

103D CONGRESS  
1ST SESSION

# S. 885

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

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## IN THE SENATE OF THE UNITED STATES

MAY 4 (legislative day, APRIL 19), 1993

Mr. LAUTENBERG (for himself, Mr. BOREN, Mr. LEVIN, Mr. WELLSTONE, Mr. FEINGOLD, and Mr. KOHL) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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## 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”.

6 **SEC. 2. GENERAL STANDARDS.**

7 (a) GENERAL PROHIBITIONS.—A Member or em-  
8 ployee shall not, directly or indirectly, solicit or accept a  
9 gift from any source except as provided in this Act.

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

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

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

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

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

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

16 (5) accept vendor promotional training contrary  
17 to any applicable regulations, policies, or guidance  
18 relating to the procurement of supplies and services  
19 for the Congress.

20 **SEC. 3. DEFINITIONS.**

21 For purposes of this Act—

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

24 (2) GIFT.—The term “gift” includes any gratu-  
25 ity, favor, discount, entertainment, hospitality, loan,

1       forbearance, or other item having monetary value. It  
2       includes services as well as gifts of training, trans-  
3       portation, local travel, lodgings and meals, whether  
4       provided in-kind, by purchase of a ticket, payment in  
5       advance, or reimbursement after the expense has  
6       been incurred. It does not include—

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

10              (B) greeting cards and items with little in-  
11              trinsic value, such as plaques, certificates and  
12              trophies, which are intended solely for presen-  
13              tation;

14              (C) loans from banks and other financial  
15              institutions on terms generally available to the  
16              public;

17              (D) opportunities and benefits, including  
18              favorable rates and commercial discounts, avail-  
19              able to the public or to a class consisting of all  
20              Government employees, whether or not re-  
21              stricted on the basis of geographic consider-  
22              ations;

23              (E) rewards and prizes given to competi-  
24              tors in contests or events, including random  
25              drawings, open to the public unless the Mem-

1           ber's or employee's entry into the contest or  
2           event is required as part of his official duties;

3           (F) pension and other benefits resulting  
4           from continued participation in a Member or  
5           employee welfare and benefits plan maintained  
6           by a former employer;

7           (G) anything which is paid for by the Gov-  
8           ernment or secured by the Government under  
9           Government contract;

10          (H) any gift accepted by the Congress  
11          under specific statutory authority;

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

14          (J) any books, written materials, audio  
15          tapes, videotapes, or other informational mate-  
16          rials.

17          (3) MARKET VALUE.—The term “market  
18          value” means the retail cost the Member or em-  
19          ployee would incur to purchase the gift. A Member  
20          or employee who cannot ascertain the market value  
21          of a gift may estimate the market value by reference  
22          to the retail cost of similar items of like quality. The  
23          market value of a gift of a ticket entitling the holder  
24          to food, refreshments, entertainment, or any other  
25          benefit shall be the face value of the ticket.

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

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

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

15           (i) given with the Member’s or employee’s  
16 knowledge and acquiescence to his or her par-  
17 ent, sibling, spouse, child, or dependent relative  
18 if a reasonable person with knowledge of all rel-  
19 evant facts would conclude that the gift was  
20 given because of that person’s relationship to  
21 the Member or employee; or

22           (ii) given to any other person, including  
23 any charitable organization, on the basis of des-  
24 ignation, recommendation, or other specification  
25 by the Member or employee, except as per-

1           mitted for the disposition of perishable items by  
2           section 5(a)(2).

3           (6) ETHICS COMMITTEE.—The term Ethics  
4           Committee with respect to the House means the  
5           Committee on Standards of Official Conduct and  
6           with respect to the Senate means the Select Com-  
7           mittee on Ethics.

8           (7) VENDOR PROMOTIONAL TRAINING.—The  
9           term “vendor promotional training” means training  
10          provided by any person for the purpose of promoting  
11          its products or services. It does not include training  
12          provided under a congressional contract or by a con-  
13          tractor to facilitate use of products or services it fur-  
14          nishes under a congressional contract.

15 **SEC. 4. EXCEPTIONS.**

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

21          (1) GIFTS OF \$20 OR LESS.—A Member or em-  
22          ployee may accept unsolicited gifts having an aggre-  
23          gate market value of \$20 or less per occasion, pro-  
24          vided that the aggregate market value of individual  
25          gifts received from any one person or entity under

1 the authority of this paragraph shall not exceed \$50  
2 in a calendar year. This exception does not apply to  
3 gifts of cash or of investment interests such as  
4 stock, bonds, or certificates of deposit. Where the  
5 market value of a gift or the aggregate market value  
6 of gifts offered on any single occasion exceeds \$20,  
7 the Member or employee may not pay the excess  
8 value over \$20 in order to accept that portion of the  
9 gift or those gifts worth \$20. Where the aggregate  
10 value of tangible items offered on a single occasion  
11 exceeds \$20, the Member or employee may decline  
12 any distinct and separate item in order to accept  
13 those items aggregating \$20 or less.

14 (2) GIFTS BASED ON A PERSONAL RELATION-  
15 SHIP.—A Member or employee may accept a gift  
16 given under circumstances which make it clear that  
17 the gift is motivated by a family relationship or per-  
18 sonal friendship rather than the position of the  
19 Member or employee. Relevant factors in making  
20 such a determination include the history of the rela-  
21 tionship and whether the family member or friend  
22 personally pays for the gift.

23 (3) DISCOUNTS AND SIMILAR BENEFITS.—In  
24 addition to those opportunities and benefits excluded

1 from the definition of a gift by section 3(2)(D), a  
2 Member or employee may accept—

3 (A) reduced membership or other fees for  
4 participation in organization activities offered  
5 to all Government employees by professional or-  
6 ganizations if the only restrictions on member-  
7 ship relate to professional qualifications; and

8 (B) opportunities and benefits—

9 (i) offered to members of a group or  
10 class in which membership is unrelated to  
11 congressional employment; or

12 (ii) offered to members of an organi-  
13 zation, such as an employees' association  
14 or congressional credit union, in which  
15 membership is related to congressional em-  
16 ployment if the same offer is broadly avail-  
17 able to large segments of the public  
18 through organizations of similar size.

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

22 (4) HONORARY DEGREES.—(A) A Member or  
23 employee may accept an honorary degree from an in-  
24 stitution of higher education (as defined in section  
25 1141(a) of title 20, United States Code) based on a

1 written determination by the Ethics Committee that  
2 the timing of the award of the degree would not  
3 cause a reasonable person to question the Member's  
4 or employee's impartiality in a matter affecting the  
5 institution.

6 (B) A Member or employee who may accept an  
7 honorary degree pursuant to subparagraph (A) may  
8 also accept meals and entertainment given to him  
9 and to members of his family at the event at which  
10 the presentation takes place.

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

15 (A) resulting from the business or employ-  
16 ment activities of a Member's or employee's  
17 spouse when it is clear that such benefits have  
18 not been offered or enhanced because of the  
19 Member's or employee's official position; or

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

24 (6) POLITICAL EVENTS.—A Member or em-  
25 ployee may accept meals, lodgings, transportation

1 and other benefits, including free attendance at  
2 events, when provided in connection with active par-  
3 ticipation in political management or political cam-  
4 paigns by a political organization described in sec-  
5 tion 527(e) of the Internal Revenue Code of 1986.

6 (7) WIDELY ATTENDED GATHERINGS AND  
7 OTHER EVENTS.—

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

22 (B) WIDELY ATTENDED GATHERINGS.—(i)  
23 A Member or employee may accept a sponsor's  
24 unsolicited gift of free attendance at all or ap-  
25 propriate parts of a widely attended gathering

1 of mutual interest to a number of parties. A  
2 gathering is widely attended if, for example, it  
3 is open to members from throughout a given in-  
4 dustry or profession or if those in attendance  
5 represent a range of persons interested in a  
6 given matter.

7 (ii) A gathering is not widely attended if it  
8 is a congressional retreat to which a majority of  
9 Members of either House of Congress or the  
10 majority of the Members of a political party in  
11 one or both Houses are invited and which is  
12 held outside the United States Capitol grounds.

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

23 (D) COST PROVIDED BY SPONSOR OF  
24 EVENT.—The cost of the Member's or employ-  
25 ee's attendance will not be considered to be pro-

1           vided by the sponsor where a person other than  
2           the sponsor designates the Member or employee  
3           to be invited and bears the cost of the Mem-  
4           ber's or employee's attendance through a con-  
5           tribution or other payment intended to facilitate  
6           that Member's or employee's attendance. Pay-  
7           ment of dues or a similar assessment to a spon-  
8           soring organization does not constitute a pay-  
9           ment intended to facilitate a particular Mem-  
10          ber's or employee's attendance.

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

19           (8) PROTOCOL EXCEPTION.—A Member or em-  
20          ployee who is on official travel to a foreign area or  
21          who is attending an event sponsored by a foreign  
22          government may accept food, refreshments, or enter-  
23          tainment in the course of such travel or event pro-  
24          vided that such acceptance is in accordance with any  
25          rules that the Ethics Committee may establish.

1           (9) GIFTS ACCEPTED UNDER SPECIFIC STATU-  
2           TORY AUTHORITY.—The prohibitions on acceptance  
3           of gifts contained in this Act do not apply to any  
4           item, receipt of which is specifically authorized by  
5           statute.

6           (10) ITEMS PRIMARILY FOR FREE DISTRIBU-  
7           TION TO CONSTITUENTS.—A Member or employee  
8           may accept food or other items of minimal value in-  
9           tended primarily for free distribution to visiting con-  
10          stituents.

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

12          (a) IN GENERAL.—A Member or employee who has  
13          received a gift that cannot be accepted under this Act  
14          shall—

15               (1) return any tangible item to the donor or  
16               pay the donor its market value (a Member or em-  
17               ployee who cannot ascertain the actual market value  
18               of an item may estimate its market value by ref-  
19               erence to the retail cost of similar items of like  
20               quality);

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

24               (3) for any entertainment, favor, service, bene-  
25               fit or other intangible, reimburse the donor the mar-

1 ket value (subsequent reciprocation by the employee  
2 does not constitute reimbursement); and

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

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

9 (c) PROMPT COMPLIANCE.—A Member or employee  
10 who, on his own initiative, promptly complies with the re-  
11 quirements of this section will not be deemed to have im-  
12 properly accepted an unsolicited gift. A Member or em-  
13 ployee who promptly consults his Ethics Committee to de-  
14 termine whether acceptance of an unsolicited gift is proper  
15 and who, upon the advice of the Ethics Committee, re-  
16 turns the gift or otherwise disposes of the gift in accord-  
17 ance with this section, will be considered to have complied  
18 with the requirements of this section on his own initiative.

19 **SEC. 6. CHARITABLE DESIGNATION OF OUTSIDE EARNED**  
20 **INCOME.**

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

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

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

1 **SEC. 8. ACCEPTANCE OF TRAVEL AND RELATED EXPENSES**  
2 **FROM NON-FEDERAL SOURCES.**

3 (a) IN GENERAL.—The Ethics Committees shall pre-  
4 scribe rules establishing the conditions under which their  
5 respective Houses may accept payment, or authorize a  
6 Member or employee to accept payment on the House's  
7 behalf, from non-Federal sources for travel, subsistence,  
8 and related expenses with respect to attendance of the  
9 Member or employee (or the spouse of such Member or  
10 employee) at any meeting or similar function relating to  
11 the official duties of the Member or employee. Any cash  
12 payment so accepted shall be credited to the appropriation  
13 applicable to such expenses. In the case of a payment in  
14 kind so accepted, a pro rata reduction shall be made in  
15 any entitlement of the Member or employee to payment  
16 from the Government for such expenses.

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

19 (1) require that the Ethics Committee approve  
20 in advance all travel for which related expenses are  
21 to be reimbursed;

22 (2) condition such approval on a determination  
23 by the Ethics Committee that acceptance of reim-  
24 bursement would not cause a reasonable person with  
25 knowledge of all the facts relevant to a particular

1 case to question the integrity of the Member, the  
2 Congress or congressional operations; and

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

6 (c) GENERAL PROHIBITION.—Except as provided in  
7 this section or any other statute, no Member, employee,  
8 or House of Congress may accept payment in cash or in  
9 kind for expenses referred to in subsection (a). A Mem-  
10 ber or employee who accepts any such payment in violation  
11 of the preceding sentence—

12 (1) may be required, in addition to any penalty  
13 provided by law, to repay, for deposit in the general  
14 fund of the Treasury, an amount equal to the  
15 amount of the payment so accepted; and

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

19 (d) REPORTS.—

20 (1) IN GENERAL.—The Ethics Committees  
21 shall, in the manner provided in paragraph (2), pub-  
22 lish in the Congressional Record reports of payments  
23 of more than \$250 accepted under this section.

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

1 (A) specify the amount and method of payment,  
2 the name of the person making the payment, the  
3 name of the Member or employee, the nature of the  
4 meeting or similar function, the time and place of  
5 travel, the nature of the expenses, and such other in-  
6 formation as the Ethics Committee may prescribe;

7 (B) be submitted not later than May 31 of each  
8 year with respect to payments in the preceding pe-  
9 riod beginning on October 1 and ending on March  
10 31; and

11 (C) be submitted not later than November 30  
12 of each year with respect to payments in the preced-  
13 ing period beginning on April 1 and ending on Sep-  
14 tember 30.

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

16 A Member or employee shall not knowingly solicit  
17 contributions from any registered lobbyist for an organiza-  
18 tion described under section 501(c) of the Internal Reve-  
19 nue Code of 1986. For purposes of this section, the fact  
20 that the name of a Member or employee is on the letter-  
21 head of a solicitation is not sufficient to establish that the  
22 named Member or employee has solicited a contribution.

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S 885 IS—2