

36 **RULE XXXVI**³⁶ 36

OUTSIDE EARNED INCOME

- 36.1 For purposes of this rule, the provisions of section 501 36.1
of the Ethics in Government Act of 1978 (5 U.S.C. App.
7 501) shall be deemed to be a rule of the Senate as it
pertains to Members, officers, and employees of the Senate.

37 **RULE XXXVII** 37

CONFLICT OF INTEREST

- 37.1 1. A Member, officer, or employee of the Senate shall 37.1
not receive any compensation, nor shall he permit any com-
pensation to accrue to his beneficial interest from any
source, the receipt or accrual of which would occur by vir-
tue of influence improperly exerted from his position as
a Member, officer, or employee.
- 37.2 2. No Member, officer, or employee shall engage in any 37.2
outside business or professional activity or employment for
compensation which is inconsistent or in conflict with the
conscientious performance of official duties.
- 37.3 3. No officer or employee shall engage in any outside 37.3
business or professional activity or employment for com-
pensation unless he has reported in writing when such ac-
tivity or employment commences and on May 15 of each
year thereafter so long as such activity or employment con-
tinues, the nature of such activity or employment to his
supervisor. The supervisor shall then, in the discharge of
his duties, take such action as he considers necessary for
the avoidance of conflict of interest or interference with
duties to the Senate.
- 37.4 4. No Member, officer, or employee shall knowingly use 37.4
his official position to introduce or aid the progress or pas-
sage of legislation, a principal purpose of which is to fur-
ther only his pecuniary interest, only the pecuniary inter-
est of his immediate family, or only the pecuniary interest
of a limited class of persons or enterprises, when he, or
his immediate family, or enterprises controlled by them,
are members of the affected class.

³⁶ Previous provisions of Rule XXXVI were repealed by S. Res. 512, 97-2, Dec. 14, 1982, effective Jan. 1, 1983. New Rule XXXVI language established by S. Res. 192, 102-1, Oct. 31, 1991, effective Aug. 14, 1991. See Senate Manual §440 for provisions of 5 U.S.C. App. 7.

- 37.5a 5. (a)³⁷ No Member, officer, or employee of the Senate 37.5a
 compensated at a rate in excess of \$25,000 per annum and
 employed for more than ninety days in a calendar year
 shall (1) affiliate with a firm, partnership, association, or
 corporation for the purpose of providing professional serv-
 ices for compensation; (2) permit that individual's name
 to be used by such a firm, partnership, association or cor-
 poration; or (3) practice a profession for compensation to
 any extent during regular office hours of the Senate office
 in which employed. For the purposes of this paragraph,
 "professional services" shall include but not be limited to
 those which involve a fiduciary relationship.
- 37.5b (b) A Member or an officer or employee whose rate of 37.5b
 basic pay is equal to or greater than 120 percent of the
 annual rate of basic pay in effect for grade GS-15 of the
 General Schedule shall not—
- (1) receive compensation for affiliating with or being
 employed by a firm, partnership, association, corpora-
 tion, or other entity which provides professional serv-
 ices involving a fiduciary relationship;
 - (2) permit that Member's, officer's, or employee's
 name to be used by any such firm, partnership, asso-
 ciation, corporation, or other entity;
 - (3) receive compensation for practicing a profession
 which involves a fiduciary relationship; or
 - (4) receive compensation for teaching, without the
 prior notification and approval of the Select³⁸ Com-
 mittee on Ethics.
- 37.6a 6. (a)³⁹ No Member, officer, or employee of the Senate 37.6a
 compensated at a rate in excess of \$25,000 per annum and
 employed for more than ninety days in a calendar year
 shall serve as an officer or member of the board of any
 publicly held or publicly regulated corporation, financial
 institution, or business entity. The preceding sentence
 shall not apply to service of a Member, officer, or employee
 as—
- (1) an officer or member of the board of an organiza-
 tion which is exempt from taxation under section
 501(c) of the Internal Revenue Code of 1954, if such
 service is performed without compensation;

³⁷ Pursuant to S. Res. 192, 102-1, Oct. 31, 1991, effective Aug. 14, 1991, para-
 graph 5 renumbered 5(a) and subparagraph (b) added.

³⁸ Added pursuant to S. Res. 299, 106-2, Apr. 27, 2000.

³⁹ Pursuant to S. Res. 192, 102-1, Oct. 31, 1991, effective Aug. 14, 1991, para-
 graph 6 renumbered 6(a) and subparagraph (b) added.

(2) an officer or member of the board of an institution or organization which is principally available to Members, officers, or employees of the Senate, or their families, if such service is performed without compensation; or

(3) a member of the board of a corporation, institution, or other business entity, if (A) the Member, officer, or employee had served continuously as a member of the board thereof for at least two years prior to his election or appointment as a Member, officer, or employee of the Senate, (B) the amount of time required to perform such service is minimal, and (C) the Member, officer, or employee is not a member of, or a member of the staff of any Senate committee which has legislative jurisdiction over any agency of the Government charged with regulating the activities of the corporation, institution, or other business entity.

37.6b (b) A Member or an officer or employee whose rate of 37.6b
basic pay is equal to or greater than 120 percent of the annual rate of basic pay in effect for grade GS-15 of the General Schedule shall not serve for compensation as an officer or member of the board of any association, corporation, or other entity.

37.7 7. An employee on the staff of a committee who is com- 37.7
pensated at a rate in excess of \$25,000 per annum and employed for more than ninety days in a calendar year shall divest himself of any substantial holdings which may be directly affected by the actions of the committee for which he works, unless the Select Committee, after consultation with the employee's supervisor, grants permission in writing to retain such holdings or the employee makes other arrangements acceptable to the Select Committee and the employee's supervisor to avoid participation in committee actions where there is a conflict of interest, or the appearance thereof.

37.8 8. If a Member, upon leaving office, becomes a registered 37.8
lobbyist under the Federal Regulation of Lobbying Act of 1946 or any successor statute, or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, he shall not lobby Members, officers, or employees of the Senate for a period of one year after leaving office.

- 37.9 9. If an employee on the staff of a Member, upon leaving 37.9
that position, becomes a registered lobbyist under the Federal Regulation of Lobbying Act of 1946 or any successor statute, or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, such employee may not lobby the Member for whom he worked or that Member's staff for a period of one year after leaving that position. If an employee on the staff of a committee, upon leaving his position, becomes such a registered lobbyist or is employed or retained by such a registered lobbyist for the purpose of influencing legislation, such employee may not lobby the members of the committee for which he worked, or the staff of that committee, for a period of one year after leaving his position.
- 37.10 10. (a)⁴⁰ Except as provided by subparagraph (b), any 37.10
employee of the Senate who is required to file a report pursuant to rule XXXIV shall refrain from participating personally and substantially as an employee of the Senate in any contact with any agency of the executive or judicial branch of Government with respect to non-legislative matters affecting any non-governmental person in which the employee has a significant financial interest.
- (b) Subparagraph (a) shall not apply if an employee first advises his supervising authority of his significant financial interest and obtains from his employing authority a written waiver stating that the participation of the employee is necessary. A copy of each such waiver shall be filed with the Select Committee.
- 37.11 11. For purposes of this rule— 37.11
- 37.11a (a) "employee of the Senate" includes an employee 37.11a
or individual described in paragraphs 2, 3, and 4(c) of rule XLI;
- 37.11b (b) an individual who is an employee on the staff 37.11b
of a subcommittee of a committee shall be treated as an employee on the staff of such committee; and
- 37.11c (c) the term "lobbying" means any oral or written 37.11c
communication to influence the content or disposition of any issue before Congress, including any pending or future bill, resolution, treaty, nomination, hearing, report, or investigation; but does not include—
- (1) a communication (i) made in the form of testimony given before a committee or office of the Congress, or (ii) submitted for inclusion in

⁴⁰ Pursuant to S. Res. 236, 101-2, Jan. 30, 1990, paragraphs 10. and 11. were renumbered as 11. and 12. respectively and paragraph 10. was added.

the public record, public docket, or public file of a hearing; or

(2) a communication by an individual, acting solely on his own behalf, for redress of personal grievances, or to express his personal opinion.

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| 37.12 | 12. For purposes of this rule— | 37.12 |
| 37.12a | (a) a Senator or the Vice President is the supervisor of his administrative, clerical, or other assistants; | 37.12a |
| 37.12b | (b) a Senator who is the chairman of a committee is the supervisor of the professional, clerical, or other assistants to the committee except that minority staff members shall be under the supervision of the ranking minority Senator on the committee; | 37.12b |
| 37.12c | (c) a Senator who is a chairman of a subcommittee which has its own staff and financial authorization is the supervisor of the professional, clerical, or other assistants to the subcommittee except that minority staff members shall be under the supervision of the ranking minority Senator on the subcommittee; | 37.12c |
| 37.12d | (d) the President pro tempore is the supervisor of the Secretary of the Senate, Sergeant at Arms and Doorkeeper, the Chaplain, the Legislative Counsel, and the employees of the Office of the Legislative Counsel; | 37.12d |
| 37.12e | (e) the Secretary of the Senate is the supervisor of the employees of his office; | 37.12e |
| 37.12f | (f) the Sergeant at Arms and Doorkeeper is the supervisor of the employees of his office; | 37.12f |
| 37.12g | (g) the Majority and Minority Leaders and the Majority and Minority Whips are the supervisors of the research, clerical, or other assistants assigned to their respective offices; | 37.12g |
| 37.12h | (h) the Majority Leader is the supervisor of the Secretary for the Majority and the Secretary for the Majority is the supervisor of the employees of his office; and | 37.12h |
| 37.12i | (i) the Minority Leader is the supervisor of the Secretary for the Minority and the Secretary for the Minority is the supervisor of the employees of his office. | 37.12i |

38

RULE XXXVIII

38

PROHIBITION OF UNOFFICIAL OFFICE ACCOUNTS

- 38.1a 1. (a)⁴¹ No Member may maintain or have maintained 38.1a
for his use an unofficial office account. The term “unofficial
office account” means an account or repository into which
funds are received for the purpose, at least in part, of de-
fraying otherwise unreimbursed expenses allowable in con-
nection with the operation of a Member’s office. An unoffi-
cial office account does not include, and expenses incurred
by a Member in connection with his official duties shall
be defrayed only from—
- (1) personal funds of the Member;
 - (2) official funds specifically appropriated for that
purpose;
 - (3) funds derived from a political committee (as de-
fined in section 301(d) of the Federal Election Cam-
paign Act of 1971 (2 U.S.C. 431)); and
 - (4) funds received as reasonable reimbursements for
expenses incurred by a Member in connection with
personal services provided by the Member to the orga-
nization making the reimbursement.
- 38.1b (b) Notwithstanding subparagraph (a), official expenses 38.1b
may be defrayed only as provided by subsections (d) and
(i) of section 311 of the Legislative Appropriations Act,
1991 (Public Law 101–520).
- 38.2 2. No contribution (as defined in section 301(e) of the 38.2
Federal Election Campaign Act of 1971 (2 U.S.C. 431))
shall be converted to the personal use of any Member or
any former Member. For the purposes of this rule “personal
use” does not include reimbursement of expenses incurred
by a Member in connection with his official duties.

39

RULE XXXIX

39

FOREIGN TRAVEL

- 39.1a 1. (a) Unless authorized by the Senate (or by the Presi- 39.1a
dent of the United States after an adjournment sine die),
no funds from the United States Government (including
foreign currencies made available under section 502(b) of
the Mutual Security Act of 1954 (22 U.S.C. 1754(b)) shall

⁴¹ Pursuant to S. Res. 192, 102–1, Oct. 31, 1991, paragraph 1 was renumbered 1(a) and subparagraph (b) was added. Effective date revised to May 1, 1992, by a provision of Pub. L. 102–229, Dec. 12, 1991. Provisions of 2 U.S.C. 431 are contained in the Senate Manual at §399.8.