

103^D CONGRESS
1ST SESSION

H. R. 2835

To limit the acceptance of gifts, meals, and travel by Members of Congress and congressional staff, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 1993

Ms. SHEPHERD (for herself, Mr. FINGERHUT, Mr. MANN, Ms. SCHENK, Ms. CANTWELL, Mrs. MALONEY, Mr. BARRETT of Wisconsin, Mr. KLEIN, Mr. BECERRA, Mr. SANDERS, and Mrs. CLAYTON) introduced the following bill; which was referred jointly to the Committees on House Administration, the Judiciary, and Standards of Official Conduct

A BILL

To limit the acceptance of gifts, meals, and travel by Members of Congress and congressional staff, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Congressional Ethics
5 Reform Act of 1993”.

1 **SEC. 2. GENERAL STANDARDS.**

2 (a) GENERAL PROHIBITIONS.—Except as otherwise
3 provided in this Act, a Member or employee shall not, di-
4 rectly or indirectly, solicit or accept a gift from any source.

5 (b) RELATIONSHIP TO ILLEGAL GRATUITIES STAT-
6 UTE.—Unless accepted in violation of subsection (c)(1),
7 a gift accepted under the standards set forth in this Act
8 shall not constitute an illegal gratuity otherwise prohibited
9 by section 201(c)(1)(B) of title 18, United States Code.

10 (c) LIMITATIONS ON USE OF EXCEPTIONS.—A Mem-
11 ber or employee shall not—

12 (1) accept a gift in return for being influenced
13 in the performance of an official act;

14 (2) solicit or coerce the offering of a gift;

15 (3) accept gifts from the same or different
16 sources on a basis so frequent that a reasonable per-
17 son would be led to believe the Member or employee
18 is using his public office for private gain;

19 (4) accept a gift in violation of any statute; or

20 (5) accept vendor promotional training contrary
21 to any applicable regulations, policies, or guidance
22 relating to the procurement of supplies and services
23 for the Congress.

24 **SEC. 3. DEFINITIONS.**

25 For purposes of this Act—

1 (1) EMPLOYEE.—The term “employee” means
2 an employee of the legislative branch.

3 (2) GIFT.—The term “gift” includes any gratu-
4 ity, favor, discount, entertainment, hospitality, loan,
5 forbearance, or other item having monetary value. It
6 includes services as well as gifts of training, trans-
7 portation, local travel, lodgings and meals, whether
8 provided in-kind, by purchase of a ticket, payment in
9 advance, or reimbursement after the expense has
10 been incurred. It does not include—

11 (A) modest items of food and refresh-
12 ments, such as soft drinks, coffee, and donuts,
13 offered other than as part of a meal;

14 (B) greeting cards and items with little in-
15 trinsic value, such as plaques, certificates and
16 trophies, which are intended solely for presen-
17 tation;

18 (C) loans from banks and other financial
19 institutions on terms generally available to the
20 public;

21 (D) opportunities and benefits, including
22 favorable rates and commercial discounts, avail-
23 able to the public or to a class consisting of all
24 Government employees, whether or not re-

1 stricted on the basis of geographic consider-
2 ations;

3 (E) rewards and prizes given to competi-
4 tors in contests or events, including random
5 drawings, open to the public unless the Mem-
6 ber's or employee's entry into the contest or
7 event is required as part of his official duties;

8 (F) pension and other benefits resulting
9 from continued participation in a Member or
10 employee welfare and benefits plan maintained
11 by a former employer;

12 (G) anything which is paid for by the Gov-
13 ernment or secured by the Government under
14 Government contract;

15 (H) any gift accepted by the Congress
16 under specific statutory authority;

17 (I) anything for which the market value is
18 paid by the Member or employee; and

19 (J) any books, written materials, audio
20 tapes, videotapes, or other informational mate-
21 rials.

22 (3) MARKET VALUE.—The term “market
23 value” means the retail cost the Member or em-
24 ployee would incur to purchase the gift. A Member
25 or employee who cannot ascertain the market value

1 of a gift may estimate the market value by reference
2 to the retail cost of similar items of like quality. The
3 market value of a gift of a ticket entitling the holder
4 to food, refreshments, entertainment, or any other
5 benefit shall be the face value of the ticket.

6 (4) MEMBER.—The term “Member” has the
7 meaning given such term in section 109(12) of the
8 Ethics in Government Act of 1978 (5 U.S.C. App.
9 6, sec. 109).

10 (5) SOLICITATION OR ACCEPTANCE.—(A) A gift
11 is solicited or accepted because of the Member’s or
12 employee’s official position if it is from a person
13 other than a Member or employee and if a reason-
14 able person with knowledge of all relevant facts
15 would conclude that it would not have been solicited,
16 offered, or given had the Member or employee not
17 held his position as a Member or employee.

18 (B) A gift which is solicited or accepted indi-
19 rectly includes a gift—

20 (i) given with the Member’s or employee’s
21 knowledge and acquiescence to his or her par-
22 ent, sibling, spouse, child, or dependent relative
23 if a reasonable person with knowledge of all rel-
24 evant facts would conclude that the gift was

1 given because of that person's relationship to
2 the Member or employee; or

3 (ii) given to any other person, including
4 any charitable organization, on the basis of des-
5 ignation, recommendation, or other specification
6 by the Member or employee, except as per-
7 mitted for the disposition of perishable items by
8 section 5(a)(2).

9 (6) ETHICS COMMITTEE.—The term Ethics
10 Committee with respect to the House means the
11 Committee on Standards of Official Conduct and
12 with respect to the Senate means the Select Com-
13 mittee on Ethics.

14 (7) VENDOR PROMOTIONAL TRAINING.—The
15 term “vendor promotional training” means training
16 provided by any person for the purpose of promoting
17 its products or services. It does not include training
18 provided under a congressional contract or by a con-
19 tractor to facilitate use of products or services it fur-
20 nishes under a congressional contract.

21 (8) PERSONAL HOSPITALITY OF AN INDIVID-
22 UAL.—The term “personal hospitality of an individ-
23 ual” means personal hospitality for a non-business
24 purpose by an individual who is not a corporation or
25 organization on property or facilities owned by that

1 individual or the individual's family and covers only
2 food and lodging. Such term does not apply if any
3 of the costs associated with the personal hospitality
4 could be deducted as a business expense or the indi-
5 vidual providing the personal hospitality is not
6 present.

7 **SEC. 4. EXCEPTIONS.**

8 The prohibitions set forth in section 2 do not apply
9 to a gift accepted under the circumstances described in
10 paragraphs (1) through (10) of this section and a gift ac-
11 cepted in accordance with one of those paragraphs will not
12 be deemed to violate section 2 of this Act.

13 (1) GIFTS OF \$20 OR LESS.—A Member or em-
14 ployee may accept unsolicited gifts having an aggre-
15 gate market value of \$20 or less per occasion, pro-
16 vided that the aggregate market value of individual
17 gifts received from any one person or entity under
18 the authority of this paragraph shall not exceed \$50
19 in a calendar year. This exception does not apply to
20 gifts of cash or of investment interests such as
21 stock, bonds, or certificates of deposit. Where the
22 market value of a gift or the aggregate market value
23 of gifts offered on any single occasion exceeds \$20,
24 the Member or employee may not pay the excess
25 value over \$20 in order to accept that portion of the

1 gift or those gifts worth \$20. Where the aggregate
2 value of tangible items offered on a single occasion
3 exceeds \$20, the Member or employee may decline
4 any distinct and separate item in order to accept
5 those items aggregating \$20 or less.

6 (2) GIFTS BASED ON A PERSONAL RELATION-
7 SHIP.—A Member or employee may accept a gift
8 given under circumstances which make it clear that
9 the gift is motivated by a family relationship or per-
10 sonal friendship rather than the position of the
11 Member or employee. Relevant factors in making
12 such a determination include the history of the rela-
13 tionship and whether the family member or friend
14 personally pays for the gift.

15 (3) DISCOUNTS AND SIMILAR BENEFITS.—In
16 addition to those opportunities and benefits excluded
17 from the definition of a gift by section 3(2)(D), a
18 Member or employee may accept—

19 (A) reduced membership or other fees for
20 participation in organization activities offered
21 to all Government employees by professional or-
22 ganizations if the only restrictions on member-
23 ship relate to professional qualifications; and

24 (B) opportunities and benefits—

1 (i) offered to members of a group or
2 class in which membership is unrelated to
3 congressional employment; or

4 (ii) offered to members of an organi-
5 zation, such as an employees' association
6 or congressional credit union, in which
7 membership is related to congressional em-
8 ployment if the same offer is broadly avail-
9 able to large segments of the public
10 through organizations of similar size.

11 A Member or employee may not accept for personal
12 use any benefit to which the Government is entitled
13 as a result of an expenditure of Government funds.

14 (4) HONORARY DEGREES.—(A) A Member or
15 employee may accept an honorary degree from an in-
16 stitution of higher education (as defined in section
17 1141(a) of title 20, United States Code) based on a
18 written determination by the Ethics Committee that
19 the timing of the award of the degree would not
20 cause a reasonable person to question the Member's
21 or employee's impartiality in a matter affecting the
22 institution.

23 (B) A Member or employee who may accept an
24 honorary degree pursuant to subparagraph (A) may
25 also accept meals and entertainment given to him

1 and to members of his family at the event at which
2 the presentation takes place.

3 (5) GIFTS BASED ON OUTSIDE BUSINESS OR
4 EMPLOYMENT RELATIONSHIPS.—A Member or em-
5 ployee may accept meals, lodgings, transportation
6 and other benefits—

7 (A) resulting from the business or employ-
8 ment activities of a Member's or employee's
9 spouse when it is clear that such benefits have
10 not been offered or enhanced because of the
11 Member's or employee's official position; or

12 (B) resulting from his or her outside busi-
13 ness or employment activities when it is clear
14 that such benefits have not been offered or en-
15 hanced because of his or her official status.

16 (6) POLITICAL EVENTS.—A Member or em-
17 ployee may accept meals, lodgings, transportation
18 and other benefits, including free attendance at
19 events, when provided in connection with active par-
20 ticipation in political management or political cam-
21 paigns by a political organization described in sec-
22 tion 527(e) of the Internal Revenue Code of 1986.

23 (7) WIDELY ATTENDED GATHERINGS AND
24 OTHER EVENTS.—

1 (A) SPEAKING AND SIMILAR ENGAGE-
2 MENTS.—When a Member or employee partici-
3 pates as a speaker or panel participant or oth-
4 erwise presents information related directly or
5 indirectly to the Congress or matters before the
6 Congress at a conference or other event, his or
7 her acceptance of an offer of free attendance at
8 the event on the day of the presentation is per-
9 missible when provided by the sponsor of the
10 event. The Member’s or employee’s participa-
11 tion in the event on that day represents a cus-
12 tomary and necessary part of the performance
13 of his or her responsibilities and does not in-
14 volve a gift to him or to the Congress.

15 (B) WIDELY ATTENDED GATHERINGS.—(i)
16 A Member or employee may accept a sponsor’s
17 unsolicited gift of free attendance at all or ap-
18 propriate parts of a widely attended gathering
19 in the area of the District of Columbia of mu-
20 tual interest to a number of parties. A gather-
21 ing is widely attended if, for example, it is open
22 to members from throughout a given industry
23 or profession or if those in attendance represent
24 a range of persons interested in a given matter.

1 (ii) A gathering is not widely attended if it
2 is a congressional retreat to which a majority of
3 Members of either House of Congress or the
4 majority of the Members of a political party in
5 one or both Houses are invited and which is
6 held outside the United States Capitol grounds.

7 (C) FREE ATTENDANCE.—For purposes of
8 subparagraphs (A) and (B), free attendance
9 may include waiver of all or part of a con-
10 ference or other fee or the provision of food, re-
11 freshments, entertainment, instruction and ma-
12 terials furnished to all attendees as an integral
13 part of the event. It does not include travel ex-
14 penses, lodgings, entertainment collateral to the
15 event, or meals taken other than in a group set-
16 ting with all other attendees.

17 (D) COST PROVIDED BY SPONSOR OF
18 EVENT.—The cost of the Member's or employ-
19 ee's attendance will not be considered to be pro-
20 vided by the sponsor where a person other than
21 the sponsor designates the Member or employee
22 to be invited and bears the cost of the Mem-
23 ber's or employee's attendance through a con-
24 tribution or other payment intended to facilitate
25 that Member's or employee's attendance. Pay-

1 ment of dues or a similar assessment to a spon-
2 soring organization does not constitute a pay-
3 ment intended to facilitate a particular Mem-
4 ber's or employee's attendance.

5 (E) ACCOMPANYING SPOUSE.—When oth-
6 ers in attendance will generally be accompanied
7 by spouses, a Member or employee may accept
8 a sponsor's invitation to an accompanying
9 spouse to participate in all or a portion of the
10 event at which the Member's or employee's free
11 attendance is permitted under subparagraph
12 (A) or (B).

13 (8) ITEMS PRIMARILY FOR FREE DISTRIBUTION
14 TO CONSTITUENTS.—A Member or employee may
15 accept food or other items of minimal value intended
16 primarily for free distribution to visiting constitu-
17 ents.

18 (9) PERSONAL HOSPITALITY OF AN INDIVID-
19 UAL.—No Member or employee may accept more
20 than 30 days of personal hospitality in a calendar
21 year without prior written waiver from the Ethics
22 Committee.

1 **SEC. 5. PROPER DISPOSITION OF PROHIBITED GIFTS.**

2 (a) IN GENERAL.—A Member or employee who has
3 received a gift that cannot be accepted under this Act
4 shall—

5 (1) return any tangible item to the donor or
6 pay the donor its market value (a Member or em-
7 ployee who cannot ascertain the actual market value
8 of an item may estimate its market value by ref-
9 erence to the retail cost of similar items of like
10 quality);

11 (2) when it is not practical to return a tangible
12 item because it is perishable, the item may be given
13 to an appropriate charity or destroyed;

14 (3) for any entertainment, favor, service, bene-
15 fit or other intangible, reimburse the donor the mar-
16 ket value (subsequent reciprocation by the employee
17 does not constitute reimbursement); and

18 (4) dispose of gifts from foreign governments or
19 international organizations in accordance with rules
20 established by the Ethics Committee.

21 (b) USE OF APPROPRIATED FUNDS TO RETURN
22 GIFTS.—A Member or employee may use appropriated
23 funds and franked mail to return gifts.

24 (c) PROMPT COMPLIANCE.—A Member or employee
25 who, on his own initiative, promptly complies with the
26 requirements of this section will not be deemed to have

1 improperly accepted an unsolicited gift. A Member or em-
2 ployee who promptly consults his Ethics Committee to de-
3 termine whether acceptance of an unsolicited gift is proper
4 and who, upon the advice of the Ethics Committee, re-
5 turns the gift or otherwise disposes of the gift in accord-
6 ance with this section, will be considered to have complied
7 with the requirements of this section on his own initiative.

8 **SEC. 6. CHARITABLE DESIGNATION OF OUTSIDE EARNED**
9 **INCOME.**

10 Subsection (c) of section 501 of the Ethics in Govern-
11 ment Act of 1978 is repealed.

12 **SEC. 7. REPEAL OF OLD RULE.**

13 Section 901 of the Ethics Reform Act of 1989 (2
14 U.S.C. 31-2) is repealed.

15 **SEC. 8. ACCEPTANCE OF TRAVEL AND RELATED EXPENSES**
16 **FROM NON-FEDERAL SOURCES.**

17 (a) IN GENERAL.—The Ethics Committees shall pre-
18 scribe rules establishing the conditions under which their
19 respective Houses may accept payment, or authorize a
20 Member or employee to accept payment on the House's
21 behalf, from non-Federal sources for travel, subsistence,
22 and related expenses with respect to attendance of the
23 Member or employee (or the spouse of such Member or
24 employee) at any meeting or similar function relating to
25 the official duties of the Member or employee. Any cash

1 payment so accepted shall be credited to the appropriation
2 applicable to such expenses. In the case of a payment in
3 kind so accepted, a pro rata reduction shall be made in
4 any entitlement of the Member or employee to payment
5 from the Government for such expenses.

6 (b) RULES.—The rules prescribed pursuant to sub-
7 section (a) shall—

8 (1) in the case of a Member, require that the
9 Ethics Committee approve in advance all travel for
10 which related expenses are to be reimbursed and
11 that, in advance of such travel, a Member publish in
12 the Congressional Record the dates, itinerary, and
13 purpose of such travel, the identity of the party pro-
14 viding the reimbursement, and the anticipated value
15 of the reimbursement;

16 (2) in the case of an employee of the House of
17 Representatives or Senate, require that the authoriz-
18 ing Member approve in advance all travel for which
19 related expenses are to be reimbursed; and that, in
20 advance of such travel, the authorizing Member pub-
21 lish in the Congressional Record the dates, itinerary,
22 and purpose of such travel, the identity of the party
23 providing the reimbursement, and the anticipated
24 value of the reimbursement;

1 (3) in the case of a person not covered by para-
2 graph (1) or (2), require that the appropriate super-
3 visor approve in advance all travel for which related
4 expenses are to be reimbursed;

5 (4) condition approval under paragraphs (1),
6 (2), and (3) on a determination that acceptance of
7 reimbursement would not cause a reasonable person
8 with knowledge of all the facts relevant to a particu-
9 lar case to question the integrity of a Member, the
10 Congress, or congressional operation; and

11 (5) prohibit reimbursement for items beyond
12 those reasonably necessary for the Member or em-
13 ployee to participate in the event.

14 Entertainment expenses collateral to an event are not to
15 be considered reasonably necessary under paragraph (5).

16 (c) GENERAL PROHIBITION.—Except as provided in
17 this section or any other statute, no Member, employee,
18 or House of Congress may accept payment in cash or in
19 kind for expenses referred to in subsection (a). A Mem-
20 ber or employee who accepts any such payment in violation
21 of the preceding sentence—

22 (1) may be required, in addition to any penalty
23 provided by law, to repay, for deposit in the general
24 fund of the Treasury, an amount equal to the
25 amount of the payment so accepted; and

1 (2) in the case of a repayment under paragraph
2 (1), shall not be entitled to any payment from the
3 Government for such expenses.

4 (d) REPORTS.—

5 (1) IN GENERAL.—A Member shall, in the man-
6 ner provided in paragraph (2), publish in the Con-
7 gressional Record reports of payments of more than
8 \$20 accepted under this section by the Member or
9 by an employee of the Member.

10 (2) CONTENTS.—The reports required by para-
11 graph (1) shall, with respect to each payment—

12 (A) specify the amount and method of pay-
13 ment, the name of the person making the pay-
14 ment, the name of the Member or employee, the
15 nature of the meeting or similar function, the
16 time and place of travel, the nature of the ex-
17 penses, and such other information as the Eth-
18 ics Committee may prescribe;

19 (B) be submitted not later than May 31 of
20 each year with respect to payments in the pre-
21 ceding period beginning on October 1 and end-
22 ing on March 31; and

23 (C) be submitted not later than November
24 30 of each year with respect to payments in the

1 preceding period beginning on April 1 and end-
2 ing on September 30.

3 **SEC. 9. SOLICITATION OF REGISTERED LOBBYISTS.**

4 A Member or employee shall not knowingly solicit
5 contributions from any registered lobbyist for an organiza-
6 tion described under section 501(c) of the Internal Reve-
7 nue Code of 1986. For purposes of this section, the fact
8 that the name of a Member or employee is on the letter-
9 head of a solicitation is not sufficient to establish that the
10 named Member or employee has solicited a contribution.

11 **SEC. 10. PENALTIES FOR VIOLATION OF ACT.**

12 (a) CIVIL ACTION.—The Attorney General may bring
13 a civil action in any appropriate United States district
14 court against any individual who knowingly and willfully
15 accepts or solicits a gift in violation of section 2 or other-
16 wise violates any provision of this Act. The court in which
17 such an action is brought may assess against any such
18 individual a civil penalty in any amount, not to exceed
19 \$10,000.

20 (b) COMMITTEE REFERRAL.—The Ethics Committee
21 shall refer to the Attorney General the name of any indi-
22 vidual which such committee has reasonable cause to be-
23 lieve has willfully violated any provision of this Act.

24 (c) COMMITTEE ACTION.—The Ethics Committee
25 may take any appropriate personnel or other action in ac-

- 1 cordance with applicable law or regulation against any in-
- 2 dividual who violates any provision of this Act.

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