

# CRS Report for Congress

## Gifts and Ethics Rules: Side-by-Side Comparison of Provisions of S. 1 and H.Res. 6, 110<sup>th</sup> Congress

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# Gifts and Ethics Rules: Side-by-Side Comparison of Provisions of S. 1 and H.Res. 6, 110<sup>th</sup> Congress

## Summary

The following chart presents, in summary fashion, a side-by-side comparison of the provisions in S. 1 and H.Res. 6, 110<sup>th</sup> Congress, which relate specifically to congressional ethics, including the receipt of gifts from lobbyists and their clients and the acceptance of payment or reimbursement of expenses from outside, private sources for “officially connected” travel expenses. Although the provisions of both S. 1 and H.Res. 6 deal with other matters, including changes to the internal procedures in the Senate and House, respectively, (and in S. 1, changes to the federal lobbying statute), this chart focuses only on comparing the amendments and proposed changes dealing with “ethics” provisions affecting Members, employees, and officers of either House of Congress. (For a summary of all of the provisions of S. 1, see CRS Report RL33852, *Ethics, Lobbying, and Related Procedural Reforms Proposed in S. 1*, 110<sup>th</sup> Congress.)

On January 4, 2007, the House of Representatives adopted H.Res. 6, 110<sup>th</sup> Congress, which amended the internal Rules of the House to apply greater restrictions, more transparency, and further regulation to the acceptance by Members and staff of “gifts” from private, outside sources, including the acceptance of travel expenses or reimbursements for “officially connected” travel by Members and staff. The Rules changes prohibiting the receipt of even *de minimis* gifts (less than \$50 in value) from lobbyists, agents of foreign principals, and private entities employing such lobbyists or foreign agents are effective in the House immediately; the new restrictions, regulations and transparency provisions regarding “officially connected” travel expenses are to take effect on March 1, 2007.

On January 18, 2007, the Senate passed S. 1, 110<sup>th</sup> Congress, which proposes amendments and new regulations concerning congressional ethics, lobbying reform, and proposals to amend Senate procedures to increase legislative transparency. Because the proposed changes are incorporated in a bill, both the changes to the Senate Rules (affecting, generally, ethics and Senate procedures), as well as amendments to statutes (regarding lobbying, conflicts of interest, and pensions), would become effective *only* upon enactment of the proposals into law.

## **Contents**

Side-by-Side Comparison of Provisions of S. 1 and H.Res. 6 in the 110 <sup>th</sup> Congress .....	2
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The following chart presents in summary fashion a side-by-side comparison of the provisions in S. 1 and H.Res. 6, 110<sup>th</sup> Congress, which relate specifically to congressional ethics, including the receipt of gifts and the acceptance of payment or reimbursement of expenses from outside, private sources for “officially connected” travel expenses.

The provisions of H.Res. 6 were adopted as a simple resolution in the House changing House Rules.<sup>1</sup> Some of the gifts provisions in H.Res. 6, such as the ban on acceptance of *de minimis* gifts of less than \$50 from lobbyists, foreign agents, or their private clients, are effective immediately; the provisions providing further restrictions upon the acceptance of privately funded “officially connected” travel expenses are to be made effective on March 1, 2007.

The provisions in S. 1, as passed, even those that would amend Senate Rules, have been incorporated in a bill as the legislative vehicle, and thus must be passed by the House of Representatives and signed by the President (or a veto overridden) for those proposed changes in S. 1 to be effective.<sup>2</sup>

This chart is intended to address only the gifts and internal congressional ethics matters in S. 1 and H.Res. 6. Provisions in either S. 1 or H.Res. 6 that change, amend, or otherwise govern such matters as floor procedure or other procedural matters in Congress, or those provisions in S. 1 that deal with subjects such as lobbying reform affecting those who are not Members, officers, or employees of Congress (which are not addressed in H.Res. 6), are not compared in this chart.

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<sup>1</sup> H.Res. 6, January 4, 2007, Sections 101, 201-211, 404(b); 153 *Congressional Record* H19-H38 (daily ed. January 4, 2007).

<sup>2</sup> *Riddick's Senate Procedure*, S. Doc. 101-28, 101<sup>st</sup> Congress, 2d Sess., “Rules,” at pp. 1218-1219 (1992). A House or Senate Rule adopted by statute as a function of the rule-making authority of the House or Senate (U.S. Constitution, Article I, Section 5), may be later changed by the House or Senate, respectively, by simple resolution.

## Side-by-Side Comparison of Provisions of S. 1 and H.Res. 6 in the 110<sup>th</sup> Congress

Issue/Provision	Current Senate Provision and House Rule Prior to 110 <sup>th</sup> Congress	S. 1	H.Res. 6
<b>CONGRESSIONAL ETHICS REFORMS</b>			
Gifts — Valuation	No specific valuation provision in Senate Rules or House Rules prior to the 110 <sup>th</sup> Congress.	Section 107. Would amend the Senate Rules on gifts (Rule XXXV) to provide that the market value of a ticket to a sporting or entertainment event will be the face value of the ticket. If there is no face value, then the value of the most similar ticket sold to the public (taking into consideration all features of the ticket, including parking, food and refreshments, and any special access to venue areas). If there are no comparable tickets sold to the public, then the value of the pass or ticket will be the cost of a ticket with the highest face value for the event.	Section 204. Has amended House Rules to provide that the “value” of a ticket or pass to a sport or entertainment event will now be determined by the actual face value printed on the ticket. When there is no face value on the ticket, then the value of such pass or ticket will now be the highest face-value price of a ticket to the same event. House Rule XXV, cl. 5(a)(1)(B)(ii).

Issue/Provision	Current Senate Provision and House Rule Prior to 110 <sup>th</sup> Congress	S. 1	H.Res. 6
Gifts — <i>de minimis</i> exception not to apply to gifts from lobbyists	Senate Rule XXXV (and House Rule XXV, cl. 5, prior to the 110 <sup>th</sup> Congress), prohibits receipt of gifts by Members and staff from most sources, but exempts a gift of less than \$50 in value (if aggregate gifts in one year from same source do not exceed \$100).	Section 108. Would amend the Senate Rule on gifts (Rule XXXV) to provide that the \$50 <i>de minimis</i> exception to the gifts rule (wherein a gift valued at less than \$50 may be accepted by Senators and staff) does <i>not</i> apply to gifts from a registered lobbyist, an agent of a foreign principal, or a private entity that retains or employs a registered lobbyist or foreign agent. (Note: other exceptions, in subparagraph (c), to the general gift prohibition still generally apply, even to gifts from lobbyists or their clients. Senate Rule XXXV, cl. 1(c)(1)-(23)).	Section 203. Has amended the House Rule on gifts (Rule XXV, cl. 5) to provide that the <i>de minimis</i> exception for gifts (wherein a gift valued at less than \$50 may be accepted by Members and staff) will no longer apply if the gift is from a registered lobbyist, agent of a foreign principal, or from a private entity that retains or employs registered lobbyists or foreign agents. (Note: other exceptions, in subparagraph (3), to the general gift prohibition still generally apply, even to gifts from lobbyists or their clients. H. Rule XXV, cl. 5(a)(3)(A) - (W)).
Gifts — Events at National Convention to Honor Members Paid for By Lobbyists	No current provision.	Section 108A. Would prohibit a Senator from participating in an event to honor that Senator at a national party convention if the event is paid for by someone who is required to register as a lobbyist, or is identified as a lobbyist or a client in any registration report under the Lobbying Disclosure Act of 1995.	No provision.

Issue/Provision	Current Senate Provision and House Rule Prior to 110 <sup>th</sup> Congress	S. 1	H.Res. 6
<p>Gifts — “Officially Connected” Travel Expenses: Source of private funds.</p>	<p>House Rule XXV, cl. 5(f), Senate Rule XXXV, cl. 2(d), have allow for acceptance of “officially connected,” “necessary” and “reasonable” travel expenses from some private sources (not lobbyists or foreign agents) for a limited amount of time when purpose of trip is sufficiently connected to official duties, if such travel and expenses are disclosed within 30 days of trip. “Necessary expenses” currently excludes expenses for personal entertainment or recreational activities.</p>	<p>Section 109(a). Would prohibit receipt of payments or expenses for “officially connected” travel from not only a lobbyist and agent of a foreign principal, but also from a private entity that retains or employs registered lobbyists or foreign agents; except, if expenses are from an “individual” (not a lobbyist or an agent of a foreign principal), if acceptance is in conformance with regulations of the Select Committee on Ethics and (1) expenses are for an event, meeting or fact-finding trip sponsored by a 501(c)(3) (charitable) organization when the organization has been pre-approved by the Select Committee on Ethics, or (2) expenses are provided for a one-day event (which could include a 1 or, in some cases when necessary, a 2-night stay).</p>	<p>Section 205(a). House Rules, as of March 1, 2007, will prohibit the receipt of payments or expenses for “officially connected” travel from not only a lobbyist and agent of a foreign principal, but also “a private entity that retains or employs registered lobbyists or agents of a foreign principal,” except (1) if from a qualified “institution of higher education,” or (2) when provided for a one-day event when in conformance with regulations prescribed by the House Committee on Standards of Official Conduct (which could include a 1 or, in some cases when necessary, a 2-night stay).</p>

Issue/Provision	Current Senate Provision and House Rule Prior to 110 <sup>th</sup> Congress	S. 1	H.Res. 6
<p>Gifts — “Officially Connected” Travel Expenses: Involvement of lobbyists in travel and arrangements</p>	<p>Under current Senate Rules and former House Rules, although lobbyists were not allowed to pay for “officially connected” travel, there were no restrictions on lobbyists traveling with congressional party, or arranging for the trip.</p>	<p>Section 109(a)(7). Provides that, in addition to prohibiting acceptance of expenses from lobbyists, foreign agents, or their private clients, the Senate Rule would also prohibit the acceptance of such travel expenses from anyone if the trip was “planned, organized or arranged by or at the request of a registered lobbyist or agent of a foreign principal,” or for trips on which a lobbyist accompanies the Member or staffer on any segment of the trip.</p>	<p>Section 206(a). House Rules, as of March 1, 2007, in addition to prohibiting a lobbyist, foreign agent or their private clients from financing “officially connected” travel, will prohibit a lobbyist or foreign agent from planning, organizing, requesting, or arranging for such a trip, and from accompanying the Member or staffer on any segment of the trip.</p>
<p>Gifts — “Officially Connected” Travel Expenses: Certification and Pre-approval for privately funded “officially connected” travel</p>	<p>Under former Rules only staff had to seek and receive prior approval, in writing from employing Member or office, before accepting “officially connected” travel expenses.</p>	<p>Section 109(a)(7). Members, officers and employees must provide to Senate Select Committee on Ethics certification from sponsor specifying that financing and arrangements for trip conform to Senate Rules, and must receive prior approval from Committee before accepting expenses for such travel.</p>	<p>Section 206(a). Members, officers and employees must provide to House Committee on Standards certification from sponsor specifying that financing and arrangements for trip conform to House Rules, and must receive prior approval from Committee before accepting expenses for such travel.</p>



Issue/Provision	Current Senate Provision and House Rule Prior to 110 <sup>th</sup> Congress	S. 1	H.Res. 6
Gifts — “Officially Connected” Travel Expenses: Additional disclosure	Current disclosures made within 30 days after travel, to include dates, general itinerary, identification of sponsor, specific dollar figure for expenses when available (otherwise a “good faith” estimate of expenses), and in the case of a Member, an indication that the member determined that the purpose of the trip is officially connected and “would not create the appearance that the Member ... is using public office for private gain.”	Section 109(a)(5). Required disclosures would also have to provide a description of the meetings and events attended.	Section 209. Required disclosures will now have to be filed within 15 days of the completed travel, and are to also detail a description of the meetings and events attended.

Issue/Provision	Current Senate Provision and House Rule Prior to 110 <sup>th</sup> Congress	S. 1	H.Res. 6
<p>Gifts — “Officially Connected” Travel Expenses: Rules on “reasonable” expenses</p>	<p>Under current Senate and House Rules there are no specific guidance or guidelines concerning what are to be considered “reasonable” expenses for accepting “officially connected” travel expenses from private sources.</p>	<p>Section 109(a)(8). The Senate Select Committee on Ethics is instructed to develop guidelines concerning the connection between a trip and official duties, reasonableness of an amount spent by a sponsor, the relationship between an event and an “officially connected” purpose, and the relationship between the source of funding and an event. In developing these guidelines the Committee is instructed to take into consideration the “maximum per diem rates for official Government travel published annually by the General Services Administration, the Department of State, and the Department of Defense.”</p>	<p>Section 208. The H. Com. on Standards of Official Conduct is instructed to develop guidelines concerning the connection between a trip and official duties, reasonableness of an amount spent by sponsor, relationship between an event and an “officially connected” purpose, and relationship between source of funding and event. In developing guidelines Committee is instructed to take into consideration maximum per diem rates for official Government travel published annually by the GSA, the Department of State, and the Department of Defense.</p>

Issue/Provision	Current Senate Provision and House Rule Prior to 110 <sup>th</sup> Congress	S. 1	H.Res. 6
Gifts — Travel on private, “corporate aircraft”	Travel on private, corporate aircraft generally must be reimbursed so that such travel will not be a contribution to an “unofficial office account” (Senate Rule XXXVIII, House Rule XXIV), or a personal “gift” to Member, officer or employee. No specific provision on “market value,” rate of reimbursement, required for such flights under House or Senate Rules (but see F.E.C. regs.).	Section 109(b). Senate gift rule is amended to require reimbursement at fair market value for travel on private, noncommercial aircraft, with the fair market value being the pro rata share of the value of the normal and usual <i>charter</i> fare or <i>rental</i> charge for similar travel and aircraft. Members and staff must file a detailed report within 60 days after the date of the flight to include information on date of flight, destination, owner or lessee of aircraft, purpose of the travel, persons on flight, and charter rate paid for the flight.	Section 207. Members and staff are now prohibited from using any funds, whether personal, campaign, or official funds, to pay for or reimburse expenses of traveling on private, corporate aircraft. Members and staff traveling for personal purposes, campaign purposes, or for purposes related to official duties, will now generally be required to fly on commercially scheduled airlines, or to charter flights from companies in that business.
“Revolving Door,” post-employment conflicts of interest - representing Indian tribes	All representations of Indian tribes by former federal officers or employees are now exempt from “revolving door” law at 18 U.S.C. § 207 by provisions of Indian Self-Determination Act, 25 U.S.C. §450i(j).	Section 110. Would more closely conform exemption for representing Indian tribes by former federal officials to current exemption for representing State or local governments by former federal officials, that is, exempting acts of former officials who carry out official duties or as elected officials for state or local governments or for tribes.	No provision.

Issue/Provision	Current Senate Provision and House Rule Prior to 110 <sup>th</sup> Congress	S. 1	H.Res. 6
<p>“Revolving door,” post-employment conflicts of interest — Rule for staff</p>	<p>Current Senate Rule, Rule XXXVII(9), prohibits all former staff who have become registered lobbyists or are in employ of such from lobbying their former office for one year. No comparable House Rule, but see 18 U.S.C. § 207(e)(2)-(5), barring lobbying by “senior” Hill staff of former office for one year.</p>	<p>Section 111. Would amend Senate Rule XXXVII to prohibit all “senior” Senate staff (paid at rate of 75% of Member’s salary) from lobbying entire Senate for one year after leaving office.</p>	<p>No provision.</p>

Issue/Provision	Current Senate Provision and House Rule Prior to 110 <sup>th</sup> Congress	S. 1	H.Res. 6
<p>“Revolving door,” post-employment conflicts of interest — employment negotiations</p>	<p>No current provisions for legislative branch.</p>	<p>Section 112. Amends Senate Rules to prohibit Senators from negotiating or having an arrangement for private employment until Senator’s successor has been elected, unless Senator w/in three days after “negotiations” begin, files a publicly disclosed signed statement with Secretary of Senate revealing names of private parties or entities involved, and date negotiations or arrangements began. If job involves “lobbying activities,” Senator may not negotiate or arrange employment until after successor is elected. Senior staff (compensated at rate of 75% of a Senator) must notify Ethics Committee w/in three days as to start of negotiations or arrangements for private employment. Staffer must recuse himself concerning official matter creating conflict or appearance of conflict of interest because of negotiations or arrangements, and notify Ethics Committee.</p>	<p>No provision.</p>

Issue/Provision	Current Senate Provision and House Rule Prior to 110 <sup>th</sup> Congress	S. 1	H.Res. 6
Official contacts with Member's family who lobby	No current provisions in law or Rule.	Section 113. Would amend Senate Rule to require Member to prohibit staff from having official contact with any members of that Senator's immediate family who are registered lobbyists or are employed by lobbyist to influence legislation, except if spouse of Senator was already a registered lobbyist at least one year prior to election of Member, or one year before their marriage. All Senators and employees of any office would also appear to be prohibited from having official contact with a spouse of <i>any</i> Senator if that spouse is a registered lobbyist or is retained by a registered lobbyist to influence legislation.	No provision.
Influencing private employment decisions	No specific provisions in current law.	Section 114. Would amend Senate Rules (Senate Rule XLIII) to prohibit a Senator from taking or withholding, or threatening or promising to take or withhold, any official act, or to influence or to offer to influence an official act of another, with the intent to influence on the basis of partisan political affiliation an employment decision or employment practice of a private entity.	Section 202. Amends House Rules to prohibit a Member from taking or withholding, or threatening or promising to take or withhold, any official act, or to influence or to offer to influence an official act of another, with the intent to influence on basis of partisan political affiliation an employment decision or employment practice of a private entity.

Issue/Provision	Current Senate Provision and House Rule Prior to 110 <sup>th</sup> Congress	S. 1	H.Res. 6
<p>“Revolving door,” post-employment conflicts of interest</p>	<p>18 U.S.C. § 207(e) prohibits, for one year after leaving office, Members and certain senior staff from lobbying — making communications or appearances with intent to influence — either House of Congress (for former Members), or their former employing office (for senior staff). Senate Rules (Rule XXXVII(9)) prohibit all Senate employees who become lobbyists from lobbying their former office for one year.</p>	<p>Section 241. Would amend criminal law at 18 U.S.C. § 207 to expand from one year to two years the “cooling off” period on Members of Congress, prohibiting lobbying Congress for two years after leaving office; to expand one-year cooling off period to two years for “very senior” executive branch officials (cabinet officers and certain others); and to expand one-year cooling off restriction for “senior” Hill staff (paid at rate of 75% of Member’s salary) to prohibit lobbying entire House of Congress in which they had worked, rather than merely the office or committee where they had worked as currently provided. Would also significantly expand the activities of former Members and former elected congressional officers for which criminal penalties may be applied in two-year “cooling off” period, by adding a new restriction to include any behind-the-scenes activities, advice, or consultations that the former Member or officer may have that are “in support of ... lobbying contacts” made by others on behalf of a client.</p>	<p>No provisions.</p>

CRS-13

Issue/Provision	Current Senate Provision and House Rule Prior to 110 <sup>th</sup> Congress	S. 1	H.Res. 6
Ethics Training	No specific provision in Rules.	Section 232. New Senators and staff required to complete an ethics training program from Senate Select Committee on Ethics within 60 days after commencing service. Existing Members and staff serving on date of enactment must complete the program not later than 120 days after enactment of law.	Section 211. Training to be “offered” by House Committee on Standards of Official Conduct. Mandatory annual training for staff; training for Members of the House, however, is not mandatory. New staff to take training within 60 days of employment.



Issue/Provision	Current Senate Provision and House Rule Prior to 110 <sup>th</sup> Congress	S. 1	H.Res. 6
Ethics Committees' Reports	No specific provision in Rules.	Section 234. Would require House Comm. on Standards of Official Conduct and Senate Select Committee on Ethics to issue annual report by Jan. 31 of each year concerning: the number of alleged violations of congressional rules received from third parties, Members or staff or from inquiries raised by committee staff; number of violations dismissed for lack of subject matter jurisdiction or failure to provide sufficient facts; number of complaints for which staff conducted preliminary investigation; number of complaints presented by staff to committee with recommendations that complaint be dismissed; number of complaints presented by staff to committee with recommendations that investigation proceed; number of ongoing inquiries; number of complaints dismissed for lack of substantial merit; number of private letters of admonition issued; and the number of matters resulting in disciplinary sanctions.	No provision.

Issue/Provision	Current Senate Provision and House Rule Prior to 110 <sup>th</sup> Congress	S. 1	H.Res. 6
Congressional Pensions	Members of Congress, like all federal employees, lose their federal pensions (annuities) for violations of various national security offenses, under so-called "Hiss Act." 5 U.S.C. §§ 8311, 8312.	Sections 301-304. Amends "Hiss Act" to add to crimes "committed by a Member of Congress" that would result in forfeiture of federal annuities those of bribery and illegal gratuities (18 U.S.C. § 201); conspiracy (18 U.S.C. § 371) to violate the bribery law; or perjury or subornation of perjury when it relates to denying the commission of an offense violative of the bribery statute, or of the conspiracy statute concerning a conspiracy to violate the bribery law. The effective date of this provision of S. 1 would be delayed until January 1, 2009.	No provision in H.Res. 6, but House passed H.R. 476 which would provide a loss of the credit for the years served as a Member of Congress for one's federal annuity if a Member is convicted of bribery or illegal gratuities (18 U.S.C. § 201), acting as agent of foreign principal (18 U.S.C. § 219), conspiracy (18 U.S.C. § 371) to commit those offenses, perjury or subornation of perjury relating to those offenses.
Knowing Falsification of Financial Disclosure Report	Financial disclosure law (Ethics in Government Act, see 5 U.S.C. app. §§ 101 <i>et seq.</i> ), does not have express criminal penalty, but 18 U.S.C. § 1001 prohibits all intentionally false or fraudulent writings or entries to Federal Government and provides penalty of up to five years' imprisonment, and \$250,000 fine.	Section 401. Would increase express civil fine from \$10,000 to \$50,000, and would provide new express criminal penalty for knowing and willful failure to file or false filing of up to one year imprisonment.	No provision.

Issue/Provision	Current Senate Provision and House Rule Prior to 110 <sup>th</sup> Congress	S. 1	H.Res. 6
Ethics and Earmarks	No provision in current Rules	Section 404. Adds a provision to the Senate Rule on conflicts of interest (Senate Rule XXXVII) to make it an ethics violation for a Member to use his or her official position to “request, or otherwise aid in the progress or passage of a congressional earmark” that benefits the financial or pecuniary interests of the Member, the Member’s spouse, the Member’s immediate family, any employee of the Member, or spouse or family member of such employee. An earmark would include not only a defined spending item, but also a targeted tax deduction, exclusion, or preference for 10 or fewer beneficiaries.	Section 404(b). Amends the Code of Official Conduct, Rule XXIII, to make it an ethics violation to condition the inclusion of an earmark or limited tax or tariff benefit on any vote of another Member. Requires a Member requesting an earmark or limited tax or tariff benefit to provide a written statement identifying the member, the intended recipient, the purpose of such earmark or benefit, and a certification that the Member has no financial interest in the matter.