

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1095

To amend the Ethics in Government Act of 1978 with respect to honoraria,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1993

Mr. FRANK of Massachusetts (for himself, Mr. HOYER, Mrs. MORELLA, and Mr. HANSEN) introduced the following bill; which was referred jointly to the Committees on the Judiciary, Post Office and Civil Service, House Administration, and Armed Services

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## A BILL

To amend the Ethics in Government Act of 1978 with  
respect to honoraria, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ethics in Government  
5 Act Amendments of 1993”.

6 **SEC. 2. MODIFICATION OF PROHIBITION OF HONORARIA.**

7 Section 501(b) of the Ethics in Government Act of  
8 1978, as amended by the Ethics Reform Act of 1989 and  
9 Public Law 101–280, is amended—

1           (1) by striking “An individual” and inserting  
2           “(1) Except as provided in paragraph (2), an indi-  
3           vidual”; and

4           (2) by adding at the end the following new  
5           paragraph:

6           “(2)(A) Subject to subparagraph (B), paragraph (1)  
7           shall not apply to an honorarium paid to an officer or em-  
8           ployee for an appearance, a speech, or an article published  
9           in a bona fide publication if—

10           “(i) the purpose of the appearance, or the sub-  
11           ject of the speech or article, does not relate pri-  
12           marily to the responsibilities, policies, or programs  
13           of the agency or office in which the individual is em-  
14           ployed, and does not involve the use of Government  
15           time, property or other resources of the Government,  
16           or nonpublic Government information;

17           “(ii) the reason for which the honorarium is  
18           paid is unrelated to that individual’s official duties  
19           or status as such officer or employee; and

20           “(iii) the person offering the honorarium has no  
21           interests that may be substantially affected by the  
22           performance or nonperformance of that individual’s  
23           official duties.

24           “(B) Subparagraph (A) shall not apply to an officer  
25           or employee who is—

1 “(i) a Member, or

2 “(ii) a noncareer officer or employee employed  
3 in a position for which the rate of basic pay, exclu-  
4 sive of any locality-based pay adjustment under sec-  
5 tion 5302 of title 5 (or any comparable adjustment  
6 pursuant to interim authority of the President) is  
7 equal to or greater than the rate of basic pay pay-  
8 able for Level V of the Executive Schedule.

9 “(C) A statement of the source, date, and amount  
10 of any honorarium accepted by an individual under sub-  
11 paragraph (A) shall be included in any report required by  
12 such individual by section 101 or section 107 of this Act.

13 “(D) The amount of any honorarium accepted under  
14 subparagraph (A) shall not exceed the usual and cus-  
15 tomary fee for the services for which the honorarium is  
16 paid, up to a maximum of \$2,000.”.

17 **SEC. 3. REGULATIONS.**

18 Section 503 of the Ethics in Government Act of 1978  
19 is amended—

20 (1) by inserting “(a) IN GENERAL.—” before  
21 “This”; and

22 (2) by adding at the end the following:

23 “(b) PRIOR NOTIFICATION OF ACCEPTANCE OF  
24 HONORARIA.—(1)(A) Rules and regulations issued under  
25 subsection (a) shall include procedures under which indi-

1 individuals described in paragraph (2) shall notify the appro-  
2 priate entity administering such rules and regulations be-  
3 fore accepting honoraria permitted under section  
4 501(b)(2)(A) that, in the aggregate, equal or exceed \$200  
5 in value from any one source in a calendar year. Such  
6 rules and regulations may include provision for notifica-  
7 tion after the acceptance of a noncash honorarium for an  
8 appearance or speech if the offer of the honorarium is  
9 made at the appearance or speech. Such rules and regula-  
10 tions may also provide for the notification of the appro-  
11 priate entity if an honorarium is not accepted.

12 “(B) Each entity administering such rules and regu-  
13 lations shall compile all notifications received under sub-  
14 paragraph (A) during each calendar quarter. Such com-  
15 pilations shall be made available to the public in the same  
16 manner as reports are made available to the public under  
17 section 105 of this Act.

18 “(2) The individuals to whom paragraph (1) applies  
19 are any noncareer officer or employee who occupies a posi-  
20 tion classified above GS-15 of the General Schedule or,  
21 in the case of positions not under the General Schedule,  
22 for which the rate of basic pay is equal to or greater than  
23 120 percent of the minimum rate of basic pay payable for  
24 GS-15.

1 “(3) Any person who fails to notify the appropriate  
2 entity, pursuant to procedures established under para-  
3 graph (1), before accepting honoraria—

4 “(A) shall pay, for deposit in the general fund  
5 of the Treasury, an amount equal to the value of the  
6 honoraria involved; and

7 “(B) shall be subject to appropriate disciplinary  
8 and other remedial action in accordance with appli-  
9 cable laws, Executive orders, and rules or regula-  
10 tions.

11 The entity administering rules and regulations issued  
12 under paragraph (1) may, in accordance with procedures  
13 established in such rules and regulations, waive any pen-  
14 alty under this paragraph in extraordinary cir-  
15 cumstances.”.

16 **SEC. 4. DEFINITION OF HONORARIUM.**

17 Section 505(3) of the Ethics in Government Act of  
18 1978 is amended by striking “if the subject matter” and  
19 all that follows through “Government”.

20 **SEC. 5. LIMITATION ON POSTEMPLOYMENT RESTRICTIONS.**

21 (a) LIMITATION ON POSTEMPLOYMENT RESTRIC-  
22 TIONS.—Section 207(j) of title 18, United States Code,  
23 is amended by adding at the end the following new para-  
24 graph:

1           “(7) POLITICAL PARTIES AND CAMPAIGN COM-  
2           MITTEES.—(A) Except as provided in subparagraph  
3           (B), the restrictions contained in subsections (c),  
4           (d), and (e) shall not apply to a communication or  
5           appearance made solely on behalf of a candidate, in  
6           his or her capacity as a candidate, an authorized  
7           committee, a national committee, a national Federal  
8           campaign committee, a State committee, or a politi-  
9           cal party.

10           “(B) Subparagraph (A) shall not apply to—

11           “(i) any communication to, or appearance  
12           before, the Federal Election Commission by a  
13           former officer or employee of the Federal Elec-  
14           tion Commission;

15           “(ii) any communication to, or appearance  
16           before, an employee (as defined in section 2105  
17           of title 5) of an Executive agency (as defined in  
18           section 105 of title 5), unless the employee is—

19           “(I) an employee of the Executive Of-  
20           fice of the President;

21           “(II) the head or assistant head of an  
22           Executive department or a military depart-  
23           ment (as such terms are defined in sec-  
24           tions 101 and 102 of title 5); or

1           “(III) an employee appointed by the  
2           President, by and with the advice and con-  
3           sent of the Senate;

4           “(iii) any communication or appearance re-  
5           ferred to in subparagraph (A) that is made by  
6           a person on any matter in which that person  
7           also represents, as agent or attorney or other-  
8           wise, anyone other than a person or entity de-  
9           scribed in subparagraph (C); or

10          “(iv) a communication or appearance that  
11          is made by—

12               “(I) a person who is subject to the re-  
13               strictions of subsection (c) or (d) if the  
14               communication or appearance is made be-  
15               fore an officer or employee of a depart-  
16               ment or agency, other than the Executive  
17               Office of the President, and if that person  
18               is also representing, aiding, or advising  
19               anyone else (other than the United States  
20               or a person or entity referred to in sub-  
21               paragraph (C)) in any matter pending be-  
22               fore that department or agency;

23               “(II) a person who is subject to the  
24               restrictions of subsection (e)(1)(A) and  
25               who is also representing, aiding, or advis-

1           ing anyone else (other than the United  
2           States or a person or entity referred to in  
3           subparagraph (C)) in any matter pending  
4           before either House of Congress or any  
5           legislative office of the Congress;

6           “(III) a person who is subject to the  
7           restrictions of subsection (e)(2)(A) and  
8           who is also representing, aiding, or advis-  
9           ing anyone else (other than the United  
10          States or a person or entity referred to in  
11          subparagraph (C)) in any matter pending  
12          before any person described in subsection  
13          (e)(2)(B);

14          “(IV) a person who is subject to the  
15          restrictions of subsection (e)(3) and who is  
16          also representing, aiding, or advising any-  
17          one else (other than the United States or  
18          a person or entity referred to in subpara-  
19          graph (C)) in any matter pending before  
20          the committee by which the former em-  
21          ployee was employed;

22          “(V) a person who is subject to the  
23          restrictions of subsection (e)(5)(A) and  
24          who is also representing, aiding, or advis-  
25          ing anyone else (other than the United

1 States or a person or entity referred to in  
2 subparagraph (C)) in any matter pending  
3 before any person described in subsection  
4 (e)(5)(B).

5 “(C) For purposes of this paragraph—

6 “(i) the term ‘candidate’ means any person  
7 who seeks nomination for election, or election,  
8 to Federal or State office or who has authorized  
9 others to explore on his or her behalf the possi-  
10 bility of seeking nomination for election, or elec-  
11 tion, to Federal or State office;

12 “(ii) the term ‘authorized committee’  
13 means any political committee designated in  
14 writing by a candidate as authorized to receive  
15 contributions or make expenditures to promote  
16 the nomination for election, or the election, of  
17 such candidate, or to explore the possibility of  
18 seeking nomination for election, or the election,  
19 of such candidate, except that a political com-  
20 mittee that receives contributions or makes ex-  
21 penditures to promote more than 1 candidate  
22 may not be designated as an authorized com-  
23 mittee for purposes of subparagraph (A);

24 “(iii) the term ‘national committee’ means  
25 the organization which, by virtue of the bylaws

1 of a political party, is responsible for the day-  
2 to-day operation of such political party at the  
3 national level;

4 “(iv) the term ‘national Federal campaign  
5 committee’ means an organization that, by vir-  
6 tue of the bylaws of a political party, is estab-  
7 lished primarily for the purpose of providing as-  
8 sistance, at the national level, to candidates  
9 nominated by that party for election to the  
10 office of Senator or Representative in, or  
11 Delegate or Resident Commissioner to, the  
12 Congress;

13 “(v) the term ‘State committee’ means the  
14 organization which, by virtue of the bylaws of  
15 a political party, is responsible for the day-to-  
16 day operation of such political party at the  
17 State level;

18 “(vi) the term ‘political party’ means an  
19 association, committee, or organization that  
20 nominates a candidate for election to any Fed-  
21 eral or State elected office whose name appears  
22 on the election ballot as the candidate of such  
23 association, committee, or organization; and

24 “(vii) the term ‘State’ means a State of  
25 the United States, the District of Columbia, the

1 Commonwealth of Puerto Rico, and any terri-  
2 tory or possession of the United States.”.

3 (b) **APPLICABILITY.**—A former officer or employee  
4 who is subject to the prohibitions contained in section  
5 207(c) of title 18, United States Code, as in effect before  
6 January 1, 1991, shall, notwithstanding such prohibitions,  
7 be permitted to make communications and appearances  
8 solely on behalf of a candidate, in his or her capacity as  
9 candidate, an authorized committee, a national committee,  
10 a national Federal campaign committee, a State commit-  
11 tee, or a political party, as though the provisions of section  
12 207 of title 18, United States Code, in effect on or after  
13 January 1, 1991, as amended by this section, were appli-  
14 cable to such former officer or employee.

15 **SEC. 6. EFFECTIVE DATE.**

16 (a) **IN GENERAL.**—Subject to subsection (b), the  
17 amendments made by this Act shall take effect on the date  
18 of the enactment of this Act.

19 (b) **SECTION 2.**—The amendments made by section  
20 2 shall be effective as of January 1, 1991.

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