



Restrictions on the Acceptance of “Officially Connected” Travel Expenses from Private Sources Under House and Senate Ethics Rules

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Summary

While the acceptance by Members of Congress and staff of personal gifts from most outside, private sources is significantly regulated and restricted by internal congressional rules, Members of the House and Senate may still generally accept from some private sources—other than those who are registered lobbyists or registered foreign agents—*necessary* travel expenses, including transportation, food and lodging, for travel “in connection with” their official duties, such as for fact-finding trips, conferences or symposia, under certain limited circumstances. Under both House and Senate Rules, the over-all purpose of any privately funded trip of this nature must be related or connected to official duties, and may not be “substantially recreational in nature.” Furthermore, while Members may accept “necessary” travel expenses for events which are sufficiently officially-related or “officially connected,” the expenses for incidental *recreational* activities during these trips, such as the costs for golf, snow-skiing, jet-skiing, or tennis, are expressly *not* considered “necessary” expenses of such travel under either the House or the Senate Rules, and thus fall within the general prohibitions and the \$50 limitations on gifts from private sources. (Under both the House and Senate Rules, gifts from *any* private source, other than from relatives and certain long-term personal friends, are generally prohibited if the value of the gift is \$50 or more.) The duration of any permitted trip under the “officially connected” travel exception is limited in the House to four days for domestic and seven days for foreign travel (excluding travel days), and in the Senate to three days for domestic travel and seven days for foreign travel (also excluding travel days). Staff employees must receive advance approval for accepting from private sources expenses for such officially connected travel, and whenever expenses or reimbursement for officially connected travel are accepted by Members or staff, a disclosure report on such travel and expenses is required to be made within 30 days of the end of the travel.

Contents

Statute and Rules	1
Federal Law	1
Congressional Rules.....	2
Officially Connected Travel	3
Background	3
Current Rules	5
1. Officially Connected Purpose	5
2. Lobbyists or Foreign Agents	5
3. Source of Funds	6
4. Recreation and “Necessary” Expenses	7
5. “Reasonable” Expenses	7
6. Duration.....	8
7. Side Trips and Stop-Overs	8
8. Reporting, Disclosure.....	8
Bribery, Illegal Gratuities	9

Appendixes

Appendix. Language of Relevant House and Senate Rules	10
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Contacts

Author Contact Information	13
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This report discusses the statutory and congressional rule structure under which Members of the House and Senate, under an exception to the gift Rules, may generally accept from some private sources—other than registered lobbyists or registered foreign agents—*necessary* travel expenses, including transportation, food and lodging, for travel “in connection with” their official duties, such as for fact-finding trips, conferences or symposia, under certain circumstances and limitations.

Statute and Rules

The receipt of “gifts” by Members and staff of the House of Representatives and of the Senate, including the receipt or acceptance of payment or reimbursement of travel expenses from outside, private, third-party sources, is generally restricted by the operation of federal statutory law, as applied by the House and Senate Rules.¹ Under these provisions, Members of Congress and congressional staff are prohibited from soliciting or accepting gifts from *any* private sources unless expressly permitted by an exception in the congressional rules. Members and staff may generally *not* accept private gifts, reimbursements, or payments of their expenses, other than from their relatives and certain long-term personal friends, when the value of a gift is \$50 or more (or when multiple gifts of under \$50 from the same source aggregate \$100 or more in a calendar year). There do exist exceptions to the gifts prohibitions under both House and Senate Rules which allow for the acceptance of some *travel* expenses from outside, third parties for what is characterized as “officially connected” travel by Members, officers and employees of the House and Senate in specifically defined and limited circumstances.

Federal Law

Provisions of federal law currently provide the general standard and prohibition on the receipt of “gifts” from certain private sources. 5 U.S.C. § 7353, states:

§ 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.

While subsection (a) of this law provides the general prohibition on the receipt of gifts from interested parties, subsection (b) of the statute expressly allows the appropriate “supervising ethics office” to promulgate rules or regulations regarding the acceptance of gifts by officers and

¹ U.S.C. § 7353; House Rule XXV, Senate Rule XXXV. The receipt of gifts from *foreign governments* is governed by the provisions of the Constitution, Article I, Section 9, cl. 8, and the Foreign Gifts and Decorations Act, *note* 5 U.S.C. § 7342, as interpreted by the House Committee on Standards of Official Conduct and the Senate Select Committee on Ethics.

employees, and to provide such "reasonable exceptions as may be appropriate," whereby officers or employees may accept such gifts pursuant to those rules.² The "gift" Rules of the House and the Senate thus generally operate as the regulatory scheme setting out the standards for Members, officers and employees of the House and Senate, respectively, as to the prohibitions and the exceptions to the restrictions upon acceptance of private gifts and reimbursement.

Congressional Rules

The Rules of the House, at House Rule XXV, clause 5, and of the Senate, at Senate Rule XXXV, generally prohibit the receipt by Members and staff of any gifts of \$50 or more in value from *any* private source (and those gifts of \$10 or more aggregating \$100 or more in a year from the same source), unless specifically permitted by one or more of the various exceptions specifically provided in the Rules.³ As noted above, one of the more common exceptions is for gifts from relatives or from (or exchanged between) certain long-term, personal friends of the Member or congressional staffer. Additionally, there are exceptions in the House and Senate Rules for the receipt (but not the solicitation) of certain travel expenses from private sources in specifically defined and limited circumstances.

Under congressional rules, the threshold consideration in determining the propriety of accepting private reimbursement or payment of expenses for *travel* is the characterization of the *purpose* of the particular travel in question. Travel may be for strictly official, congressional business; may be for campaign related or other "political" reasons; may be to participate in a charitable fundraiser; may be in relation to a Member's or a Member's spouse's outside private business endeavors; may be for purely personal purposes such as recreation, vacation or pleasure; may be for "officially connected" reasons, such as fact-finding tours or conferences; or may be some combination of these. In such cases, differing rules, prohibitions, standards and restrictions may apply depending on the nature and purpose of the travel.

For example, travel for strictly official, core congressional business may not be paid for or reimbursed at all by outside, private third parties, as the House and Senate Rules on unofficial office accounts prohibit the establishment or functional operation of what used to be called congressional "slush funds," that is, private contributions or private funds paying for official congressional operations or activities.⁴ Expenses for travel for campaign related or other "political" reasons may be paid for or reimbursed from campaign accounts subject to campaign finance laws and regulations (but generally in relation to federal elections may not be accepted from corporations, labor unions, national banks, or government contractors under federal campaign laws), and when and if paid for by other outside, private parties must conform to

² 5 U.S.C. § 7353

(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.

(b)(2)(A) Subject to paragraph (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)(2)(B) No gift may be accepted pursuant to subsection (A) in return for being influenced in the performance of any official act.

³ House Rule XXV, clause 5(a)(1) and (2); Senate Rule XXXV, clause 1(a) and (b). The text of the relevant House and Senate Rules are appended to this Report.

⁴ House Rule XXIV, clauses 1-3; Senate Rule XXXVIII, clause 1; 2 U.S.C. § 59e(d).

federal campaign finance laws.⁵ Some travel and certain expenses for charitable fund-raisers may be accepted by Members participating in such fund-raising events for the charity, under particular limitations of the House and Senate Rules.⁶ Reimbursement or payment for travel in relation to a Member's or a Member's spouse's outside private business endeavors may generally be accepted subject to guidelines,⁷ while the payment by outside, private sources for travel for purely personal purposes, such as recreation, vacation or pleasure, would generally be prohibited as an impermissible personal "gift" when \$50 or more in value.⁸

Officially Connected Travel

The travel that has recently raised several questions has been the acceptance of private payment or reimbursement of "officially connected" travel by Members and staff. Both the Rules of the House of Representatives and the Rules of the Senate expressly permit, as an exception to the general gifts restriction, the payment or reimbursement by certain outside, private sources of the "necessary" travel expenses of Members for events such as conferences, fact-finding tours, symposia or lectures which, although not core congressional functions, are "in connection with" or sufficiently related to a Member's official duties. The wording of the House and Senate Rules on this subject are substantially identical,⁹ other than as to the permissible duration of such trips, which is limited in the House to four days for domestic and seven days for foreign travel (excluding travel days), and in the Senate to three days for domestic travel and seven days for foreign travel (also excluding travel days).

Background

The exception to the gift prohibitions in the House and Senate for the receipt of reimbursement or payment of expenses for "fact-finding," and similar types of officially-related or officially-connected activities has been one of fairly long-standing under congressional rules. The first restrictions on gifts with specific monetary limitations and detailed guidelines were enacted in the House and Senate in 1977,¹⁰ and under these Rules, provisions were made for Members and staff to accept certain travel expenses and reimbursement for such "fact-finding" events. In the House of Representatives in the 95th Congress, a Select Committee on Ethics was established to provide

⁵ 2 U.S.C. §§ 439a, 441a, 441b, 441c, 441e, 441f, 441g; contributions to and expenditures by candidates must be reported as provided in 2 U.S.C. §§ 432, 434; *see also* House Rule XXV, cl. 5(a)(3)(G)(iii); Senate Rule XXXV, cl. 1(c)(7)(C).

⁶ House Rule XXV, cl. 5(a)(4)(C); Senate Rule XXXV, cl. 2(d)(3); *see* discussion of "Recreation and 'Necessary' Expenses" in this Report, at pp. 7-8, *infra*.

⁷ House Rule XXV, cl. 5(a)(3)(G)(i)(ii); Senate Rule XXXV, cl. 1(c)(7)(A) and (B), if such benefits are "customarily provided" to others in similar circumstances, and are not "offered or enhanced because of" the Member's official position.

⁸ House Rule XXV, cl. 5(a)(1) and (2); Senate Rule XXXV, cl. 1(a) and (b).

⁹ *See Appendix* to this report for the precise language of relevant House and Senate Rules.

¹⁰ *See* H.Res. 287, 95th Cong. (1977); S.Res. 110, 95th Cong. (1977). The first internal "gifts" rules were not adopted by the House until 1968, and then provided only that Members and staff should not accept gifts of "substantial value" from those with interests in legislation before Congress. H.Res. 1099, 90th Cong. (1968). The Senate Rules in 1968 provided merely for confidential disclosure of gifts of more than \$50 from other than family members. S.Res. 266, 90th Cong. (1968).

advisory opinions and guidance on the new restrictions on gifts.¹¹ The Select Committee noted that although “there has been some criticism regarding abuses of ‘fact finding tours’ in the past,” it would not be in the public interest to prohibit Members from accepting necessary travel expenses for “fact finding events or activities which have a legitimate purpose directly related to the official duties of the Congress.”¹² The Committee noted that “although a Member of Congress may render some personal services in the course of a fact-finding event, the primary purpose of the trip is for the Members, officers, or employees to become better informed regarding subject matters closely related to their official duties,”¹³ and found:

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 [now XXV, clause 5], 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 expenses aggregating over \$250 in value from one source would be subject to disclosure This public disclosure will guard against the potential abuse of converting this kind of activity from an official business purpose to that of personal pleasure or entertainment. Gifts of that nature exceeding \$100 [now \$50] in value were clearly intended to be prohibited¹⁴

To protect against potential abuses, the Select Committee narrowly defined “fact-finding” tours and activities to exclude reimbursements or provision to a Member of transportation by a corporation to his home district “on the grounds that he would ‘tour’ the corporate facilities there,” and such things as “ship-launchings” or inaugural airline flights, which were considered more in the nature of promotional events. The Committee further emphasized that Members may only accept *necessary expenses* incurred in a fact-finding activity, and may not accept even entertainment, or expenses or reimbursements for entertainment, which, among all other reimbursements, expenses or things of value beyond *necessary expenses*, would be considered *gifts* to the Member subject to the specific dollar limitation on gifts:

Additionally, the Select Committee emphasizes that the definition of a “fact-finding event” must be interpreted narrowly. House Rule XLIII, clause 2 [now XXIII, clause 2] puts Members on notice that not only the “letter” but also the “spirit” of House Rules must be adhered to....

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.... Similarly, this exemption for fact-finding activities applies only to *necessary expenses* (transportation, food, 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 dollar limitation].¹⁵

¹¹ H.Res. 383, 95th Cong. (1977).

¹² House Select Committee on Ethics of the 95th Congress, Advisory Opinion No. 8, May 11, 1977, *see* H.R. Rpt. No. 95-1837, 95th Cong., 2d Sess. 69-71 (1979).

¹³ Compare to Advisory Opinion No. 2, April 6, 1977, on receipt of expenses when the Member renders personal services or substantially participates. Formerly under House Rules, Members could accept expenses when substantially participating, or when engaged in fact-finding related to one’s official duties.

¹⁴ House Select Committee on Ethics of the 95th Congress, H.R. Rpt. No. 95-1837, *supra*.

¹⁵ *Id.*

Current Rules

The current House and Senate Rules now reflect in their language the traditional restrictions and limitations on this type of privately financed travel, as well as other specific limitations, restrictions, and requirements.¹⁶ Because such events are intended to be restricted to those connected to one's official duties, and are ostensibly for the purpose of informing, educating or broadening the knowledge of the Member of certain issues and their factual backgrounds relevant to matters coming before the Member in an official capacity, such expenses received by or reimbursed for the Member are "considered" or "deemed" to be a "reimbursement to the House" or "to the Senate," as the case may be, rather than a personal gift to the Member, as long as such expenses are publicly disclosed within 30 days of the end of the travel.¹⁷ However, because of the obvious potential and opportunities for abuse, such privately funded travel is limited and restricted in some detail.¹⁸ Under both the House and Senate Rules, the following general limitations apply:

1. Officially Connected Purpose

The underlying event for which expenses are accepted must be connected to or related to one's official duties, that is, "in connection with" a Member's duties "as an officeholder."¹⁹ Activities or events such as meetings, fact-findings, speaking engagements, lectures, classes, conventions, symposia, or product or process demonstrations may be those types of matters when the underlying subject is sufficiently related or connected to a Member's official duties. Both the House and Senate Rules indicate that the underlying purpose and activities of the trip must be related sufficiently enough to one's official duties so that engaging in such privately paid travel "would not create the appearance that the Member ... is using public office for private gain."²⁰ If the over-all purpose of the trip is "substantially recreational in nature," the trip will not be considered officially connected.²¹

2. Lobbyists or Foreign Agents

The expenses of officially connected travel may not be paid for by a registered lobbyist or an agent of a foreign principle registered under the Foreign Agents Registration Act. While "lobbyists" and "lobbying firms" are prohibited from paying for such travel, the *clients* or employers of the lobbyists or lobbying firms (that is, organizations or businesses which employ lobbyists either directly as employees or by contract with outside lobbyists) are not considered

¹⁶ The House and Senate gifts Rules were again significantly amended after 1977 in 1991, pursuant to the Ethics Reform Act of 1989, P.L. 101-194 (see also P.L. 102-90, Section 314, 102nd Cong., (1992)), and in 1995, S.Res. 158, 104th Cong. (1995), H.Res. 250, 104th Cong. (1995).

¹⁷ House Rule XXV, cl. 5(b)(1)(A); Senate Rule XXXV, clause 2(a)(1).

¹⁸ The Senate Select Committee on Ethics has issued in May of 2005 a two-page "Best Practices Guide" with respect to privately sponsored travel, including practical and detailed recommendations and checklists for such travel. The guide is accessible on the Committee's website, <http://ethics.senate.gov>, under "Recent Updates & Notices."

¹⁹ House Rule XXV, cl. 5(b)(1)(A); Senate Rule XXXV, clause 2(a)(1).

²⁰ House Rule XXV, cl. 5(b)(3)(F); Senate Rule XXXV, clause 2(c)(6).

²¹ Any event, the "activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of a Member ... as an officeholder." House Rule XXV, cl. 5(b)(1)(B); Senate Rule XXXV, clause 2(a)(2).

"lobbyists" themselves and may sponsor and reimburse officially-related travel.²² In addition to the prohibition of lobbyists funding such fact-finding trips, the House Committee on Standards of Official Conduct has expressly noted in an official publication issued in April of 2000, that "The prohibition against accepting travel expenses from a registered lobbyist, an agent of a foreign principal, or a lobbying firm applies even where the lobbyist, agent or firm will later be reimbursed for those expenses by a non-lobbyist client."²³ While the lobbyist may not pay for the travel expenses, even if later reimbursed by a client, the Rules do not expressly prohibit the lobbyist from accompanying the Members and attending such event paid for by the lobbyist's clients or employers. The Senate provides that the lobbyist is not prohibited from "assisting the organization in arranging the event, for example, by issuing the invitations on behalf of the organization or attending the event."²⁴ The discussion of the House Rules notes that a private entity paying for officially connected travel should "both organize and conduct the trip, rather than merely pay for a trip that is in fact organized and conducted by someone else," but the House Rules do not expressly prohibit a lobbyist either accompanying a Member on such event, nor personally extending the sponsoring organization's invitation to the Member.²⁵

3. Source of Funds

The source of the funds for a fact-finding event must be the sponsor of the event, or an entity sufficiently connected to the event or sponsoring organization in some way. The House notes that a Member "may accept expenses for officially connected travel only from a private source that has a direct and immediate relationship with the event or the location being visited."²⁶ Similarly, the Senate notes that the "sponsor of the event" may pay for travel, and that other parties "so closely connected to particular events and their sponsors as to render them permissible providers" may also pay necessary expenses.²⁷ Because the actual source of funds may not be readily evident, the House Committee on Standards of Official Conduct expressly advises Members to "make inquiry on the source of the funds that will be used to pay for the trip":

The rule is concerned with the organization(s) or individual(s) that actually pay for travel. Thus, for example, where a non-profit organization pays for travel with donations that were earmarked, either formally or informally, for the trip, each such donor is deemed a "private source" for the trip and (1) must be publicly disclosed as a trip sponsor on the applicable travel disclosure forms and (2) may itself be required to satisfy the above standards on proper source of travel expenses. Accordingly, it is advisable for a Member or staff person who is invited on a trip to make inquiry on the source of the funds that will be used to pay for the trip.²⁸

²² See discussion in Senate Select Committee on Ethics, *Senate Ethics Manual*, 108th Congress, 1st Sess. at 43 (2003); House Committee on Standards of Official Conduct, *Gifts and Travel*, 106th Congress, 2nd Sess. at 56, 76 (April 2000). If a client is a foreign government, however, different rules and travel restrictions apply to gifts from foreign governments, see Article I, Section 9, cl. 8, and the Foreign Gifts and Decorations Act, now 5 U.S.C. § 7342.

²³ House Committee on Standards of Official Conduct, *Gifts and Travel*, 106th Congress, 2nd Sess. 76 (April 2000).

²⁴ *Senate Ethics Manual*, *supra* at 44.

²⁵ *Gifts and Travel*, *supra* at 75-76.

²⁶ *Gifts and Travel*, *supra* at 75.

²⁷ *Senate Ethics Manual*, *supra* at 48-49. Entities "sufficiently affiliated to the host," such as member groups of the sponsoring organization; if the directors, principal officers and trustees of such groups are the same for the sponsoring organization; or if there exists a "direct corporate and/or financial relationship between the sponsoring organization and the group."

²⁸ *Gifts and Travel*, *supra* at 75-76.

4. Recreation and "Necessary" Expenses

The permissible expenses that may be accepted for officially-connected events are only for "necessary" expenses of travel, including such things as food, transportation, lodging, conference fees, and conference or lecture materials. The Rules expressly define "necessary" expenses as being "limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments"²⁹

The House and Senate Rules both clearly state that "necessary expenses" do *not* include expenditures for "recreational activities."³⁰ That is, the expenses for recreational activities, even those during and incidental to otherwise legitimate, officially-connected travel, are *not* within this exception, and are therefore subject to the \$50 limitation on personal gifts to the Member; and would include such things as expenses for jet-skiing, water skiing, golf green-fees, club guest fees and rentals, and fishing expeditions. As explained by the House Committee on Standards of Official Conduct, for example: "[D]uring the course of a trip, entertainment or recreational activities may be accepted from a private source only if their total value is less than \$50, and the overall gift limit of less than \$100 in any calendar year is complied with."³¹ Additionally, "entertainment" expenses are not considered "necessary expenses," and may not be accepted unless the entertainment is "provided to all attendees as an integral part of the event."³²

5. "Reasonable" Expenses

The Rules of the House and Senate provide that the "necessary" expenses which are and may be accepted in relation to officially connected travel must also be "reasonable."³³ There appear to be, however, no published guidelines or tables delineating any specific monetary amounts considered within, or outside of, the range of "reasonable" expenses for travel and lodging. It should be noted that the House Committee on Standards of Official Conduct explains that the qualifiers "necessary" and "reasonable" may also limit the time frame for which expenses may be accepted, depending on the nature of the event. Thus, a Member, officer or employee "may accept only such expenses as are reasonably necessary to accomplish the purpose of the trip, and thus it may

²⁹ House Rule XXV, cl. 5(b)(4)(B); Senate Rule XXXV, clause 2(d)(2).

³⁰ House Rule XXV, cl. 5(b)(4)(C); Senate Rule XXXV, clause 2(d)(3).

³¹ House Committee on Standards of Official Conduct, Memorandum to all Members, Officers and Employees ("Pink Sheet"), "Reminders on the Travel Rules," at 2, October 30, 2003. Expenses (of \$50 or more) from persons who are not relatives or personal friends for such things as golf (including green fees and transportation to the golfing event) or fishing or tennis tournaments, might be acceptable under congressional rules in the case of a charitable fund-raising event, when the golf, fishing or tennis "tournament" is the fund-raiser, and the Member accepts an unsolicited offer of free attendance. Senate Rule XXXV, clause 2(d)(3); House Rule XXV, clause 5(a)(4)(C). The House and Senate Rules differ as to the permissibility of acceptance of non-local expenses of travel for recreational "charitable events," which the Senate prohibits but which the House allows under some circumstances. Senate Select Committee on Ethics, *Senate Ethics Manual*, 108th Congress, 1st Sess. at 45 (2003)), House Rule XXV, clause 5(a)(4)(C)(i)-(iii). Recreational events such as golf might also be part of a political fundraising event in which Members and staff may participate when paid for by a "political organization" sponsoring the event. House Rule XXV, cl. 5(a)(3)(G)(iii); Senate Rule XXXV, cl. 1(c)(7)(C).

³² House Committee on Standards of Official Conduct, Memorandum to all Members, Officers and Employees, "Reminders on the Travel Rules," *supra* at 2

³³ House Rule XXV, cl. 5(b)(4)(A) and (B); Senate Rule XXXV, clause 2(d)(1) and (2).

not always be proper to accept expenses for the full four- or seven-day period. This is particularly so where the sole purpose of an individual's travel to an event is to give a speech."³⁴

6. Duration

Officially connected, necessary travel expenses may be accepted in the House of Representatives for travel for up to four days for domestic events, and seven days for foreign travel (excluding travel days), and in the Senate for up to three days for domestic travel and seven days for foreign travel (also excluding travel days).³⁵ These are maximum allowed stays, and the permissible duration of any given trip may depend, as discussed above, on the necessity and reasonableness of expenses in relation to the Member's actual functions and/or participation in any particular officially connected event or events.

7. Side Trips and Stop-Overs

Additional expenses for side trips and events "unrelated to the purpose of the trip" are not permitted. In the House, the House Committee on Standards of Official Conduct notes that a Member may "not accept additional expenses for stopovers that are unrelated to the purpose of the trip"³⁶; and in the Senate, the Senate Select Committee on Ethics notes that "necessary expenses" do not "include expenses which are associated with appearances or activities unrelated to the sponsor's event."³⁷ If a Member wishes to extend a trip after the event for which expenses may be accepted, the Member may still accept return transportation from the event locale (but if the extension causes a higher airfare, the Member must pay the additional fare), but any side trips or additional stopovers for unrelated activities must be paid for by the Member, or fit within the \$50 limitation on a gift from private sources.³⁸

8. Reporting, Disclosure

Members of the House and the Senate are not required to provide advance notification or receive advance approval for officially connected travel. Staff employees, however, under the House and Senate Rules are required to receive advance authorization in writing from their employing Member of Congress or congressional officer, specifically determining that the purpose of the trip is officially connected and in conformance with the Rules, prior to accepting officially connected travel expenses. In the case of Members, or officers and employees, a full disclosure and reporting of any trip for which privately financed travel expenses for "officially connected" events are accepted must be made within 30 days after the end of travel. This disclosure must include the dates, itinerary, identification of the trip sponsor, a specific dollar figure for expenses when available (otherwise a "good faith" estimate of expenses), and in the case of a Member, indicating that a specific determination that the purpose of the trip is officially connected was

³⁴ *Gifts and Travel*, *supra* at 78.

³⁵ House Rule XXV, cl. 5(b)(4)(A); Senate Rule XXXV, clause 2(d)(1).

³⁶ *Gifts and Travel*, *supra* at 80.

³⁷ *Senate Ethics Manual*, *supra* at 46.

³⁸ "Travelers may extend trips at their own expense and on their own time and still accept return transportation. ... Travelers may not accept additional reimbursements from the sponsor to cover the costs of personal travel." *Senate Ethics Manual*, *supra* at 47.

made by the Member and “would not create the appearance that the Member ... is using public office for private gain.”³⁹

Bribery, Illegal Gratuities

The preceding discussion has centered around the language and interpretations of internal House and Senate Rules on the acceptance of gifts and things of value from outside, private sources. It should be noted that there are also criminal statutes that involve specifically the receipt of anything of value by a public official. While a “gift” is generally understood to be given and accepted with no “strings attached,” that is, that the gift has the requisite donative intent and is not specifically connected to or related to any particular “official act” by the public officer, the criminal laws are aimed at the receipt of things of value when the offer and/or acceptance or receipt are connected in some way to an official act or forbearance by that public official. The “bribery” provisions of federal law prohibit the “corrupt” receipt of something of value “in return for” being influenced in any official act, while the “illegal gratuities” clause of that law requires merely the receipt of something of value with the knowledge that one is being compensated or rewarded “for or because of” any official act done or to be done.⁴⁰

³⁹ House Rule XXV, clause 5(b)(1)(A)(ii), and (3); Senate Rule XXXV, clause 2(a)(1)(B) and 2(b).

⁴⁰ 18 U.S.C. §201(b), (c). *United States v. Sun-Diamond Growers of California*, 526 U.S. 398 (1999). See also 18 U.S.C. § 203.

Appendix. Language of Relevant House and Senate Rules

House Rule XXV, clause 5:

(b) (1) (A) A reimbursement (including payment in kind) to a Member, Delegate, Resident Commissioner, officer, or employee of the House 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 his duties as an officeholder shall be considered as a reimbursement to the House and not a gift prohibited by this clause, if the Member, Delegate, Resident Commissioner, officer, or employee—

(i) in the case of an employee, receives advance authorization, from the Member, Delegate, Resident Commissioner, or officer under whose direct supervision the employee works, to accept reimbursement; and

(ii) discloses the expenses reimbursed or to be reimbursed and the authorization to the Clerk within 30 days after the travel is completed.

(B) For purposes of subdivision (A), events, the activities of which are substantially recreational in nature, are not considered to be in connection with the duties of a Member, Delegate, Resident Commissioner, officer, or employee of the House as an officeholder.

(2) Each advance authorization to accept reimbursement shall be signed by the Member, Delegate, Resident Commissioner, or officer of the House under whose direct supervision the employee works and shall include—

(A) the name of the employee;

(B) the name of the person who will make the reimbursement;

(C) the time, place, and purpose of the travel; and

(D) 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.

(3) Each disclosure made under subparagraph (1)(A) of expenses reimbursed or to be reimbursed shall be signed by the Member, Delegate, Resident Commissioner, or officer (in the case of travel by that Member, Delegate, Resident Commissioner, or officer) or by the Member, Delegate, Resident Commissioner, or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

(A) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

(B) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

(C) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

(D) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

(E) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in subparagraph (4); and

(F) in the case of a reimbursement to a Member, Delegate, Resident Commissioner, or officer, a determination that the travel was in connection with his duties as an officeholder and would not create the appearance that the Member, Delegate, Resident Commissioner, or officer is using public office for private gain.

(4) In this paragraph the term "necessary transportation, lodging, and related expenses"—

(A) includes reasonable expenses that are necessary for travel for a period not exceeding four days within the United States or seven days exclusive of travel time outside of the United States unless approved in advance by the Committee on Standards of Official Conduct;

(B) 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 subdivision (A);

(C) 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 clause; and

(D) may include travel expenses incurred on behalf of a relative of the Member, Delegate, Resident Commissioner, officer, or employee.

(5) The Clerk shall make available to the public all advance authorizations and disclosures of reimbursement filed under subparagraph (1) as soon as possible after they are received.

Senate Rule XXXV

2. (a) (1) A reimbursement (including payment in kind) to a Member, officer, or employee from an individual 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 Senate 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 Secretary of the Senate within 30 days after the travel is completed.

(2) For purposes of clause (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 subparagraph (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 this paragraph; 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 paragraph, the term “necessary transportation, lodging, and related expenses”—

(1) includes reasonable expenses that are necessary for travel for a period not exceeding three days exclusive of travel time within the United States or seven days exclusive of travel time outside of the United States unless approved in advance by the Select Committee on Ethics;

(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 clause (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, subject to a determination signed by the Member or officer (or in the case of an employee, the Member or officer under whose direct supervision the employee works) that the attendance of the spouse or child is appropriate to assist in the representation of the Senate.

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

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