

103D CONGRESS
2D SESSION

S. RES. 275

To amend the Senate gift rule.

IN THE SENATE OF THE UNITED STATES

OCTOBER 6 (legislative day, SEPTEMBER 12), 1994

Mr. WELLSTONE (for himself, Mr. FEINGOLD, and Mr. LAUTENBERG) submitted the following resolution; which was referred to the Committee on Rules and Administration

RESOLUTION

To amend the Senate gift rule.

- 1 *Resolved*, That rule XXXV of the Standing Rules of
- 2 the Senate is amended by inserting the following:
- 3 **SEC. ____.** **AMENDMENTS TO SENATE RULES.**
- 4 The text of rule XXXV of the Standing Rules of the
- 5 Senate is amended to read as follows:
- 6 “1. No member, officer, or employee of the Senate
- 7 shall accept a gift, knowing that such gift is provided by
- 8 a lobbyist, a lobbying firm, or an agent of a foreign prin-
- 9 cipal registered under the Foreign Agents Registration
- 10 Act of 1938 (22 U.S.C. 611 et seq.) in violation of this
- 11 rule.

1 “2. (a) In addition to the restriction on receiving gifts
2 from registered lobbyists, lobbying firms, and agents of
3 foreign principals provided by paragraph 1 and except as
4 provided in this rule, no member, officer, or employee of
5 the Senate shall knowingly accept a gift from any other
6 person.

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

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

23 “(c) The restrictions in subparagraph (a) shall apply
24 to the following:

1 “(1) Anything provided by a lobbyist or a for-
2 eign agent which is paid for, charged to, or reim-
3 bursed by a client or firm of such lobbyist or foreign
4 agent.

5 “(2) Anything provided by a lobbyist, a lobby-
6 ing firm, or a foreign agent to an entity that is
7 maintained or controlled by a member, officer, or
8 employee of the Senate.

9 “(3) A charitable contribution (as defined in
10 section 170(c) of the Internal Revenue Code of
11 1986) made by a lobbyist, a lobbying firm, or a for-
12 eign agent on the basis of a designation, rec-
13 ommendation, or other specification of a member, of-
14 ficer, or employee of the Senate (not including a
15 mass mailing or other solicitation directed to a
16 broad category of persons or entities).

17 “(4) A contribution or other payment by a lob-
18 byist, a lobbying firm, or a foreign agent to a legal
19 expense fund established for the benefit of a mem-
20 ber, officer, or employee of the Senate.

21 “(5) A charitable contribution (as defined in
22 section 170(c) of the Internal Revenue Code of
23 1986) made by a lobbyist, a lobbying firm, or a for-
24 eign agent in lieu of an honorarium to a member,
25 officer, or employee of the Senate.

1 “(6) A financial contribution or expenditure
2 made by a lobbyist, a lobbying firm, or a foreign
3 agent relating to a conference, retreat, or similar
4 event, sponsored by or affiliated with an official con-
5 gressional organization, for or on behalf of members,
6 officers, or employees of the Senate.

7 “(d) The restrictions in subparagraph (a) shall not
8 apply to the following:

9 “(1) Anything for which the member, officer, or
10 employee pays the market value, or does not use and
11 promptly returns to the donor.

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

18 “(3) Anything provided by an individual on the
19 basis of a personal or family relationship unless the
20 member, officer, or employee has reason to believe
21 that, under the circumstances, the gift was provided
22 because of the official position of the member, offi-
23 cer, or employee and not because of the personal or
24 family relationship. The Select Committee on Ethics
25 shall provide guidance on the applicability of this

1 clause and examples of circumstances under which a
2 gift may be accepted under this exception.

3 “(4) A contribution or other payment to a legal
4 expense fund established for the benefit of a mem-
5 ber, officer, or employee, that is otherwise lawfully
6 made, if the person making the contribution or pay-
7 ment is identified for the Select Committee on
8 Ethics.

9 “(5) Any food or refreshments which the recipi-
10 ent reasonably believes to have a value of less than
11 \$20.

12 “(6) Any gift from another member, officer, or
13 employee of the Senate or the House of Representa-
14 tives.

15 “(7) Food, refreshments, lodging, and other
16 benefits—

17 “(A) resulting from the outside business or
18 employment activities (or other outside activi-
19 ties that are not connected to the duties of the
20 member, officer, or employee as an officeholder)
21 of the member, officer, or employee, or the
22 spouse of the member, officer, or employee, if
23 such benefits have not been offered or enhanced
24 because of the official position of the member,

1 officer, or employee and are customarily pro-
2 vided to others in similar circumstances;

3 “(B) customarily provided by a prospective
4 employer in connection with bona fide employ-
5 ment discussions; or

6 “(C) provided by a political organization
7 described in section 527(e) of the Internal Rev-
8 enue Code of 1986 in connection with a fund-
9 raising or campaign event sponsored by such an
10 organization.

11 “(8) Pension and other benefits resulting from
12 continued participation in an employee welfare and
13 benefits plan maintained by a former employer.

14 “(9) Informational materials that are sent to
15 the office of the member, officer, or employee in the
16 form of books, articles, periodicals, other written
17 materials, audio tapes, videotapes, or other forms of
18 communication.

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

22 “(11) Honorary degrees (and associated travel,
23 food, refreshments, and entertainment) and other
24 bona fide, nonmonetary awards presented in recogni-
25 tion of public service (and associated food, refresh-

1 ments, and entertainment provided in the presen-
2 tation of such degrees and awards).

3 “(12) Donations of products from the State
4 that the member represents that are intended pri-
5 marily for promotional purposes, such as display or
6 free distribution, and are of minimal value to any in-
7 dividual recipient.

8 “(13) Food, refreshments, and entertainment
9 provided to a member or an employee of a member
10 in the member’s home State, subject to reasonable
11 limitations, to be established by the Committee on
12 Rules and Administration.

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

15 “(15) Training (including food and refresh-
16 ments furnished to all attendees as an integral part
17 of the training) provided to a member, officer, or
18 employee, if such training is in the interest of the
19 Senate.

20 “(16) Bequests, inheritances, and other trans-
21 fers at death.

22 “(17) Any item, the receipt of which is author-
23 ized by the Foreign Gifts and Decorations Act, the
24 Mutual Educational and Cultural Exchange Act, or
25 any other statute.

1 “(18) Anything which is paid for by the Federal
2 Government, by a State or local government, or se-
3 cured by the Government under a Government con-
4 tract.

5 “(19) A gift of personal hospitality of an indi-
6 vidual, as defined in section 109(14) of the Ethics
7 in Government Act.

8 “(20) Free attendance at a widely attended
9 event permitted pursuant to subparagraph (e).

10 “(21) Opportunities and benefits which are—

11 “(A) available to the public or to a class
12 consisting of all Federal employees, whether or
13 not restricted on the basis of geographic consid-
14 eration;

15 “(B) offered to members of a group or
16 class in which membership is unrelated to con-
17 gressional employment;

18 “(C) offered to members of an organiza-
19 tion, such as an employees' association or con-
20 gressional credit union, in which membership is
21 related to congressional employment and similar
22 opportunities are available to large segments of
23 the public through organizations of similar size;

24 “(D) offered to any group or class that is
25 not defined in a manner that specifically dis-

1 criminate among Government employees on the
2 basis of branch of Government or type of re-
3 sponsibility, or on a basis that favors those of
4 higher rank or rate of pay;

5 “(E) in the form of loans from banks and
6 other financial institutions on terms generally
7 available to the public; or

8 “(F) in the form of reduced membership or
9 other fees for participation in organization ac-
10 tivities offered to all Government employees by
11 professional organizations if the only restric-
12 tions on membership relate to professional
13 qualifications.

14 “(22) A plaque, trophy, or other memento of
15 modest value.

16 “(23) Anything for which, in an unusual case,
17 a waiver is granted by the Select Committee on Eth-
18 ics.

19 “(e)(1) Except as prohibited by paragraph 1, a mem-
20 ber, officer, or employee may accept an offer of free at-
21 tendance at a widely attended convention, conference,
22 symposium, forum, panel discussion, dinner, viewing, re-
23 ception, or similar event, provided by the sponsor of the
24 event, if—

1 “(A) the member, officer, or employee partici-
2 pates in the event as a speaker or a panel partici-
3 pant, by presenting information related to Congress
4 or matters before Congress, or by performing a cere-
5 monial function appropriate to the member’s, offi-
6 cer’s, or employee’s official position; or

7 “(B) attendance at the event is appropriate to
8 the performance of the official duties or representa-
9 tive function of the member, officer, or employee.

10 “(2) A member, officer, or employee who attends an
11 event described in clause (1) may accept a sponsor’s unsol-
12 icited offer of free attendance at the event for an accom-
13 panying individual if others in attendance will generally
14 be similarly accompanied or if such attendance is appro-
15 priate to assist in the representation of the Senate.

16 “(3) Except as prohibited by paragraph 1, a member,
17 officer, or employee, or the spouse or dependent thereof,
18 may accept a sponsor’s unsolicited offer of free attendance
19 at a charity event, except that reimbursement for trans-
20 portation and lodging may not be accepted in connection
21 with the event.

22 “(4) For purposes of this paragraph, the term ‘free
23 attendance’ may include waiver of all or part of a con-
24 ference or other fee, the provision of local transportation,
25 or the provision of food, refreshments, entertainment, and

1 instructional materials furnished to all attendees as an in-
2 tegral part of the event. The term does not include enter-
3 tainment collateral to the event, or food or refreshments
4 taken other than in a group setting with all or substan-
5 tially all other attendees.

6 “(f)(1) No member, officer, or employee may accept
7 a gift the value of which exceeds \$250 on the basis of
8 the personal relationship exception in subparagraph (d)(3)
9 or the close personal friendship exception in clause (2) un-
10 less the Select Committee on Ethics issues a written deter-
11 mination that one of such exceptions applies.

12 “(2)(A) A gift given by an individual under cir-
13 cumstances which make it clear that the gift is given for
14 a nonbusiness purpose and is motivated by a family rela-
15 tionship or close personal friendship and not by the posi-
16 tion of the member, officer, or employee of the Senate
17 shall not be subject to the prohibition in clause (1).

18 “(B) A gift shall not be considered to be given for
19 a nonbusiness purpose if the individual giving the gift
20 seeks—

21 “(i) to deduct the value of such gift as a busi-
22 ness expense on the individual’s Federal income tax
23 return, or

1 “(ii) direct or indirect reimbursement or any
2 other compensation for the value of the gift from a
3 client or employer of such lobbyist or foreign agent.

4 “(C) In determining if the giving of a gift is moti-
5 vated by a family relationship or close personal friendship,
6 at least the following factors shall be considered:

7 “(i) The history of the relationship between the
8 individual giving the gift and the recipient of the
9 gift, including whether or not gifts have previously
10 been exchanged by such individuals.

11 “(ii) Whether the gift was purchased by the in-
12 dividual who gave the item.

13 “(iii) Whether the individual who gave the gift
14 also at the same time gave the same or similar gifts
15 to other members, officers, or employees of the Sen-
16 ate.

17 “(g)(1) The Committee on Rules and Administration
18 is authorized to adjust the dollar amount referred to in
19 subparagraph (d)(5) on a periodic basis, to the extent nec-
20 essary to adjust for inflation.

21 “(2) The Select Committee on Ethics shall provide
22 guidance setting forth reasonable steps that may be taken
23 by members, officers, and employees, with a minimum of
24 paperwork and time, to prevent the acceptance of prohib-
25 ited gifts from lobbyists.

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

5 “3. (a)(1) Except as prohibited by paragraph 1, a re-
6 imbursement (including payment in kind) to a member,
7 officer, or employee for necessary transportation, lodging
8 and related expenses for travel to a meeting, speaking en-
9 gagement, factfinding trip or similar event in connection
10 with the duties of the member, officer, or employee as an
11 officeholder shall be deemed to be a reimbursement to the
12 Senate and not a gift prohibited by this rule, if the mem-
13 ber, officer, or employee—

14 “(A) in the case of an employee, receives ad-
15 vance authorization, from the member or officer
16 under whose direct supervision the employee works,
17 to accept reimbursement, and

18 “(B) discloses the expenses reimbursed or to be
19 reimbursed and the authorization to the Secretary of
20 the Senate within 30 days after the travel is com-
21 pleted.

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

1 “(b) Each advance authorization to accept reimbursement
2 shall be signed by the member or officer under whose
3 direct supervision the employee works and shall include—

4 “(1) the name of the employee;

5 “(2) the name of the person who will make the
6 reimbursement;

7 “(3) the time, place, and purpose of the travel;
8 and

9 “(4) a determination that the travel is in connection
10 with the duties of the employee as an officeholder and would not create the appearance that the
11 employee is using public office for private gain.

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

19 “(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

21 “(2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

23 “(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

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

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

6 “(6) in the case of a reimbursement to a mem-
7 ber or officer, a determination that the travel was in
8 connection with the duties of the member or officer
9 as an officeholder and would not create the appear-
10 ance that the member or officer is using public office
11 for private gain.

12 “(d) For the purposes of this paragraph, the term
13 ‘necessary transportation, lodging, and related ex-
14 penses’—

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

21 “(2) is limited to reasonable expenditures for
22 transportation, lodging, conference fees and mate-
23 rials, and food and refreshments, including reim-
24 bursement for necessary transportation, whether or

1 not such transportation occurs within the periods de-
2 scribed in clause (1);

3 “(3) does not include expenditures for rec-
4 reational activities, or entertainment other than that
5 provided to all attendees as an integral part of the
6 event; and

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

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

19 “4. In this rule:

20 “(a) The term “client” means any person or en-
21 tity that employs or retains another person for fi-
22 nancial or other compensation to conduct lobbying
23 activities on behalf of that person or entity. A per-
24 son or entity whose employees act as lobbyists on its
25 own behalf is both a client and an employer of such

1 employees. In the case of a coalition or association
2 that employs or retains other persons to conduct lob-
3 bying activities, the client is—

4 “(1) the coalition or association and not its
5 individual members when the lobbying activities
6 are conducted on behalf of its membership and
7 financed by the coalition’s or association’s dues
8 and assessments; or

9 “(2) an individual member or members,
10 when the lobbying activities are conducted on
11 behalf of, and financed separately by, 1 or more
12 individual members and not by the coalition’s or
13 association’s dues and assessments.

14 “(b)(1) The term “lobbying contact” means any
15 oral or written communication (including an elec-
16 tronic communication) to a member, officer, or em-
17 ployee of the Senate that is made on behalf of a cli-
18 ent with regard to the formulation, modification, or
19 adoption of Federal legislation (including legislative
20 proposals) or the nomination or confirmation of a
21 person for a position subject to confirmation by the
22 Senate.

23 “(2) The term “lobbying contact” does not in-
24 clude a communication that is—

1 “(A) made by a public official acting in the
2 public official’s official capacity;

3 “(B) made by a representative of a media
4 organization if the purpose of the communica-
5 tion is gathering and disseminating news and
6 information to the public;

7 “(C) made in a speech, article, publication
8 or other material that is widely distributed to
9 the public, or through radio, television, cable
10 television, or other medium of mass communica-
11 tion;

12 “(D) made on behalf of a government of a
13 foreign country or a foreign political party and
14 disclosed under the Foreign Agents Registra-
15 tion Act of 1938 (22 U.S.C. 611 et seq.);

16 “(E) a request for a meeting, a request for
17 the status of an action, or any other similar ad-
18 ministrative request, if the request does not in-
19 clude an attempt to influence a member, officer,
20 or employee of the Senate;

21 “(F) made in the course of participation in
22 an advisory committee subject to the Federal
23 Advisory Committee Act;

24 “(G) testimony given before a committee,
25 subcommittee, or task force of the Congress, or

1 submitted for inclusion in the public record of
2 a hearing conducted by such committee, sub-
3 committee, or task force;

4 “(H) information provided in writing in re-
5 sponse to a written request by a member, offi-
6 cier, or employee of the Senate for specific infor-
7 mation;

8 “(I) required by subpoena, civil investiga-
9 tive demand, or otherwise compelled by statute,
10 regulation, or other action of the Congress or
11 an agency;

12 “(J) made on behalf of an individual with
13 regard to that individual’s benefits, employ-
14 ment, or other personal matters involving only
15 that individual, except that this subclause does
16 not apply to any communication with a mem-
17 ber, officer, or employee of the Senate (other
18 than the individual’s elected Senators or em-
19 ployees who work under such Senators’ direct
20 supervision) with respect to the formulation,
21 modification, or adoption of private legislation
22 for the relief of that individual;

23 “(K) a disclosure by an individual that is
24 protected under the amendments made by the
25 Whistleblower Protection Act of 1989, under

1 the Inspector General Act of 1978, or under an-
2 other provision of law; or

3 “(L) made by—

4 “(i) a church, its integrated auxiliary,
5 or a convention or association of churches
6 that is exempt from filing a Federal in-
7 come tax return under paragraph 2(A)(i)
8 of section 6033(a) of the Internal Revenue
9 Code of 1986, or

10 “(ii) a religious order that is exempt
11 from filing a Federal income tax return
12 under paragraph (2)(A)(iii) of such section
13 6033(a),

14 if the communication constitutes the free exercise of
15 religion or is for the purpose of protecting the right
16 to the free exercise of religion.

17 “(c)(1) The term “lobbying firm”—

18 “(A) means a person or entity that has 1
19 or more employees who are lobbyists on behalf
20 of a client other than that person or entity; and

21 “(B) includes a self-employed individual
22 who is a lobbyist; but

23 “(C) does not include a person or entity
24 whose—

1 (i) total income for matters related to
2 lobbying activities on behalf of a particular
3 client (in the case of a lobbying firm) does
4 not exceed and is not expected to exceed
5 \$2,500; or

16 “(2) The dollar amounts in clause (1) shall be
17 adjusted—

22 “(B) on January 1 of each fourth year oc-
23 curring after January 1, 1997, to reflect
24 changes in the Consumer Price Index (as deter-

4 “(d)(1) The term ‘‘lobbyist’’—

5 “(A) means any individual who is employed
6 or retained by a client for financial or other
7 compensation for services that include one or
8 more lobbying contacts, other than an individ-
9 ual whose lobbying activities constitute less
10 than 10 percent of the time engaged in the
11 services provided by such individual to that cli-
12 ent; but

13 “(B) does not include an individual
14 whose—

15 (i) total income for matters related to
16 lobbying activities on behalf of a particular
17 client (in the case of a lobbying firm) does
18 not exceed and is not expected to exceed
19 \$2,500; or

20 (ii) total expenses in connection with
21 lobbying activities (in the case of an orga-
22 nization whose employees engage in lobby-
23 ing activities on its own behalf) do not ex-
24 ceed or are not expected to exceed \$5,000,

1 (as estimated in accordance with standards is-
2 sued by the Committee on Rules and Adminis-
3 tration) in the preceding semiannual period of
4 January through June or July through
5 December.

6 “(2) The dollar amounts in clause (1) shall be
7 adjusted—

8 “(A) on January 1, 1997, to reflect
9 changes in the Consumer Price Index (as deter-
10 mined by the Secretary of Labor) since the date
11 of enactment of this title; and

12 “(B) on January 1 of each fourth year oc-
13 curring after January 1, 1997, to reflect
14 changes in the Consumer Price Index (as deter-
15 mined by the Secretary of Labor) during the
16 preceding 4-year period,

17 rounded to the nearest \$500.

18 “(e) The term “public official” means any elect-
19 ed official, appointed official, or employee of—

20 “(1) a Federal, State, or local unit of gov-
21 ernment in the United States other than—

22 “(A) a college or university;

23 “(B) a government-sponsored enter-
24 prise (as defined in section 3(8) of the

14 “(2) a Government corporation (as defined
15 in section 9101 of title 31, United States
16 Code):

17 “(3) an organization of State or local elect-
18 ed or appointed officials other than officials of
19 an entity described in subclause (A), (B), (C),
20 (D), or (E) of clause (1);

21 “(4) an Indian tribe (as defined in section
22 4(e) of the Indian Self-Determination and Edu-
23 cation Assistance Act (25 U.S.C. 450b(e));

1 “(6) a national, regional, or local unit of
2 any foreign government.

3 “(f) The term “State” means each of the sev-
4 eral States, the District of Columbia, and any com-
5 monwealth, territory, or possession of the United
6 States.”.

○

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