any regulation prescribed by any employing agency which provides for more stringent limitations on the receipt of gifts and decorations by its employees.

(k) The provisions of this section do not apply to grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies.

Regulations for the Acceptance of Decorations and Gifts Including Travel or Expenses for Travel, by Members, Officers, and Employees of the House of Representatives From Foreign Governments

promulgated by the committee on standards of official conduct

1. Authority

The Committee on Standards of Official Conduct is authorized to issue regulations on this subject by 5 U.S.C. secs. 7342(g), 7342(a)(6), as amended by P.L. 95-105, commonly known as the Foreign Gifts and Decorations Act.

2. Purpose

The purpose of these regulations is to establish standards for the accepatance and disclosure of decorations, gifts of more than minimal value, and gifts of travel or epxenses for travel taking place entirely outside the United States tendered by foreign governments to Members, officers, and employees of the House of Representatives.

3. General Standards

(a) The United States Constitution (Article I, Section 9, clause 8) prohibits a Federal official from accepting gifts of any kind whatever from a foreign government without the consent of the Congress.

(b) The Foreign Gifts and Decorations Act (5 U.S.C. sec. 7342) prohibits an officer or employee of the Government from requesting or otherwise encouraging the tender of a gift or decoration from a foreign government, and prohibits the acceptance of such gifts other than in accordance with the provisions of that Act as implemented for Members, officers, and employees of the House by these regulations.

(c) Rule XLIII, clause 4, of the Rules of the House of Representatives prohibits a Member, officer or employee of the House from accepting gifts (other than personal hospitality of an individual or with a fair market value of $100 or less) 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, directly or indirectly, from any person (other than a relative) except to the extent permitted by written waiver granted in exceptional circumstances by the Committee on Standards of Official Conduct.1 Food, lodging, transportation, and entertainment provided on an official basis by a foreign government to Members of the House of Representatives are not subject to the provisions of House Rule XLIII, clause 4, as such matters are deemed controlled by Constitutional and statutory prohibitions.

4. Definitions

As used in this section and sections 2, 3, 5, and 6 of these regulations:

(a) "Member, officer, or employee of the House of Representatives" includes the spouse of such individual (unless such individual and spouse are separated) or a dependent of such individual (as defined in section 152 of the Internal Revenue Code);

(b) "foreign government" means—

(i) any unit of foreign governmental authority including any foreign municipal, local, State, and national government;

(ii) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (i); and

(iii) any agent or representative of any such unit or such organization, while acting as such;

(c) "decoration" means any order, device, medal, badg, insignia, emblem or award tendered by, or received from a foreign government; and

(d) "gift" means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government.

5. Consent of Congress for the Acceptance of Decorations

The Congress has consented (5 U.S.C. sec. 7342(d)) to the accepting, retaining, and wearing by a Member, officer, or employee of the House of Representatives of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the Committee on Standards of Official Conduct.

(a) Decorations of minimal intrinsic value.—Decorations presented to Members, officers, or employees of the House tendered by or received from a foreign government may be accepted by such Member, officer, or employee where the intrinsic value of the decoration is of minimal value, without prior approval of the Committee on Standards of Official Conduct. Pursuant to 5 U.S.C. sec. 7342(a)(5), "minimal value" is redefined every three years by the General Services Administration to reflect changes in the consumer price index. The current figure, set in 1991, is $200.

(b) Decorations of more than minimal intrinsic value.—Unless acceptance is specifically aproved by the Committee on Standards of Official Conduct, decorations of more than minimal value, if not promptly returned, are deemed to have been accepted on behalf of the United States and shall become the property of the United States. Within 60 days after acceptance of such a decoration, the decoration must be turned over to the Clerk of the House of Representatives for disposal; or, with the approval of the Committee on Standards of Official Conduct, retained for official use. At the time such decoration is turned over to the Clerk or retained for official use by a Member, officer, or employee, such individual must file a disclosure statement concerning such decoration with the Committee, detailing information as provided in section 7 of these regulations.

6. Consent of Congress for the Acceptance of Gifts

Congress has consented to the acceptance of certain gifts, or gifts under particular circumstances, from foreign governments by officers or employees of the Government, including Members, officers, and employees of the House.

(a) Gifts of minimal value.—Members, officers, or employees of the House may accept gifts of minimal value from foreign governments tendered and received as a souvenir or mark of courtesy. Pursuant to 5 U.S.C. sec. 7342(a)(5), "minimal value" is redefined every three years by the General Services Administration to reflect changes in the consumer price index. The current figure, set in 1991, is $200.

(b) Gifts of more than minimal intrinsic value where refusal may cause offense and embarrassment.—A Member, officer, or employee may accept tangible gifts of more than minimal value when refusal would be deemed likely to cause offense or embarrassment or otherwise adversely affect United States foreign relations. However, any such tangible gift received and not promptly returned is deemed to have been accepted on behalf of the United States, and upon acceptance becomes the property of the United States. Within 60 days after accepting of such a gift, the gift must be turned over to the Clerk of the House of Representatives for disposal, or, with the approval of the Committee on Standards of Official Conduct, retained for official use. At the time such gift is turned over to the Clerk or retained for official use by a Member, officer, or employee, such individual must file a disclosure statement concerning such decoration with the Committee, detailing information as provided in section 7(a)

(c) Educational scholarship or medical treatment.—Members, officers, or employees of the House may accept a gift of more than minimal value from a foreign government when the gift is in the nature of an educational scholarship or medical treatment.

(d) Foreign educational or cultural exchange.—Acceptance of assistance from a foreign government for participation in foreign exchange or visitors programs by Federal officers or employees is consented to by Congress in certain instances outlined in 22 U.S.C. sec. 2458a, the Mutual Educational and Cultural Exchange Act. Assistance or grants received under that act are not considered "gifts" under these regulations.

(e) Travel or expenses for travel outside of the United States.—A Member, officer, or employee of the House may accept gifts of travel or expenses for travel taking place entirely outside of the United States offered by a foreign government when such travel or expenses for travel relate directly to the official duties of the Member, officer, or employee. Gifts of travel or expenses for travel include food, lodging, transportation and entertainment relating to the official duties of the Member, officer, or employee. This provisions allows a Member, officer, or employee to take advantage of opportunities such as certain on site inspection or fact finding while in a foreign country. Travel taking place entirely outside the United States which has as its primary purpose or effect transmitting a Member, officer, or employee to or from the United States may not be accepted from a foreign government.

A spouse or dependent of a Member, officer, or employee of the House may accept such travel or expenses for travel when accompanying the Member, officer, or employee of the House. Such travel or expenses for travel may not be accepted merely for the personal benefit, pleasure, enjoyment or financial enrichment of the individual or individuals involved. The acceptance of any such travel or expenses for travel shall be reported within 30 days after acceptance to the Committee on Standards of Official Conduct, providing information required in section 7(b) of these regulations. For the purposes of these regulations, travel or expenses for travel are deemed accepted upon departure from the donor country.

7. Reports and Disclosure

Any gift provided to a spouse or dependent should be considered to be a gift provided to the Member, officer, or employee and therefore must be disclosed by such Member, officer, or employee.

For the purposes of these regulations, any decoration presented by a foreign government to the spouse or a dependent of a Member, officer, or employee of the House is considered to be presented to the Member, officer, or employee when it is apparent the decoration would not have been offered but for the recipient's relation to the Member, officer, or employee, and therefore must be disclosed by such Member, officer, or employee.

An appraisal of tangible gifts or decorations, if necessary, may be obtained through the Clerk of the House of Representatives.

(a) Tangible gifts and decorations.—At the time of depositing a tangible gift or decoration of more than minimal value accepted by a Member, officer, or employee pursuant to section 5(b) or 6(b) of these regulations, the Member, officer, or employee shall report to the Committee the following information:

(i) the name and position of the reporting individual and the recipient;

(ii) a brief description of the gift or decoration and the circumstances justifying acceptance;

(iii) the estimated value in the United States at the time of acceptance;

(iv) the date of acceptance of the gift or decoration;

(v) the identity, if known, of the foreign government and the name and position of the individual who presented the gift or decoration;

(vi) disposition or current location of the gift or decoration.

(b) Other gifts.—Within 30 days after acceptance of gifts of travel pursuant to section 6(e) of these regulations, the Member, officer, or employee shall report to the Committee the following information:

(i) the name and position of the reporting individual;

(ii) a brief description of the gift and the circumstances justifying acceptance; and

(iii) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

8. Public Inspection

Reports filed under these regulations as promulgated under 5 U.S.C. sec. 7342 shall be maintained by the Committee on Standards of Official Conduct and made available for public inspection at reasonable hours. Not later than January 31, 1979, and January 31 of each succeeding year, the Committee on Standards of Official Conduct will compile a listing of all statements filed during the preceding year and will transmit such listing to the Secretary of State for publication in the Federal Register.

Reports filed with the Committee under these regulations will be maintained for public inspection for a period of 7 years following transmittal to the Secretary of State.

Title 2, United States Code

2 U.S.C. sec. 29d

sec. 29d. Reforms Respecting the Committee on Standards of Official Conduct

(a) Omitted

(b) Committee composition

The respective party caucus or conference of the House of Representatives shall each nominate to the House of Representatives at the beginning of each Congress 7 members to serve on the Committee on Standards of Official Conduct.

(c) Investigative subcommittees

The Committee on Standards of Official Conduct shall adopt rules providing—

(1) for the establishment of a 4 or 6-member investigative subcommittee (with equal representation from the majority and minority parties) whenever the committee votes to undertake any investigation;

(2) that the senior majority and minority members on an investigative subcommittee shall serve as the chairman and ranking minority member of the subcommittee; and

(3) that the chairman and ranking minority member of the full committee may only serve as non-voting, ex officio members on an investigative subcommittee.

Clause 5(d) of rule XI of the Rules of the House of Representatives shall not apply to any investigative subcommittee.

(d) Adjudicatory subcommittees

The Committee on Standards of Official Conduct shall adopt rules providing—

(1) that upon the completion of an investigation, an investigative subcommittee shall report its findings and recommendations to the committee;

(2) that, if an investigative subcommittee by majority vote of its membership adopts a statement of alleged violation, the remaining members of the committee shall comprise an adjudicatory subcommittee to hold a disciplinary hearing on the violation alleged in the statement;

(3) that any statement of alleged violation and any written response thereto shall be made public at the first meeting or hearing on the matter which is open to the public after the respondent has been given full opportunity to respond to the statement in accordance with committee rules, but, if no public hearing or meeting is held on the matter, the statement of alleged violation and any written response thereto shall be included in the committee's final report to the House of Representatives as required by clause 4(e)(1)(B) of rule X of the Rules of the House of Representatives;

(4) that a quorum for an adjudicatory subcommittee for the purpose of taking testimony and conducting any business shall consist of a majority of the membership of the subcommittee plus one; and

(5) that an adjudicatory subcommittee shall determine, after receiving evidence, whether the counts in the statement have been proved and shall report its findings to the committee.

Clause 5(d) of rule XI of the Rules of the House of Representatives shall not apply to any adjudicatory subcommittee.

(e) to (h) Omitted

(i) Advice and education

(1) The Committee on Standards of Official Conduct shall establish within the committee an Office on Advice and Education (hereinafter in this subsection referred to as the "Office") under the supervision of the chairman.

(2) The Office shall be headed by a director who shall be appointed by the chairman, in consultation with the ranking minority member, and shall be comprised of such staff as the chairman determines is necessary to carry out the responsibilities of the Office.

(3) The primary responsibilities of the Office shall include:

(A) Providing information and guidance to Members, officers and employees of the House regarding any laws, rules, regulations, and other standards of conduct applicable to such individuals in their official capacities, and any interpretations and advisory opinions of the committee.

(B) Submitting to the chairman and ranking minority member of the committee any written request from any such Member, officer or employee for an interpretation of applicable laws, rules, regulations, or other standards of conduct, together with any recommendations thereon.

(C) Recommending to the committee for its consideration formal advisory opinions of general applicability.

(D) Developing and carrying out, subject to the approval of the chairman, periodic educational briefings for Members, officers and employees of the House on those laws, rules, regulations, or other standards of conduct applicable to them.

(4) No information provided to the Committee on Standards of Official Conduct by a Member, officer or employee of the House of Representatives when seeking advice regarding prospective conduct of such Member, officer or employee may be used as the basis for initiating an investigation under clause 4(e)(1)(B) of rule X of the Rules of the House of Representatives, if such Member, officer or employee acts in accordance with the written advice of the committee.

(j) Effective date

This section shall take effect immediately before noon January 3, 1991, except that subsections (g), (h), and (i) shall take effect on January 1, 1990.

Notes

Codification. Section is comprised of section 803 of Pub. L. 101-194. Subsecs. (a) and (e) to (h) of section 803 amended the Rules of the House of Representatives which are not classified to the Code.

Acceptance of Gifts; Amendments to Advisory Opinions. Section 801(e) of Pub. L. 101-194 provided that:

"The Committee on Standards of Official Conduct of the House of Representatives shall amend its advisory opinions relating to the acceptance of gifts (1) to prohibit lodging received as personal hospitality in excess of 30 days in any calendar year from any individual unless a written waiver is granted by the committee and (2) to exempt gifts of food and beverages consumed not in connection with gifts of lodging from coverage under clause 4 of rule XLIII of the Rules of the House of Representatives."

Noncampaign Use of Campaign Vehicles. Section 802(e) of Pub. L. 101-194 provided that:

"The Committee on Standards of Official Conduct of the House of Representatives shall issue an advisory opinion to provide for appropriate conditions for the incidental noncampaign use of vehicles owned or leased by a campaign committee of a Member of the House of Representatives."

Restrictions on Reimbursable Travel Expenses. Section 805 of Pub. L. 101-194 provided that:

"(a) Restrictions.—The Committee on Standards of Official Conduct of the House of Representatives shall amend its advisory opinions relating to the acceptance of necessary travel expenses incurred on or after January 1, 1990, in connection with speaking engagements and similar events to—

"(1) prohibit the acceptance of such expenses for more than 4 consecutive days in the case of domestic travel and 7 consecutive days (excluding travel days) in the case of foreign travel; and

"(2) permit the acceptance of travel expenses for the spouse or other family member in connection with any substantial participation event or fact-finding activity.

"(b) Exemption Authority.—The Committee on Standards of Official Conduct of the House of Representatives is authorized to grant prior written exemptions from the limitations contained in subsection (a)(1) in exceptional circumstances."

2 U.S.C. sec. 59e

sec. 59e. Official mail of persons entitled to use congressional frank

(a) Congressional committee regulations for expenditure of appropriations for official mail

Except as otherwise provided in this section, funds appropriated by this Act or any other Act for expenses of official mail of any person entitled to use the congressional frank may be expended only in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate or the Committee on House Administration of the House of Representatives, as applicable. Such regulations shall require—

(1) individual accountability for use of official mail by each person entitled to use the congressional frank;

(2)(A) with respect to the House of Representatives, allocation of funds for official mail to be made to each such person with respect to each session of Congress (with no transfer to any other session or to any other such person); and

(B) with respect to the Senate, allocation of funds for official mail to be made to each such person with respect to each session of Congress (with no transfer to any other session, other than transfers from the first session of a Congress to the second session of that Congress, or to any other such person); and

(3) with respect to the House of Representatives, that in addition to any other report or information made available to the public (through the House Commission on Congressional Mailing Standards or otherwise) regarding the use of the frank, the Clerk of the House of Representatives shall include in the quarterly report of receipts and expenditures submitted to the House of Representatives a statement (based solely on data provided for that purpose by the Committee on House Administration of the House of Representatives and the House Commission on Congressional Mailing Standards) of costs charged against the Official Mail Allowance for each person entitled to use the congressional frank.

(b) Postmaster General functions

The Postmaster General, in consultation with the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives—

(1) shall monitor use of official mail by each person entitled to use the congressional frank;

(2) at least monthly, shall notify any person with an allocation under subsection (a)(2) of this section as to the percentage of the allocation that has been used; and

(3) may not carry or deliver official mail the cost of which is in excess of an allocation under subsection (a)(2) of this section.

(c) Source of funds for expenses of official mail

Expenses of official mail of the Senate and the House of Representatives may be paid only from funds specifically appropriated for that purpose and funds so appropriated—

(1) may be supplemented by other appropriated funds only if such supplementation is provided for by law or by regulation under subsection (a) of this section; and

(2) may not be supplemented by funds from any other source, public or private.

(d) Maintenance or use of unofficial office accounts or defrayal of official expenses from certain funds prohibited

No Senator or Member of the House of Representatives may maintain or use, directly or indirectly, an unofficial office account or defray official expenses from—

(1) funds received from a political committee or derived from a contribution or expenditure (as such terms are defined in section 431 of this title);

(2) funds received as reimbursement for expenses incurred by the Senator or Member in connection with personal services provided by the Senator or Member to the person making the reimbursement; or

(3) any other funds that are not specifically appropriated for official expenses.

(e) Official Mail Allowance in House of Representatives

(1) There is established in the House of Representatives an Official Mail Allowance for Members, officers, and employees of the House of Representatives who are persons entitled to use the congressional frank. Regulations for use of the Official Mail Allowance shall be prescribed—

(A) by the Committee on House Administration of the House of Representatives, with respect to allocation and expenditures relating to the Allowance; and

(B) by the House Commission on Congressional Mailing Standards, with respect to matters under section 3210(a)(6)(D) of title 39.

(2) The Official Mail Allowance—

(A) shall be available only for postage for franked mail sent at a first class, third class, or fourth class rate;

(B) with respect to a Member of the House of Representatives, shall be available, in a session of Congress, in a total amount, as determined under paragraph (1)(A), of not more than the product of (i) 3 times the single-piece rate applicable to first class mail, and (ii) the number (as determined by the Postmaster General) of addresses (other than business possible delivery stops) in the congressional district, as such addresses are described in section 3210(d)(7)(B) of title 39;

(C) with respect to any other person entitled to use the congressional frank in the House of Representatives (including any Member of the House of Representatives who receives an allocation under subsection (a)(2) of this section with respect to duties as an elected officer of, or holder of another position in, the House of Representatives), shall be available, in a session of Congress, in a total amount determined under paragraph (1)(A); and

(D) shall not be available for payment of any nonpostage fee or charge, including any fee or charge for express mail, express mail drop shipment, certified mail, registered mail, return receipt, address correction, or postal insurance.

(3)(A) Subject to subparagraph (B), each Member of the House of Representatives may transfer amounts from the Official Expenses Allowance and the Clerk Hire Allowance of the Member to the Official Mail Allowance of the Member.

(B) The total amount a Member may so transfer with respect to a session of Congress may not exceed $25,000.

(4) The Official Expenses Allowance shall be available to a Member of the House of Representatives for the payment of nonpostage fees and charges referred to in paragraph (2)(D) and for postage for mail for official business sent outside the United States.

(f) Mass mailing; submission of samples or description of proposed mail matter; advisory opinion

A Member of the House of Representatives shall, before making any mass mailing, submit a sample or description of the mail matter involved to the House Commission on Congressional Mailing Standards for an advisory opinion as to whether such proposed mailing is in compliance with applicable provisions of law, rule, or regulation.

(g) "Member of the House of Representatives" and "person entitled to use the congressional frank" defined

As used in subsections (a) through (f) of this section—

(1) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress; and

(2) the term "person entitled to use the congressional frank" means a Senator, Member of the House of Representatives, or other person authorized to use the frank under section 3210(b) of title 39.

(h) Omitted

(i) Effective date

This section and the amendments made by this section shall apply with respect to sessions of Congress beginning with the first session of the One Hundred Second Congress, except that, with respect to the Senate, subsection (d) of this section shall apply beginning May 1, 1992, and the funds referred to in paragraph (3) of such subsection shall not include personal funds of a Senator or Member of the House of Representatives.

2 U.S.C. sec. 86

sec. 86. Division of salaries of employees of House

It shall not be lawful to appoint or employ in any position under the House of Representatives more than one person at any one time, or to require or permit any such person to divide with another any portion of his salary or compensation while so employed.

2 U.S.C. sec. 87

sec. 87. Requiring or permitting employees of House to sublet duties

It shall not be lawful to require or permit any person in the employ of the House of Representatives to sublet to another the discharge of any portion of the duties of the position to which he is appointed.

2 U.S.C. sec. 101

sec. 101. Subletting duties of employees of Senate or House

No employee of Congress, either in the Senate or House, shall sublet to, or hire, another to do or perform any part of the duties or work attached to the position to which he was appointed.

2 U.S.C. sec. 439a

sec. 439a. Use of contributed amounts for certain purposes

Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures, and any other amounts contributed to an individual for the purpose of supporting his or her activities as a holder of Federal office, may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office, may be contributed to any organization described in section 170(c) of title 26, or may be used for any other lawful purpose, including transfers without limitation to any national, State, or local committee of any political party; except that no such amounts may be converted by any person to any personal use, other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office.

Notes

1989 Amendment. Pub. L. 101-194 struck out ", with respect to any individual who is not a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress on January 8, 1980," after "except that".

Effective Date of 1989 Amendment. Section 504(b) of Pub. L. 101-194 provided that:

"The amendment made by subsection (a) (amending this section)—

"(1) in the case of an individual who serves as a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress in the 102nd Congress or an earlier Congress, shall apply, except as provided in paragraph (2), to the use of excess amounts totaling more than the amount equal to the unobligated balance on hand on the date of the enactment of this Act (Nov. 30, 1989); and

"(2) in the case of an individual who serves as a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress after the 102nd Congress (including an individual referred to in paragraph (1) who so serves), shall apply to the service."

Title 5, United States Code

5 U.S.C. sec. 557

sec. 557. Initial decisions; conclusiveness; review by agency; submissions by parties; contents of decisions; record

(a) This section applies, according to the provisions thereof, when a hearing is required to be conducted in accordance with section 556 of this title.

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(d)(1) In any agency proceeding which is subject to subsection (a) of this section, except to the extent required for the disposition of ex parte matters as authorized by law—

(A) no interested person outside the agency shall make or knowingly cause to be made to any member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, an ex parte communication relevant to the merits of the proceeding;

(B) no member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, shall make or knowingly cause to be made to any interested person outside the agency an ex parte communication relevant to the merits of the proceeding;

(C) a member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of such proceeding who receives, or who makes or knowingly causes to be made, a communication prohibited by this subsection shall place on the public record of the proceeding:

(i) all such written communications;

(ii) memoranda stating the substance of all such oral communications; and

(iii) all written responses, and memoranda stating the substance of all oral responses, to the materials described in clauses (i) and (ii) of this subparagraph;

(D) upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this subsection, the agency, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation; and

(E) the prohibitions of this subsection shall apply beginning at such time as the agency may designate, but in no case shall they begin to apply later than the time at which a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply beginning at the time of his acquisition of such knowledge.

(2) This subsection does not constitute authority to withhold information from Congress.

5 U.S.C. sec. 3110

sec. 3110. Employment of relatives; restrictions

(a) For the purpose of this section—

(1) agency means—

(A) an Executive agency;

(B) an office, agency, or other establishment in the legislative branch;

(C) an office, agency, or other establishment in the judicial branch; and

(D) the government of the District of Columbia;

(2) "public official" means an officer (including the President and a Member of Congress), a member of the uniformed service, an employee and any other individual, in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals, or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in an agency; and

(3) "relative" means, with respect to a public official, an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(b) A public official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position in the agency in which he is serving or over which he exercises jurisdiction or control any individual who is a relative of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a civilian position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the agency, who is a relative of the individual.

(c) An individual appointed, employed, promoted, or advanced in violation of this section is not entitled to pay, and money may not be paid from the Treasury as pay to an individual so appointed, employed, promoted, or advanced.

(d) The Office of Personnel Management may prescribe regulations authorizing the temporary employment, in the event of emergencies resulting from natural disasters or similar unforeseen events or circumstances, of individuals whose employment would otherwise be prohibited by this section.

(e) This section shall not be construed to prohibit the appointment of an individual who is a preference eligible in any case in which the passing over of that individual on a certificate of eligibles furnished under section 3317(a) of this title will result in the selection for appointment of an individual who is not a preference eligible.

5 U.S.C. sec. 3303

sec. 3303. Competitive service; recommendations of Senators or Representatives

An individual concerned in examining an applicant for or appointing him in the competitive service may not receive or consider a recommendation of the applicant by a Senator or Representative, except as to the character or residence of the applicant.

5 U.S.C. sec. 5533

sec. 5533. Dual pay from more than one position; limitations; exceptions

(a) Except as provided by subsections (b), (c), and (d) of this section, an individual is not entitled to receive basic pay from more than one position for more than an aggregate of 40 hours of work in one calendar week (Sunday through Saturday).

(b) Except as otherwise provided by subsection (c) of this section, the Office of Personnel Management, subject to the supervision and control of the President, may prescribe regulations under which exceptions may be made to the restrictions in subsection (a) of this section when appropriate authority determines that the exceptions are warranted because personal services otherwise cannot be readily obtained.

(c)(1) Unless otherwise authorized by law and except as otherwise provided by paragraph (2) or (4) of this subsection, appropriated funds are not available for payment to an individual of pay from more than one position if the pay of one of the positions is paid by the Secretary of the Senate or the Clerk of the House of Representatives, or one of the positions is under the Office of the Architect of the Capitol, and if the aggregate gross pay from the positions exceeds $7,7241 a year ($10,540, in the case of pay disbursed by the Secretary of the Senate).

(2) Notwithstanding paragraph (1) of this subsection, appropriated funds are not available for payment to an individual of pay from more than one position, for each of which the pay is disbursed by the Clerk of the House of Representatives, if the aggregate gross pay from those positions exceeds the maximum per annum gross rate of pay authorized to be paid to an employee out of the clerk hire allowance of a Member of the House.

(3) For the purposes of this subsection, "gross pay" means the annual rate of pay (or equivalent thereof in the case of an individual paid on other than an annual basis) received by an individual.

(4) Paragraph (1) of this subsection does not apply to pay on a when-actually-employed basis received from more than one consultant or expert position if the pay is not received for the same day.

(d) Subsection (a) of this section does not apply to—

(1) pay on a when-actually-employed basis received from more than one consultant or expert position if the pay is not received for the same hours of the same day;

(2) pay consisting of fees paid on other than a time basis;

(3) pay received by a teacher of the public schools of the District of Columbia for employment in a position during the summer vacation period;

(4) pay paid by the Tennessee Valley Authority to an employee performing part-time or intermittent work in addition to his normal duties when the Authority considers it to be in the interest of efficiency and economy;

(5) pay received by an individual holding a position—

(A) the pay of which is paid by the Secretary of the Senate or the Clerk of the House of Representatives; or

(B) under the Architect of the Capitol;

(6) pay paid by the United States Coast Guard to an employee occupying a part-time position of lamplighter; and

(7) pay within the purview of any of the following statutes:

(A) section 162 of title 2;

(B) section 23(b) of title 13;

(C) section 327 of title 15;

(D) section 907 of title 20;

(E) section 873 of title 33; or

(F) section 631 or 631a of title 31, District of Columbia Code.

(e)(1) This section does not apply to an individual employed under sections 174j-1 to 174j-7 or 174k of title 40.

(2) Subsection (c) of this section does not apply to pay received by a teacher of the public schools of the District of Columbia for employment in a position during the summer vacation period.

5 U.S.C. sec. 7351

sec. 7351. Gifts to superiors

(a) An employee may not—

(1) solicit a contribution from another employee for a gift to an official superior;

(2) make a donation as a gift or give a gift to an official superior; or

(3) accept a gift from an employee receiving less pay than himself.

(b) An employee who violates this section shall be subject to appropriate disciplinary action by the employing agency or entity.

(c) Each supervising ethics office (as defined in section 7353(d)(1)) is authorized to issue regulations implementing this section, including regulations exempting voluntary gifts or contributions that are given or received for special occasions such as marriage or retirement or under other circumstances in which gifts are traditionally given or exchanged.

5 U.S.C. sec. 7353

sec. 7353. Gifts to Federal employees

(a) Except as permitted by subsection (b), no Member of Congress or officer or employee of the executive, legislative, or judicial branch shall solicit or accept anything of value from a person—

(1) seeking official action from, doing business with, or (in the case of executive branch officers and employees) conducting activities regulated by, the individual's employing entity; or

(2) whose interests may be substantially affected by the performance or nonperformance of the individual's official duties.

(b)(1) Each supervising ethics office is authorized to issue rules or regulations implementing the provisions of this section and providing for such reasonable exceptions as may be appropriate.

(2)(A) Subject to subparagraph (B), a Member, officer, or employee may accept a gift pursuant to rules or regulations established by such individual's supervising ethics office pursuant to paragraph (1).

(B) No gift may be accepted pursuant to subparagraph (A) in return for being influenced in the performance of any official act.

(3) Nothing in this section precludes a Member, officer, or employee from accepting gifts on behalf of the United States Government or any of its agencies in accordance with statutory authority.

(c) A Member of Congress or an officer or employee who violates this section shall be subject to appropriate disciplinary and other remedial action in accordance with any applicable laws, Executive orders, and rules or regulations.

(d) For purposes of this section—

(1) the term "supervising ethics office" means—

(A) the Committee on Standards of Official Conduct of the House of Representatives or the House of Representatives as a whole, for Members, officers, and employees of the House of Representatives;

(B) the Select Committee on Ethics of the Senate, or the Senate as a whole, for Senators, officers, and employees of the Senate;

(C) the Judicial Conference of the United States for judges and judicial branch officers and employees;

(D) the Office of Government Ethics for all executive branch officers and employees; and

(E) in the case of legislative branch officers and employees other than those specified in subparagraphs (A) and (B), the committee referred to in either such subparagraph to which reports filed by such officers and employees under title I of the Ethics in Government Act of 1978 are transmitted under such title, except that the authority of this section may be delegated by such committee with respect to such officers and employees; and

(2) the term "officer or employee" means an individual holding an appointive or elective position in the executive, legislative, or judicial branch of Government, other than a Member of Congress.

Title V, Ethics in Government Act Government-Wide Limitations on Honoraria, Outside Earned Income and Employment1>

5 U.S.C. appendix 7, sec. 501

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 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 to a charitable organization, shall be deemed not to be 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.

5 U.S.C. appendix 7, sec. 502

sec. 502. Limitations on Outside Employment.

(a) Limitations.—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 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, officers, 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;

(4) serve for compensation as an officer or member of the board of any association, corporation, or other entity; or

(5) receive compensation for teaching, without the prior notification and approval of the appropriate entity referred to in section 503.

(b) Teaching Compensation of Justices and Judges Retired From Regular Active Service.—For purposes of the limitation under section 501(a), any compensation for teaching approved under subsection (a)(5) of this section shall not be treated as outside earned income—

(1) when received by a justice of the United States retired from regular active service under section 371(b) of title 28, United States Code;

(2) when received by a judge of the United States retired from regular active service under section 371(b) of title 28, United States Code, for teaching performed during any calendar year for which such judge has met the requirements of subsection (f) of section 371 of title 28, United States Code, as certified in accordance with such subsection; or

(3) when received by a justice or judge of the United States retired from regular active service under section 372(a) of title 28, United States Code.

5 U.S.C. appendix 7, sec. 503

sec. 503. Administration.

This title shall be subject to the rules and regulations of—

(1) and administered by

(A) the Committee on Standards of Official Conduct of the House of Representatives, with respect to Members, officers, and employees of the House of Representatives; and

(B) in the case of Senators and legislative branch officers and employees other than those officers and employees specified in subparagraph (A), the committee to which reports filed by such officers and employees under title I are transmitted under such title, except that the authority of this section may be delegated by such committee with respect to such officers and employees.

(2) the Office of Government Ethics and administered by designated agency ethics officials with respect to officers and employees of the executive branch; and

(3) and administered by the Judicial Conference of the United States (or such other agency as it may designate) with respect to officers and employees of the judicial branch.

5 U.S.C. appendix 7, sec. 504

sec. 504. Civil Penalties.

(a) civil action.—The Attorney General may bring a civil action in any appropriate United States district court against any individual who violates any provision of section 501 or 502. The court in which such action is brought may assess against such individual a civil penalty of not more than $10,000 or the amount of compensation, if any, which the individual received for the prohibited conduct, whichever is greater.

(b) advisory opinions.—Any entity described in section 503 may render advisory opinions interpreting this title, in writing, to individuals covered by this title. Any individual to whom such an advisory opinion is rendered and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who, after the issuance of such advisory opinion, acts in good faith in accordance with its provisions and findings shall not, as a result of such actions, be subject to any sanction under subsection (a).

5 U.S.C. appendix 7, sec. 505

sec. 505. Definitions.

For purposes of this title:

(1) The term "Member" means a Senator in, a Representative in, or a Delegate or Resident Commissioner to, the Congress.

(2) The term "officer or employee" means any officer or employee of the Government except any special Government employee (as defined in section 202 of title 18, United States Code).

(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 any such expenses to the extent that such expenses are not paid or reimbursed.

(4) The term "travel expenses" means, with respect to a Member, officer, or employee, or a relative of any such individual, the cost of transportation, and the cost of lodging and meals while away from his or her residence or principal place of employment.

(5) The term "charitable organization" means an organization described in section 170(c) of the Internal Revenue Code of 1986.

Title 18, United States Code

18 U.S.C. sec. 201

sec. 201. Bribery of public officials and witnesses

(a) For the purpose of this section—

(1) the term "public official" means Member of Congress, Delegate, or Resident Commissioner, either before or after such official has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, or a juror;

(2) the term "person who has been selected to be a public official" means any person who has been nominated or appointed to be a public official, or has been officially informed that such person will be so nominated or appointed; and

(3) the term "official act" means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official's official capacity, or in such official's place of trust or profit.

(b) Whoever—

(1) directly or indirectly, corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent—

(A) to influence any official act; or

(B) to influence such public official or person who has been selected to be a public official to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(C) to induce such public official or such person who has been selected to be a public official to do or omit to do any act in violation of the lawful duty of such official or person;

(2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:

(A) being influenced in the performance of any official act;

(B) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud on the United States; or

(C) being induced to do or omit to do any act in violation of the official duty of such official or person;

(3) directly or indirectly, corruptly gives, offers, or promises anything of value to any person, or offers or promises such person to give anything of value to any other person or entity, with intent to influence the testimony under oath or affirmation of such first-mentioned person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or with intent to influence such person to absent himself therefrom;

(4) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for being influenced in testimony under oath or affirmation as a witness upon any such trial, hearing, or other proceeding, or in return for absenting himself therefrom;

shall be fined not more than three times the monetary equivalent of the thing of value, or imprisoned for not more than fifteen years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

(c) Whoever—

(1) otherwise than as provided by law for the proper discharge of official duty—

(A) directly or indirectly gives, offers, or promises anything of value to any public official, former public official, or person selected to be a public official, for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official; or

(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person;

(2) directly or indirectly, gives, offers, or promises anything of value to any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or for or because of such person's absence therefrom;

(3) directly or indirectly, demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon any such trial, hearing, or other proceeding, or for or because of such person's absence therefrom;

shall be fined under this title or imprisoned for not more than two years, or both.

(d) Paragraphs (3) and (4) of subsection (b) and paragraphs (2) and (3) of subsection (c) shall not be construed to prohibit the payment or receipt of witness fees provided by law, or the payment, by the party upon whose behalf a witness is called and receipt by a witness, of the reasonable cost of travel and subsistence incurred and the reasonable value of time lost in attendance at any such trial, hearing, or proceeding, or in the case of expert witnesses, a reasonable fee for time spent in the preparation of such opinion, and in appearing and testifying.

(e) The offenses and penalties prescribed in this section are separate from and in addition to those prescribed in sections 1503, 1504, and 1505 of this title.

18 U.S.C. sec. 202

sec. 202. Definitions

(a) For the purpose of sections 203, 205, 207, 208, and 209 of this title the term "special Government employee" shall mean an officer or employee of the executive or legislative branch of the United States Government, of any independent agency of the United States or of the District of Columbia, who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis, a part-time United States commissioner, a part-time United States magistrate, or, regardless of the number of days of appointment, an independent counsel appointed under chapter 40 of title 28 and any person appointed by that independent counsel under section 594(c) of title 28. Notwithstanding the next preceding sentence, every person serving as a part-time local representative of a Member of Congress in the Member's home district o; 5 U.S.C. 30r(c) and (d)), a Reserve officer of the Armed Forces, or an officer of the National Guard of the United States, unless otherwise an officer or employee of the United States, shall be classified as a special Government employee while on active duty solely for training. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is voluntarily serving a period of extended active duty in excess of one hundred and thirty days shall be classified as an officer of the United States within the meaning of section 203 and sections 205 through 209 and 218. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is serving involuntarily shall be classified as a special Government employee. The terms "officer or employee" and "special Government employee" as used in sections 203, 205, 207 through 209, and 218, shall not include enlisted members of the Armed Forces.

(b) For the purposes of sections 205 and 207 of this title, the term "official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.

(c) Except as otherwise provided in such sections, the terms "officer" and "employee" in sections 203, 205, 207 through 209, and 218 of this title shall not include the President, the Vice President, a Member of Congress, or a Federal judge.

(d) The term "Member of Congress" in sections 204 and 207 means—

(1) a United States Senator; and

(2) a Representative in, or a Delegate or Resident Commissioner to, the House of Representatives.

(e) As used in this chapter, the term—

(1) "executive branch" includes each executive agency as defined in title 5, and any other entity or administrative unit in the executive branch;

(2) "judicial branch" means the Supreme Court of the United States; the United States courts of appeals; the United States district courts; the Court of International Trade; the United States bankruptcy courts; any court created pursuant to article I of the United States Constitution, including the Court of Military Appeals, the United States Claims Court, and the United States Tax Court, but not including a court of a territory or possession of the United States; the Federal Judicial Center; and any other agency, office, or entity in the judicial branch; and

(3) "legislative branch" means—

(A) the Congress; and

(B) the Office of the Architect of the Capitol, the United States Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the United States Capitol Police, and any other agency, entity, office, or commission established in the legislative branch.

18 U.S.C. sec. 203

sec. 203. Compensation to Members of Congress, officers, and others in matters affecting the Government

(a) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly—

(1) demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another—

(A) at a time when such person is a Member of Congress, Member of Congress Elect, Delegate, Delegate Elect, Resident Commissioner, or Resident Commissioner Elect; or

(B) at a time when such person is an officer or employee or Federal judge of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States, in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court, court-martial, officer, or any civil, military, or naval commission; or

(2) knowingly gives, promises, or offers any compensation for any such representational services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was such a Member, Member Elect, Delegate, Delegate Elect, Commissioner, Commissioner Elect, Federal judge, officer, or employee;

shall be subject to the penalties set forth in section 216 of this title.

(b) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly—

(1) demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another, at a time when such person is an officer or employee of the District of Columbia, in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the District of Columbia is a party or has a direct and substantial interest, before any department, agency, court, officer, or commission; or

(2) knowingly gives, promises, or offers any compensation for any such representational services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was an officer or employee of the District of Columbia;

shall be subject to the penalties set forth in section 216 of this title.

(c) A special Government employee shall be subject to subsections (a) and (b) only in relation to a particular matter involving a specific party or parties—

(1) in which such employee has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise; or

(2) which is pending in the department or agency of the Government in which such employee is serving except that paragraph (2) of this subsection shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

(d) Nothing in this section prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for or otherwise representing his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except—

(1) in those matters in which he has participated personally and substantially as a Government employee or as a special Government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise; or

(2) in those matters that are the subject of his official responsibility, subject to approval by the Government official responsible for appointment to his position.

(e) Nothing in this section prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States if the head of the department or agency concerned with the grant or contract certifies in writing that the national interest so requires and publishes such certification in the Federal Register.

(f) Nothing in this section prevents an individual from giving testimony under oath or from making statements required to be made under penalty of perjury.

18 U.S.C. sec. 204

sec. 204. Practice in United States Claims Court or the United States Court of Appeals for the Federal Circuit by Members of Congress

Whoever, being a Member of Congress or Member of Congress Elect, practices in the United States Claims Court or the United States Court of Appeals for the Federal Circuit shall be subject to the penalties set forth in section 216 of this title.

18 U.S.C. sec. 205

sec. 205. Activities of officers and employees in claims against and other matters affecting the Government

(a) Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, other than in the proper discharge of his official duties—

(1) acts as agent or attorney for prosecuting any claim against the United States, or receives any gratuity, or any share of or interest in any such claim, in consideration of assistance in the prosecution of such claim; or

(2) acts as agent or attorney for anyone before any department, agency, court, court-martial, officer, or civil, military, or naval commission in connection with any covered matter in which the United States is a party or has a direct and substantial interest;

shall be subject to the penalties set forth in section 216 of this title.

(b) Whoever, being an officer or employee of the District of Columbia or an officer or employee of the Office of the United States Attorney for the District of Columbia, otherwise than in the proper discharge of official duties—

(1) acts as agent or attorney for prosecuting any claim against the District of Columbia, or receives any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim; or

(2) acts as agent or attorney for anyone before any department, agency, court, officer, or commission in connection with any covered matter in which the District of Columbia is a party or has a direct and substantial interest;

shall be subject to the penalties set forth in section 216 of this title.

(c) A special Government employee shall be subject to subsections (a) and (b) only in relation to a covered matter involving a specific party or parties—

(1) in which he has at any time participated personally and substantially as a Government employee or special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise; or

(2) which is pending in the department or agency of the Government in which he is serving. Paragraph (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

(d) Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for, or otherwise representing, any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings.

(e) Nothing in subsection (a) or (b) prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for, or otherwise representing, his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except—

(1) in those matters in which he has participated personally and substantially as a Government employee or special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or

(2) in those matters which are the subject of his official responsibility, subject to approval by the Government official responsible for appointment to his position.

(f) Nothing in subsection (a) or (b) prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States if the head of the department or agency concerned with the grant or contract certifies in writing that the national interest so requires and publishes such certification in the Federal Register.

(g) Nothing in this section prevents an officer or employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

(h) For the purpose of this section, the term "covered matter" means any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter.

18 U.S.C. sec. 207

sec. 207. Restrictions on former officers, employees, and elected officials of the executive and legislative branches

(a) Restrictions on All Officers and Employees of the Executive Branch and Certain Other Agencies.

(1) Permanent restrictions on representation on particular matters.

—Any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including any independent agency of the United States), or of the District of Columbia, and who, after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia) in connection with a particular matter—

(A) in which the United States or the District of Columbia is a party or has a direct and substantial interest,

(B) in which the person participated personally and substantially as such officer or employee, and

(C) which involved a specific party or specific parties at the time of such participation,

shall be punished as provided in section 216 of this title.

(2) Two-year restrictions concerning particular matters under official responsibility.

—Any person subject to the restrictions contained in paragraph (1) who, within 2 years after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia), in connection with a particular matter—

(A) in which the United States or the District of Columbia is a party or has a direct and substantial interest,

(B) which such person knows or reasonably should know was actually pending under his or her official responsibility as such officer or employee within a period of 1 year before the termination of his or her service or employment with the United States or the District of Columbia, and

(C) which involved a specific party or specific parties at the time it was so pending,

shall be punished as provided in section 216 of this title.

(3) Clarification of restrictions.

—The restrictions contained in paragraphs (1) and (2) shall apply—

(A) in the case of an officer or employee of the executive branch of the United States (including any independent agency), only with respect to communications to or appearances before any officer or employee of any department, agency, court, or courtmartial of the United States on behalf of any other person (except the United States), and only with respect to a matter in which the United States is a party and has a direct and substantial interest; and

(B) in the case of an officer or employee of the District of Columbia, only with respect to communications to or appearances before any officer or employee of any department, agency, or court of the District of Columbia on behalf of any other person (except the District of Columbia), and only with respect to a matter in which the District of Columbia is a party or has a direct and substantial interest.

(b) One-Year Restrictions on Aiding or Advising.

(1) In general.

—Any person who is a former officer or employee of the executive branch of the United States (including any independent agency) and is subject to the restrictions contained in subsection (a)(1), or any person who is a former officer or employee of the legislative branch or a former Member of Congress, who personally and substantially participated in any ongoing trade or treaty negotiation on behalf of the United States within the 1-year period preceding the date on which his or her service or employment with the United States terminated, and who had access to information concerning such trade or treaty negotiation which is exempt from disclosure under section 552 of title 5, which is so designated by the appropriate department or agency, and which the person knew or should have known was so designated, shall not, on the basis of that information, knowingly represent, aid, or advise any other person (except the United States) concerning such ongoing trade or treaty negotiation for a period of

(2) Definition.—For purposes of this paragraph—

(A) the term "trade negotiation" means negotiations which the President determines to undertake to enter into a trade agreement pursuant to section 1102 of the Omnibus Trade and Competitiveness Act of 1988, and does not include any action taken before that determination is made; and

(B) the term "treaty" means an international agreement made by the President that requires the advice and consent of the Senate.

(c) One-Year Restrictions on Certain Senior Personnel of the Executive Branch and Independent Agencies.

(1) Restrictions.

—In addition to the restrictions set forth in subsections (a) and (b), any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including an independent agency), who is referred to in paragraph (2), and who, within 1 year after the termination of his or her service or employment as such officer or employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of the department or agency in which such person served within 1 year before such termination, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

(2) Persons to whom restrictions apply.

(A) Paragraph (1) shall apply to a person (other than a person subject to the restrictions of subsection (d))—

(i) employed at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5,

(ii) employed in a position which is not referred to in clause (i) and for which the rate of basic pay, exclusive of any locality-based adjustment under section 5302 of title 5 (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the rate of basic pay payable for level V of the Executive Schedule,

(iii) appointed by the President to a position under section 105(a)(2)(B) of title 3 or by the Vice President to a position under section 106(a)(1)(B) of title 3, or

(iv) employed in a position which is held by an active duty commissioned officer of the uniformed services who is serving in a grade or rank for which the pay grade (as specified in section 201 of title 37) is pay grade O-7 or above.

(B) Paragraph (1) shall not apply to a special Government employee who serves less than 60 days in the 1-year period before his or her service or employment as such employee terminates.

(C) At the request of a department or agency, the Director of the Office of Government Ethics may waive the restrictions contained in paragraph (1) with respect to any position, or category of positions, referred to in clause (ii) or (iv) of subparagraph (A), in such department or agency if the Director determines that—

(i) the imposition of the restrictions with respect to such position or positions would create an undue hardship on the department or agency in obtaining qualified personnel to fill such position or positions, and

(ii) granting the waiver would not create the potential for use of undue influence or unfair advantage.

(d) Restrictions on Very Senior Personnel of the Executive Branch and Independent Agencies.

(1) Restrictions.

—In addition to the restrictions set forth in subsections (a) and (b), any person who—

(A) serves in the position of Vice President of the United States,

(B) is employed in a position in the executive branch of the United States (including any independent agency) at a rate of pay payable for level I of the Executive Schedule or employed in a position in the Executive Office of the President at a rate of pay payable for level II of the Executive Schedule, or

(C) is appointed by the President to a position under section 105(a)(2)(A) of title 3 or by the Vice President to a position under section 106(a)(1)(A) of title 3,

and who, within 1 year after the termination of that person's service in that position, knowingly makes, with the intent to influence, any communication to or appearance before any person described in paragraph (2), on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of the executive branch of the United States, shall be punished as provided in section 216 of this title.

(2) Persons who may not be contacted.

—The persons referred to in paragraph (1) with respect to appearances or communications by a person in a position described in subparagraph (A), (B), or (C) of paragraph (1) are—

(A) any officer or employee of any department or agency in which such person served in such position within a period of 1 year before such person's service or employment with the United States Government terminated, and

(B) any person appointed to a position in the executive branch which is listed in section 5312, 5313, 5314, 5315, or 5316 of title 5.

(e) Restrictions on Members of Congress and Officers and Employees of the Legislative Branch.

(1) Members of Congress and elected officers.—

(A) Any person who is a Member of Congress or an elected officer of either House of Congress and who, within 1 year after that person leaves office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B) or (C), on behalf of any other person (except the United States) in connection with any matter on which such former Member of Congress or elected officer seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former Member of Congress are any Member, officer, or employee of either House of Congress, and any employee of any other legislative office of the Congress.

(C) The persons referred to in subparagraph (A) with respect to appearances or communications by a former elected officer are any Member, officer, or employee of the House of Congress in which the elected officer served.

(2) Personal staff.—

(A) Any person who is an employee of a Senator or an employee of a Member of the House of Representatives and who, within 1 year after the termination of that employment, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a person who is a former employee are the following:

(i) the Senator or Member of the House of Representatives for whom that person was an employee; and

(ii) any employee of that Senator or Member of the House of Representatives.

(3) Committee staff.—Any person who is an employee of a committee of Congress and who, within 1 year after the termination of that person's employment on such committee, knowingly makes, with the intent to influence, any communication to or appearance before any person who is a Member or an employee of that committee or who was a Member of the committee in the year immediately prior to the termination of such person's employment by the committee, on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(4) Leadership staff.—

(A) Any person who is an employee on the leadership staff of the House of Representatives or an employee on the leadership staff of the Senate and who, within 1 year after the termination of that person's employment on such staff, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the following:

(i) in the case of a former employee on the leadership staff of the House of Representatives, those persons are any Member of the leadership of the House of Representatives and any employee on the leadership staff of the House of Representatives; and

(ii) in the case of a former employee on the leadership staff of the Senate, those persons are any Member of the leadership of the Senate and any employee on the leadership staff of the Senate.

(5) Other legislative offices.—

(A) Any person who is an employee of any other legislative office of the Congress and who, within 1 year after the termination of that person's employment in such office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by any officer or employee of such office, in his or her official capacity, shall be punished as provided in section 216 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the employees and officers of the former legislative office of the Congress of the former employee.

(6) Limitation on restrictions.

—(A) The restrictions contained in paragraphs (2), (3), and (4) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was paid at a rate of basic pay equal to or greater than an amount which is 75 percent of the basic rate of pay payable for such a Member of the House of Congress in which such employee was employed.

(B) The restrictions contained in paragraph (5) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was employed in a position for which the rate of basic pay, exclusive of any locality-based pay adjustment under section 5302 of title 5 (or an comparable adjustment pursuant to interim authority of the President), is equal to or greater than the basic rate of pay payable for level V of the Executive Schedule.

(7) Definitions.

—As used in this subsection—

(A) the term "committee of Congress" includes standing committees, joint committees, and select committees;

(B) a person is an employee of a House of Congress if that person is an employee of the Senate or an employee of the House of Representatives;

(C) the term "employee of the House of Representatives" means an employee of a Member of the House of Representatives, an employee of a committee of the House of Representatives, an employee of a joint committee of the Congress whose pay is disbursed by the Clerk of the House of Representatives, and an employee on the leadership staff of the House of Representatives;

(D) the term "employee of the Senate" means an employee of a Senator, an employee of a committee of the Senate, an employee of a joint committee of the Congress whose pay is disbursed by the Secretary of the Senate, and an employee on the leadership staff of the Senate;

(E) a person is an employee of a Member of the House of Representatives if that person is an employee of a Member of the House of Representatives under the clerk hire allowance;

(F) a person is an employee of a Senator if that person is an employee in a position in the office of a Senator;

(G) the term "employee of any other legislative office of the Congress" means an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the Copyright Royalty Tribunal, the United States Capitol Police, and any other agency, entity, or office in the legislative branch not covered by paragraph (1), (2), (3), or (4) of this subsection;

(H) the term "employee on the leadership staff of the House of Representatives" means an employee of the office of a Member of the leadership of the House of Representatives described in subparagraph (L), and any elected minority employee of the House of Representatives;

(I) the term "employee on the leadership staff of the Senate" means an employee of the office of a Member of the leadership of the Senate described in subparagraph (M);

(J) the term "Member of Congress" means a Senator or a Member of the House of Representatives;

(K) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress;

(L) the term "Member of the leadership of the House of Representatives" means the Speaker, majority leader, minority leader, majority whip, minority whip, chief deputy majority whip, chief deputy minority whip, chairman of the Democratic Steering Committee, chairman and vice chairman of the Democratic Caucus, chairman, vice chairman, and secretary of the Republican Conference, chairman of the Republican Research Committee, and chairman of the Republican Policy Committee, of the House of Representatives (or any similar position created on or after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989);

(M) the term "Member of the leadership of the Senate" means the Vice President, and the President pro tempore, Deputy President pro tempore, majority leader, minority leader, majority whip, minority whip, chairman and secretary of the Conference of the Majority, chairman and secretary of the Conference of the Minority, chairman and co-chairman of the Majority Policy Committee, and chairman of the Minority Policy Committee, of the Senate (or any similar position created on or after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989).

(f) Restrictions Relating to Foreign Entities.

(1) Restrictions.

—Any person who is subject to the restrictions contained in subsection (c), (d), or (e) and who knowingly, within 1 year after leaving the position, office, or employment referred to in such subsection—

(A) represents a foreign entity before any officer or employee of any department or agency of the United States with the intent to influence a decision of such officer or employee in carrying out his or her official duties, or

(B) aids or advises a foreign entity with the intent to influence a decision of any officer or employee of any department or agency of the United States, in carrying out his or her official duties, shall be punished as provided in section 216 of this title.

(2) Definition.

—For purposes of this subsection, the term "foreign entity" means the government of a foreign country as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, or a foreign political party as defined in section 1(f) of that Act.

(g) Special Rules for Detailees.

For purposes of this section, a person who is detailed from one department, agency, or other entity to another department, agency, or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies, or such entities.

(h) Designations of Separate Statutory Agencies and Bureaus.

(1) Designations.

—For purposes of subsection (c) and except as provided in paragraph (2), whenever the Director of the Office of Government Ethics determines that an agency or bureau within a department or agency in the executive branch exercises functions which are distinct and separate from the remaining functions of the department or agency and that there exists no potential for use of undue influence or unfair advantage based on past Government service, the Director shall by rule designate such agency or bureau as a separate department or agency. On an annual basis the Director of the Office of Government Ethics shall review the designations and determinations made under this subparagraph and, in consultation with the department or agency concerned, make such additions and deletions as are necessary. Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in the exercise of his or her responsibilities under this paragraph.

(2) Inapplicability of designations.

—No agency or bureau within the Executive Office of the President may be designated under paragraph (1) as a separate department or agency. No designation under paragraph (1) shall apply to persons referred to in subsection (c)(2)(A)(i) or (iii).

(i) Definitions.

For purposes of this section—

(1) the term "officer or employee", when used to describe the person to whom a communication is made, with the intent to influence, shall include—

(A) in subsections (a), (c), and (d), the President and the Vice President; and

(B) in subsection (f), the President, the Vice President, and Members of Congress;

(2) the term "participated" means an action taken as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other such action; and

(3) the term "particular matter" includes any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding.

(j) Exceptions.

(1) Official government duties.

—The restrictions contained this section shall not apply to acts done in carrying out official duties on behalf of the United States or the District of Columbia or as an elected official of a State or local government.

(2) the term "participated" means an action taken as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other such action.

U.S. House of Representatives Official Conduct Memorandums

The U.S. House of Representatives

Committee on Standards of Official Conduct

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Memorandums

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Prepared by House Information Resources.

New Gift Rule

Memorandum

To: All Members, Officers, and Employees of the House of Representatives

From: Committee on Standards of Official Conduct

Nancy L. Johnson, Chairman

Jim McDermott, Ranking Democratic Member

Subject: New Gift Rule

Date: December 7, 1995

On November 16, 1995, the House adopted a new rule, Rule 52, banning most gifts. The new restrictions go into effect on January 1, 1996, and govern every Member, officer, and employee of the House. Members should insure that all of their staff, in Washington and in every district office, are aware of this rule change.

Rule 52 will prohibit Members, officers, and employees from accepting any gift, except as provided in the rule. There is no more "gift limit,” below which a gift may be accepted. Unless a gift falls into one of the specific exceptions stated in the rule, it may not be accepted. If a Member or employee receives an impermissible item that is perishable, it may be donated to charity or discarded. All other unacceptable items must be returned or purchased at fair market value.

There are general exceptions for gifts from relatives; personal friends; and other Members, officers, and employees of the House or the Senate. In addition, a number of items are exempt, notably: personal hospitality; campaign contributions; contributions to legal expense funds; informational materials sent to congressional offices; anything paid for by the Federal Government or a State or local government; opportunities available to the public at large or other groups unrelated to congressional employment; free attendance provided by the sponsor of a widely attended event; food or refreshments of nominal value offered other than as part of a meal; and other items of nominal value, such as caps or T-shirts. This memorandum discusses some of the exceptions in detail and lists all of them. The full text of the new rule is attached.

No Meals, No Tickets.

Among the biggest changes in the rule is the elimination of the local meal exception. A Member or employee will no longer be able to accept an invitation to lunch or dinner at someone else's expense, unless that person is a relative, a personal friend, or a sponsor of an event that falls within one of the exceptions listed below. Similarly, tickets to sports, musical, or dramatic events may only be accepted from relatives and friends, under the new rule. This rule applies to all tickets for events taking place on or after January 1, 1996, no matter when the tickets are offered.

Example 1. On December 15, 1995, Laura Lobbyist offers Stanley Staffer tickets to a hockey game taking place in January, 1996. Stanley may not accept.

Definition.

“Gift" is defined to mean: “any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value . . . [including] 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."

Family and Friends.

Gifts from relatives, as defined in the Ethics in Government Act, are exempt from the gift ban. A new exception has been created for gifts provided on the basis of personal friendship, unless the Member, officer, or employee has reason to believe that a particular gift was given because of his or her official position. In determining whether the gift was provided because of friendship rather than because of official position, the rule explains that one should consider factors such as: the history of the relationship (including any previous exchange of gifts); whether the giver personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and whether the giver gave similar gifts to other Members, officers, or employees. It is up to the recipient to make this determination for gifts worth up to $250; gifts exceeding $250 require this Committee's approval.

Example 2. Joe College was Roy Representative's college roommate. Every year since they were freshmen, Joe has sent Roy a sweater on his birthday. Two years ago, Joe became a lobbyist for the Widget Association. He has continued to send sweaters on Roy's birthday. To the best of Roy's knowledge, Joe pays for the sweaters personally and does not deduct their cost as a business expense. On his birthday in 1996, Roy may accept the sweater.

Example 3. On January 1, 1996, Joe College takes a job with the American Sweater Association. To demonstrate the fine quality of American sweaters, Joe sends a free sweater to every Member of Congress, including Roy. None of the Members, including Roy, may keep the sweaters.

Example 4. Ever since she was elected to Congress 10 years ago, Carla Congresswoman has been going out to lunch periodically with Edna Executive. They discuss legislative issues of interest to Edna's company and Edna always picks up the tab, using her corporate credit card. Aside from these lunches, the two never socialize. As of January 1, Carla will have to pay her share of the meal if she wishes to have lunch with Edna. Although they have known each other for years, theirs is not a "personal friendship.”

While gifts from relatives are exempt from the gift ban, gifts to relatives or close associates of a Member or employee may be prohibited under the new rule. The rule states that prohibited gifts include anything given to a family member or other person based on a relationship with the Member, officer, or employee if the latter knows and acquiesces and has reason to believe the gift was given because of his or her official position. If food is given to a Member, officer, or employee and that person's spouse or dependent, only the Member, officer, or employee’s food counts.

Example 5. Every January, Larry Lobbyist sends a leather-bound pocket appointment calendar to Moe Member at his office. Knowing that he may not do this in 1996, he sends one to Mrs. Member at home, instead. The calendar would be deemed an impermissible gift to Moe.

Food. As stated above, the local meal exception has been eliminated. Thus, one-on-one or small group lunches where someone other than the Member or employee pays will, for the most part, be banned (unless the host is a relative or a personal friend).

Meals are still permissible (although they must be disclosed) in connection with travel to a meeting, speaking engagement, fact-finding trip or similar event in connection with official duties. Similarly, food and drink may be accepted in connection with outside business or other unofficial activities; job interviews; campaign events; in connection with the receipt of honorary degrees and awards for public service; when provided as an integral part of training; when authorized under the Foreign Gifts and Decorations Act; the Mutual Educational and Cultural Exchange Act (that is, in connection with foreign government-sponsored travel) or any other statute; and when provided by a unit of Federal, State, or local government. In addition, Members and staff may still accept food and refreshments of nominal value offered other than as part of a meal (e.g., coffee and donuts, hors d'oeuvres at a reception). Finally, a Member or staff person may accept an offer of free attendance at a widely attended event, which may include food, as described below.

Example 6. Lucy Lobbyist wants to meet with Carl Congressman to discuss a bill that is scheduled to come to the floor the next day. Susie Scheduler says that Carl is busy all day. Lucy says, “Well, he has to eat. Let me take him to lunch or dinner and we can discuss the bill then.” Carl may meet with Lucy, but he has to pay for his own meal.

Example 7. Connie Constituent comes to Washington and drops by to see Myrna Member. Connie says, “I really admire the positions you’ve taken and I would be honored if you would let me take you to lunch.” Myrna must pay for her own meal.

Example 8. Godfrey Governor invites the state’s congressional delegation to an official dinner at the Governor’s Mansion. Since the dinner is provided by the State government, the delegation may attend.

Example 9. Russell Representative is on a CODEL to Ruritania. The Ruritanian Foreign Ministry hosts a dinner party for the delegation. Since meals in a foreign country provided by that country’s government are authorized under the Foreign Gifts and Decorations Act, the Members may attend.

Example 10. While in Ruritania, a local company seeking opportunities to do business with Russell’s state invites Russell to a dinner with the company’s top two officials. Russell must pay for his own dinner.

Example 11. A home-state company hosts a cocktail reception for a congressional delegation. Since the food and drink provided there to any individual is of nominal value and not part of a meal, the delegation may attend.

Example 12. A Committee is working late into the night marking up a bill. Atticus Attorney offers to send over Chinese food for the staff, who he knows will not have time to go out for dinner. The staff must decline.

Example 13. The day after the markup, Charles Chairman offers to take the whole staff out to lunch. Since this is a gift from a Member, the staff may accept.

Widely attended events.

A Member, officer, or employee may accept an offer of free attendance from the sponsor of a widely attended event where:

• the Member or employee is speaking or performing a ceremonial function; or

• attendance is appropriate to the performance of the official duties or representative function of the Member or employee.

The term "widely attended event” derives from executive branch standards of conduct. The legislative history of this provision quotes with approval the executive branch regulation which states: "A gathering is widely attended if, for example, it is open to members from throughout a given industry or profession or if those in attendance represent a range of persons interested in a given matter.” If this standard is met, the attendee may accept a waiver of all or part of a conference fee, local transportation, food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event, as well as an unsolicited offer of free attendance for an accompanying individual. The Member or employee may not accept entertainment collateral to the event (e.g., theater tickets) or food or refreshments that are not provided in a group setting with all or substantially all other attendees.

Example 14. The Chamber of Commerce in Carol Congresswoman’s district invites her to the monthly breakfast meeting of its members. Carol may attend and eat breakfast.

Example 15. A rotary club in Maxwell Member’s district holds periodic luncheon meetings of its membership and invites him to one. Maxwell may attend and eat lunch.

Example 16. A veterans’ group in Rhonda Representative’s district invites her to a Veterans’ Day dinner at the local VFW hall. Rhonda may attend and eat dinner.

Example 17. The Widget Manufacturers of America is holding its annual conference in Washington, D.C. The group invites Caleb Congressman to be the keynote speaker at dinner the first night. Caleb may give the speech and eat the dinner.

Example 18. Owen Owner, the owner of a sports team, invites Maury Member to view an upcoming game from his skybox. Even though the game is widely attended, sitting in the skybox is not related to any official, representative, or ceremonial function of Maury’s. If Maury wishes to attend the game, he must buy his own ticket.

Example 19. A new Concert Hall is opening in Central City in Chloe Congresswoman’s district. The Central City Symphony invites a number of local officials, including Chloe, to attend the inaugural concert, sit in a place of honor, and be recognized for their help in making the new Hall a reality. Chloe may attend.

Example 20. Calvin Congressman has announced that this will be his final term in office. In honor of his long and distinguished career in public service, Big Corporation wishes to host a dinner for him. Big plans to invite hundreds of people from the private and public sector, including many Members and employees of Congress. The Members and staff may attend.

Charity events. A Member or employee may accept a sponsor's unsolicited offer of free attendance at a charity event, including an entrance fee waiver, local transportation, food, refreshments, and entertainment. The Member or employee may also, if invited to do so, bring a spouse or child. However, gifts of travel or lodging in connection with charity events are barred.

Example 21. The National Association of Do-Gooders is having its annual dinner to raise funds for its charitable activities. Tickets are $500 apiece, but the charity hasoffered complimentary tickets to Ron Representative and his wife. The Representatives may attend.

Example 22. MegaCorporation buys a table at the Do-Gooders' annual charity dinner. Ron Representative may not accept the invitation of MegaCorporation's CEO to sit at its table.

Example 23. The Do-Gooders, as another fundraising activity, host a celebrity golf tournament in Palm Springs. The charity asks Ron Representative to be one of the celebrity participants. If Ron wishes to attend, he must pay his own transportation and lodging. He may accept a waiver of the entrance fee and meals that are provided to all participants. He may not accept the bag of golf paraphernalia that the other celebrities receive.

Travel.

The new rule continues to allow Members and staff to travel at the expense of private sources to meetings, speaking engagements, fact-finding trips and similar events in connection with their official duties. The funding of this kind of activity is deemed a reimbursement to the House and not a gift to the individual traveler. Such travel will remain subject to the existing time limits of four days for travel within the contiguous 48 states, and seven days (excluding travel days) for trips elsewhere. As is currently the case, the Committee is authorized to approve longer periods of time upon request in advance of the travel. In connection with such events, a Member or staffer may accept necessary transportation, lodging, food and refreshments, conference fees and materials. Travel expenses for a spouse or child may also be accepted. Travel expenses may not be accepted from registered lobbyists or agents of foreign principals.

Staff travel requires prior written authorization by the supervising Member. All travel expenses accepted in connection with official duties must be itemized and disclosed within 30 days, signed by the Member who is either traveling or approving staff travel (see discussion of Disclosure, below). The exception for travel related to official duties does not cover recreational activities. Stayovers at traveler expense will still be permitted.

Transportation, lodging, food, refreshments, and other benefits may also be accepted in connection with: campaign events; job interviews; and outside business, employment, or other unofficial activities (religious activities, for example) of a Member, employee, or spouse. In addition, one may accept travel (and associated food, refreshments, and entertainment) to receive an honorary degree. Finally, foreign-government sponsored travel, as authorized under the Foreign Gifts and Decorations Act or Mutual Educational and Cultural Exchange Act, continues to be permissible, as described in the House Ethics Manual, 102d Cong., 2d Sess. 44-47 (1992). The travel discussed in this paragraph is not subject to the four- and seven-day time limits or the requirement to itemize and disclose expenses within 30 days. Any Member or any employee who is required to file an annual Financial Disclosure Statement will have to disclose the receipt of more than $250 worth of travel expenses in a single year from any private source (other than a relative) on that form.

Example 24. Stella Staffer volunteers at her church on her own time. Because she helps to organize the church's annual retreat, the church has offered to pay her expenses at the week-long event. Stella may accept.

Example 25. Alex Aide's wife, Wanda, is a salesperson. Wanda's employer offers a weekend for two in Mexico to the salesperson of the year. In 1996, Wanda wins the award. Alex may accompany Wanda.

Example 26. Elton Employee is invited to make a work-related morning presentation at a conference. The sponsor offers to pay his airfare, meals, and lodging, all of which Elton may accept, as long as he discloses these expenses within 30 days of his return. The sponsor also offers to pay his greens fees at a nearby golf course if he wishes to golf in the afternoon when the conference has recessed. Elton may not accept the greens fees.

Disclosure. Rule 52 contains three new disclosure requirements, for travel authorizations, travel expenses, and payments in lieu of honoraria by lobbyists.

Any employee who travels at private expense must secure advance authorization from his or her supervising Member or officer, specifying: the name of the employee; the name of the funding source; and the time, place, and purpose of the travel. As part of this authorization, the Member must sign a statement that the travel is in connection with official duties and would not create the appearance that the traveler is using public office for private gain. The authorization must be filed with the Clerk within 30 days of return.

In addition, all privately funded travel expenses, for Members and staff, must be itemized and disclosed within 30 days of return. This disclosure must be signed by the Member who is personally traveling or authorizing staff travel and must include:

•good faith estimates of total expenditures for (1) transportation, (2) lodging, (3) meals, and (4) other expenses;

•a determination that all such expenses are "necessary” (that is, reasonable, within the relevant day limits, and not recreational); and

•(for Member travel) a determination that the travel is in connection with official duties and would not create the appearance that the Member is using public office for private gain.

Moreover, within 30 days of designating a charity to receive a payment in lieu of an honorarium from a lobbyist, a Member, officer or employee must report to the Clerk: (1) the name and address of the lobbyist; (2) the date and amount of the contribution; and (3) the name and address of the charitable organization designated.

The Clerk shall make all these reports available to the public as soon as possible after filing. The Committee is developing forms for these disclosures.

Political events.

Rule 52 does not limit Member or staff participation in political events. Political contributions, for any Federal, state, or local campaign, are specifically exempt from the ban, as is attendance at a fundraising event sponsored by any political organization. Political organizations may also provide food, refreshments, lodging, transportation, and other benefits in connection with fundraising or campaign events sponsored by those organizations. In addition, free attendance at a widely attended convention or other event may be provided by its sponsor.

Items of nominal value.

Rule 52 permits a Member or employee to accept “an item of nominal value such as a greeting card, baseball cap, or a T-shirt.” Other nominal value items might include mugs, pens, and flowers. There is no precise dollar figure for “nominal value.” Members should use their common sense. A Member could accept an inexpensive pen imprinted with the corporate logo of a constituent company, or an occasional bouquet of flowers. The Member should decline a Mont Blanc pen with his or her initials engraved on it, or flowers for the office every week from the same lobbyist.

Lobbyists are subject to additional restrictions, i.e., they may not provide travel or personal hospitality to Members or staff, contribute to Members' or staffers' legal expense funds, support conferences or retreats for Members or staff, contribute to entities maintained or controlled by Members or staff, or donate to charities at Members' or staffers' recommendation (other than in lieu of honoraria). The ban on accepting personal hospitality from lobbyists, however, does not apply where the lobbyist is a bona fide personal friend, as defined above.

Example 27. Joe College, Roy Representative’s college roommate, is a lobbyist for the sweater industry. Joe and Roy and their wives have socialized together since college. Joe invites Roy and his wife to spend a week in August with the Colleges at their beach house on Hilton Head. Assuming that Joe does not seek reimbursement or a tax deduction for the expense of entertaining Roy, Roy may accept.

Example 28. Joe, the sweater lobbyist, offers to take his friend, Roy Representative, on a three-day tour of Southern sweater plants. Roy may not accept. If the Swank Sweater Company invites Roy on a tour, he may accept.

Exceptions.

In summary, all gifts are banned with the following exceptions:

1. Anything for which the Member, officer, or employee pays market value or which is promptly returned (perishable items may be donated to charity or destroyed).

2. Political contributions.

3. Gifts from relatives.

4. Anything 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. In deciding, the Member, officer, or employee shall consider the history of relationship (including any previous exchange of gifts), whether the giver personally paid for the gift or sought a tax deduction or business reimbursement for the gift, and whether the giver gave similar gifts to other Member, officer, or employees.

5. Contributions to legal expense funds (except from lobbyists and foreign agents).

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

7. Food, refreshments, lodging and other benefits (a) resulting from outside business, employment, or other activities of the Member, officer, or employee or spouse; (b) customarily provided by a prospective employer; or (c) provided by a political organization in connection with a fundraising or campaign event.

8. Pensions and other benefits from a former employer.

9. Informational materials (e.g., books, periodicals, audiotapes, and videotapes) sent to the office.

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

11. Honorary degrees and other non-monetary awards in recognition of public service (including associated food, refreshments, entertainment, and, in the case of degrees, travel).

12. Training (including food and refreshments provided to all attendees), if in the interest of the House.

13. Inheritances.

14. Any item the receipt of which is authorized by any statute, including the Foreign Gifts and Decorations Act and the Mutual Educational and Cultural Exchange Act.

15. Anything paid for by Federal, state, or local government, or secured by the Government under a Government contract.

16. Personal hospitality, unless from a registered lobbyist or agent of a foreign principal.

17. Free attendance from the sponsor of a widely attended event if the Member, officer, or employee is participating, performing a ceremonial function, or attendance is appropriate to the performance of the official duties or representative function of the Member, officer, or employee. The Member, officer, or employee may also accept an unsolicited offer of free attendance for an accompanying individual.

18. Opportunities and benefits (including bank loans) which are available to the public, all federal employees, or some other group.

19. Plaques, trophies, and other commemorative items.

20. Anything for which, in an unusual case, a waiver is granted by this Committee.

21. Food or refreshments of a nominal value offered other than as a part of a meal.

22. Home-state products that are intended primarily for promotional purposes, such as display or free distribution, and that are of minimal value to any individual recipient.

23. An item of nominal value, such as a cap or T-shirt.

Enforcement.

The Committee on Standards of Official Conduct is solely authorized to interpret, enforce, and issue guidance on the rule. If you have any questions, please call the Committee's Office of Advice and Education at 225-3787.

Rule LII [52]

Gift Rule

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

(b) (l) 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.

(c) The restrictions in paragraph (a) shall not apply to the following:

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

(2) A contribution, as defined in section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, a lawful contribution for election to a State or local government office, 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 in Government Act of 1978 (Public Law 95521).

(4) (A) Anything 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 gave the gift also at the same time gave the same or similar gifts to other Members, officers, or employees.

(5) Except as provided in clause 3(c), 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 in accordance with the restrictions and disclosure requirements of the Committee on Standards of Official Conduct.

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

(7) Food, refreshments, lodging, transportation, 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 public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

(12) 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 House of Representatives.

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

(14) 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.

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

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

(17) Free attendance at a widely attended event permitted pursuant to paragraph (d).

(18) 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 discriminates 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.

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

(20) Anything for which, in an unusual case, a waiver is granted by the Committee on Standards of Official Conduct.

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

(22) 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.

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

(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

(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 subparagraph (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual.

(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 the event.

(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.

(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 paragraph (c)(4) unless the Committee on Standards of Official Conduct issues a written determination that such exception applies. No determination under this paragraph is required for gifts given on the basis of the family relationship exception.

(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.

2. (a) (l) A reimbursement (including payment in kind) to a Member, officer, or employee from a private source other than a registered lobbyist or agent 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 all officeholder shall be deemed to be a reimbursement to the House of Representatives and not a gift prohibited by this rule, if the Member, officer, or employee

(A) in the case of an employee, receives advance authorization, from the Member or officer under whose direct supervision the employee works, to accept reimbursement, and

(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Clerk of the House of Representatives within 30 days after the travel is completed.

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

(b) 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) Each disclosure made under paragraph (a)(l) 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

(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 paragraph (d); and

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

(d) For the purposes of this clause, the term 'necessary transportation, lodging, and related expenses'

(1) includes reasonable expenses that are necessary for travel for a period not exceeding 4 days within the United States or 7 days exclusive of travel time outside of the United States unless approved in advance by the Committee on Standards of Official Conduct;

(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 subparagraph (1);

(3) does not include expenditures for recreational activities, nor does it include entertainment other than that provided to all attendees as all 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.

(e) The Clerk of the House of Representatives shall make available to the public all advance authorizations and disclosure of reimbursement filed pursuant to paragraph (a) as soon as possible after they are received.

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

(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.

(b) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1980) 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 clause 4.

(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.

(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.

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 paragraph (b).

(b) A Member, officer, or employee who designates or recommends a contribution to a charitable organization in lieu of honoraria described in paragraph (a) shall report within 30 days after such designation or recommendation to the Clerk of the House of Representatives

(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 Clerk of the House of Representatives shall make public information received pursuant to this paragraph as soon as possible after it is received.

5. For purposes of this rule

(a) the term 'registered lobbyist' means a lobbyist registered under the Federal Regulation of Lobbying Act or any successor statute; and

(b) the term 'agent of a foreign principal' means an agent of a foreign principal registered under the Foreign Agents Registration Act.

6. All the provisions of this rule shall be interpreted and enforced solely by the Committee on Standards of Official Conduct. The Committee on Standards of Official Conduct is authorized to issue guidance on any matter contained in this rule.

Widely Attended and other Events under the New Gift Rule

Memorandum

To: All Members, Officers, and Employees of the House of Representatives

From: Committee on Standards of Official Conduct

Nancy L. Johnson, Chairman

Jim McDermott, Ranking Democratic Member

Subject: Widely Attended and other Events and Items of Nominal Value under the New Gift Rule

Date: March , 1996

The Committee has received many inquiries as to the types of events that Members and staff may attend under the new gift rule (House Rule 52). We hope the following guidance, which refines and supplements the advice previously distributed in our memorandum of December 7, 1995, will prove useful.

Widely Attended Events

House Rule 52 permits a Member, officer, or employee to accept an offer of free attendance at an event (such as a convention, conference, symposium, forum, panel discussion, luncheon or dinner, viewing, or reception), subject to three restrictions: (1) the event must be widely attended, (2) the invitation must come from the sponsor, and (3) the attendance of the Member or staff person must be related to his or her official duties. The Committee defines these elements as follows.

First, an event is deemed widely attended if (a) there is a reasonable expectation that at least twenty-five persons, other than Members, officers, or employees of the Congress, will attend the event; and (b) attendance at the event is open to members from throughout a given industry or profession, or to a range of persons interested in a given matter.

Second, the term sponsor refers to the person, entity, or entities that are primarily responsible for organizing the event. An individual who simply contributes money to an event is not considered a sponsor.

Third, the Member, officer, or employee must be participating in the event by speaking or by performing a ceremonial role; or he or she must determine that attendance at the event is appropriate to the performance of his or her official duties or representative function. Note that the responsibility for making this determination rests with the individual Member, officer, or employee who wishes to attend the event. Some relevant factors might include the opportunity to meet with constituents at the event, the desirability of representing one's constituency at an event where other elected or appointed officials will be present, or the opportunity to present or receive information at the event that is pertinent to one's district or to a legislative proposal. In making this determination, one should bear in mind the legislative history of the gift rule, which indicates that the event may not be merely for the personal pleasure or entertainment of the Member or employee.

If the criteria described above are satisfied, the attendee may accept a waiver of all part of a conference fee, local transportation, food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event, as well as an unsolicited offer of free attendance for a companion. The Member or employee may not accept entertainment collateral to the event (e.g., theater tickets) or food or refreshments that are not provided in a group setting with all or substantially all other attendees.

Example 1. The Widget Manufacturers of America is holding its annual conference in Washington, D.C. Hundreds of widget-makers from across the country attend. The group invites Congressman A to be the keynote speaker at dinner the first night. The Congressman may give the speech and eat the dinner.

Example 2. A trade association is holding a luncheon in Washington, D.C. The association has invited all of its members and expects about 30 to attend. The association also invites several House staffers who work on issues relevant to the association to the lunch to discuss pending legislation. If the staffers determine that it is appropriate to their official duties to attend, they may attend and eat lunch.

Example 3. The government relations department of Big Business, Inc. invites Member B to its weekly staff meeting and luncheon. Big expects that the entire staff of its government relations department, consisting of 5 lobbyists, 10 researchers, and 15 support staff, will attend. Big's luncheon does not constitute a widely attended event because attendance at the event is not open to members from throughout a given industry or profession, or to a range of persons interested in a given matter. The Member may not accept a free lunch from Big. He may attend and not eat, or buy or bring his own lunch.

Source of Invitations

The Committee construes Rule 52 as requiring that a Member or employee may only accept an invitation to an event from the sponsor of that event. This interpretation holds true for all events, regardless of whether they are widely attended, charitable, or political. As noted above, the term sponsor refers to the person, entity, or entities that are primarily responsible for organizing the event. An individual who simply contributes money to an event (e.g., by buying a table) is not considered a sponsor. Individual contributors may request that the sponsor invite particular Members or staff to sit with them, but ultimate control of the guest list and seating arrangements must remain with the sponsor.

Example 4. The Good Samaritan Foundation, a 501(c)(3) organization, organizes a $1,000-a-plate fundraising dinner to support its charitable activities. Good Samaritan may provide complimentary tickets to the dinner to Mr. and Mrs. Representative.

Example 5. Small Business, Inc. buys a table at the Good Samaritan fundraising dinner. The Representatives may not accept tickets from Small Business.

Example 6. The Republican National Committee organizes a fundraising dinner. The RNC may provide complimentary tickets to Members and staff.

Example 7. The DCCC organizes a fundraising dinner. A political action committee buys a table. Member C may not accept a ticket from the PAC. C may accept a ticket from the DCCC, and, if it chooses to do so, the DCCC may seat C at the PAC's table.

Events with Constituent Organizations

The new gift rule was not intended to interfere with Members carrying out their conventional representational duties. The Committee recognizes that meetings or events with constituent organizations may sometimes be attended by only a few constituents, particularly where the organization is from a state with a small or diffuse population.

Therefore, the Committee grants a general waiver for Members, officers, and employees to accept free attendance (including meals) at meetings or events with constituent organizations, regardless of the number of constituents in attendance or the location of the event, provided that the meeting or event is:

(1) regularly scheduled (such as an annual visit to Washington, D.C.);

(2) related to the official duties or representative functions of the Member, officer, or employee attending the event; and

(3) open to members of the constituent organization (as opposed to only officers or board members).

Examples of constituent organizations covered by this waiver include, but are not limited to, the Chamber of Commerce, Rotary club, civic associations, senior citizens' organizations, veterans' groups, and professional associations (e.g., associations of hospital administrators, realtors, car dealers, doctors, nurses, lawyers, farmers, bankers, or teachers).

Example 8. The Chamber of Commerce in Representative D's district invites her to the monthly breakfast meeting of its members. If D determines that it is related to her official duties or representative functions, she may attend and eat breakfast, and/or send someone from her staff.

Example 9. A Rotary club in Member E s district holds periodic luncheon meetings of its membership and invites him to one. If the Member determines that it is related to his official duties or representative functions, he may attend and eat lunch.

Example 10. A veterans group in Representative F s district invites her to a Veterans Day dinner, with its members, at the local VFW hall. If F determines that it is related to her official duties or representative functions, she may attend and eat dinner.

Example 11. The Homestate Realtors' Association holds its annual Washington fly-in. All members of the association are invited; usually about 20 realtors come. One of the events on their agenda is a dinner they propose to host for their congressional delegation. If the Members of the delegation determine that it is related to their official duties or representative functions, they may attend and eat dinner.

Example 12. A realtor comes to Washington for the Realtors' Association "fly-in." He is the only realtor from Congressman G's district who makes the trip and he would like to have lunch with his representative. Since their lunch is not an association event, the Congressman must pay for his own lunch.

Example 13. Two members of the Homestate Realtors' Association fly to Washington on their own and invite Congresswoman H to lunch. Since the trip is not an association event, H must pay for her own lunch.

Educational Events

The Committee is aware that some worthwhile events may be designed for small groups, to facilitate discussions. While these events may not be widely attended, in that fewer than 25 non-congressional attendees may be expected, we do not believe the gift rule should prevent Members or employees from participating in educational activities. Therefore, the Committee grants a general waiver permitting Members and employees to accept invitations to events (including meals offered as part of these events) that, while they do not meet the criteria of widely attended events, are:

(1) educational (e.g., lectures, seminars, and discussions), and

(2) sponsored by universities, foundations, think tanks, or similar non-profit, non- advocacy organizations.

In keeping with the gift rule's intent, this waiver does not extend to meals in connection with presentations sponsored by lobbyists, lobbying firms, or advocacy groups, or to meals inconnection with legislative briefings or strategy sessions.

Example 14. The Plato Institute, a non-partisan, non-profit think tank, hosts a luncheon series featuring distinguished speakers from academia discussing foreign policy topics. They invite approximately 15 individuals to each luncheon, including a number of congressional staff persons. The staff may attend and eat lunch.

Example 15. The Widget Manufacturers' Association establishes a non-profit educational foundation. The foundation sponsors a monthly Widget Wonks' Forum, at which experts from the widget field explain aspects of their industry and the ramifications of various legislative proposals for that industry. Approximately a dozen congressional staff persons are invited to each of these presentations, which occur over lunch. If staff persons wish to attend, they must bring or buy their own lunch, or not eat.

Incidental Expenses

Sometimes, in the course of performing one's legislative or representative duties at government expense, a Member or employee will be offered a de minimis amount of food or transportation, as a courtesy. One might be offered a meal in the company cafeteria while touring a facility in one's district or a ride from the airport to a site being visited, while in an unfamiliar town on committee business. We do not believe the spirit of the gift rule is violated by accepting such occasional, incidental courtesies. Therefore, the Committee grants a general waiver of the gift rule enabling a Member, officer, or employee to accept the following expenses incidental to legitimate official activity:

(1) food or refreshments, including a meal, offered by the management of a site being visited, (a) on that business s premises, and (b) in a group setting with employees of the organization;

(2) local transportation, outside of the District of Columbia, provided by the management of a site being visited in the course of official duties, between an airport or other terminus and the site.

Similarly, acceptance of these expenses will not be deemed a violation of House Rule 45.

This waiver does not extend to car service made available from the same source on a regular basis, transportation in the District of Columbia, or catered meals at the Washington, D.C. offices of lobbying or law firms.

Items of Nominal Value

Rule 52 permits a Member or employee to accept an item of nominal value such as a greeting card, baseball cap, or a T-shirt. This exception was intended to permit a Member to accept an item such as a T-shirt with a school name on it from some visiting students from the home district, a hat with a company logo from the management of a facility that the Member visits, or some other inexpensive item commemorating a visit or event.

Similarly, the rule contains an exception for food or refreshments of a nominal value offered other than as a part of a meal. This exception was intended to cover coffee and donuts or sodas at a meeting, hors d'oeuvres and drinks at a stand-up reception (that is, nominal food consumed at a gathering), or tokens (such as home-baked cookies) delivered to an individual office. The Committee does not believe that either of these exceptions was intended to permit the wholesale distribution of small items to every Member of Congress. To the contrary, Rule 52 was enacted to stop the practice of special interests sending gifts to Members.

Recently, for example, an organization sent pies to every Member of Congress. We do not fault the organization or any offices which may have believed that the pies complied with the rule and could be accepted. However, we wish to take this opportunity to clarify that the policy of this Committee in interpreting Rule 52 will be to deem anything (other than information) that is sent to every House office as unacceptable.

In assessing whether some item (including a food item) is of nominal value, bear in mind the Committee's longstanding view that whenever groups of items are packaged together in bags or baskets, it is the total value of the package that controls. Thus, goodie bags and gift baskets of food or other items may generally not be accepted. If the contents are perishable, they may be discarded or donated to charity.

Outside Earned Income Restrictions, Financial Disclosure, and Post-employment Restrictions

February 21, 1996

Memorandum

FROM: Committee on Standards of Official Conduct

Nancy L. Johnson, Chairman

Jim McDermott, Ranking Democratic Member

SUBJECT: Salary Levels At Which Outside Earned Income Restrictions, Financial Disclosure Requirements, and Post-employment Restrictions Apply for 1996.

Outside Earned Income Limitations

House Rule 47 and title 5 of the Ethics in Government Act of 1978 limit the amount of outside earned income a Member or senior employee may receive in a calendar year to 15 percent of the January 1 rate of pay in effect for level II of the Executive Schedule (see House Ethics Manual, p. 101). Executive level II remains $133,600; thus, the outside earned income limit for calendar year 1996 remains $20,040.

The limit applies to all Members and to officers and employees paid at a rate of 120 percent of the minimum pay for GS-15 of the general schedule for at least 90 days in a calendar year. Since the GS-15 rate of basic pay is now $69,300, the earned income threshold is $83,160. Locality pay is not considered in making this determination.

Financial Disclosure

All House officers and employees paid at a rate of 120 percent of the minimum pay for GS-15 of the general schedule for more than 60 days at any time during the year must file a financial disclosure statement (see House Ethics Manual, p. 161). As noted above, 120 percent of GS-15 is now $83,160.

Please note that the requirement to file a financial disclosure statement covering calendar year 1995 was triggered by having earned at a rate of $81,530 for more than 60 days in 1995. These 1995 financial disclosure statements are due May 15, 1996, for individuals who continue to be House employees. An individual who earns enough to trigger the reporting requirement and leaves the House payroll must file a termination disclosure report, due 30 days after the date of termination.

Post-Employment Restrictions

The Ethics Reform Act of 1989 established statutory post-employment restrictions on lobbying activities for all Members and officers of the House and certain employees (see House Ethics Manual, 102d Cong., 2d Sess. 124-127 (1992)). An employee is covered if, for at least 60 days during the one-year period preceding termination of employment, he or she was paid at a rate equal to or greater than 75 percent of the salary for Members at the time of termination.

The pay for Members remains $133,600. Therefore, the post-employment threshold for employees who leave their congressional jobs in 1996 is $100,200.

CALENDAR YEAR 1996 POST-EMPLOYMENT THRESHOLD $100,200

FINANCIAL DISCLOSURE THRESHOLD $83,160

OUTSIDE EARNED INCOME THRESHOLD $ 83,160

OUTSIDE EARNED INCOME CAP $20,040

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