

PUBLIC LAW 101-194—NOV. 30, 1989

ETHICS REFORM ACT OF 1989

Public Law 101-194
101st Congress

An Act

Nov. 30, 1989
[H.R. 3660]

To amend the Rules of the House of Representatives and the Ethics in Government Act of 1978 to provide for Government-wide ethics reform, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ethics Reform Act of 1989".

TITLE I—POST EMPLOYMENT RESTRICTIONS ON THE EXECUTIVE AND LEGISLATIVE BRANCHES

SEC. 101. RESTRICTIONS ON POSTEMPLOYMENT ACTIVITIES.

(a) RESTRICTIONS.—Section 207 of title 18, United States Code, is amended to read as follows:

“§ 207. Restrictions on former officers, employees, and elected officials of the executive and legislative branches

“(a) RESTRICTIONS ON ALL OFFICERS AND EMPLOYEES OF THE EXECUTIVE BRANCH AND CERTAIN OTHER AGENCIES.—

“(1) PERMANENT RESTRICTIONS ON REPRESENTATION ON PARTICULAR MATTERS.—Any person who is an officer or employee of the executive branch of the United States Government (including any independent agency of the United States and any special Government employee), or of the District of Columbia, and who, after the termination of his or her service or employment with the United States Government or the District of Columbia, as the case may be, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, as the case may be, on behalf of any other person (except the United States) in connection with a particular matter—

“(A) in which the United States is a party or has a direct and substantial interest,

“(B) in which the person participated personally and substantially as such officer or employee, and

“(C) which involved a specific party or specific parties at the time of such participation,

shall be punished as provided in section 216 of this title.

“(2) TWO-YEAR RESTRICTIONS CONCERNING PARTICULAR MATTERS UNDER OFFICIAL RESPONSIBILITY.—Any person subject to the restrictions contained in paragraph (1) who, within 2 years after the termination of his or her service or employment with the United States Government, knowingly makes, with the intent to

Ethics Reform
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5 USC app. 101
note.

District of
Columbia.

influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States), in connection with a particular matter—

“(A) in which the United States is a party or has a direct and substantial interest,

“(B) which such person knows or reasonably should know was actually pending under his or her official responsibility as such officer or employee within a period of 1 year before the termination of his or her service or employment with the United States Government or the District of Columbia, and

“(C) which involved a specific party or specific parties at the time it was so pending,

shall be punished as provided in section 216 of this title.

“(b) ONE-YEAR RESTRICTIONS ON AIDING OR ADVISING.—

“(1) IN GENERAL.—Any person who is a former officer or employee subject to the restrictions contained in subsection (a)(1), and any person described in subsection (e)(7), who personally and substantially participated in any ongoing trade or treaty negotiation on behalf of the United States within the 1-year period preceding the date on which his or her service or employment with the United States terminated, and who had access to information concerning such trade or treaty negotiation which is exempt from disclosure under section 552 of title 5, and which is so designated by the appropriate department or agency, shall not, on the basis of that information, which the person knew or should have known was so designated, knowingly represent, aid, or advise any other person (except the United States) concerning such ongoing trade or treaty negotiation for 1 year after his or her service or employment with the United States Government terminates. Any person who violates this subsection shall be punished as provided in section 216 of this title.

“(2) DEFINITION.—For purposes of this paragraph—

“(A) the term ‘trade negotiation’ means negotiations which the President determines to undertake to enter into a trade agreement pursuant to section 1102 of the Omnibus Trade and Competitiveness Act of 1988, and does not include any action taken before that determination is made; and

“(B) the term ‘treaty’ means an international agreement made by the President that requires the advice and consent of the Senate.

“(c) ONE-YEAR RESTRICTIONS ON CERTAIN SENIOR PERSONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.—

“(1) RESTRICTIONS.—In addition to the restrictions set forth in subsections (a) and (b), any person who is an officer or employee of the executive branch (including an independent agency), who is referred to in paragraph (2), and who, within 1 year after the termination of his or her service or employment as such officer or employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of the department or agency in which such person served within 1 year before such termination, on behalf of any other person (except the United States), in connection with any matter on

which such person seeks official action by any officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

“(2) PERSONS TO WHOM RESTRICTIONS APPLY.—(A) Paragraph (1) shall apply to a person (other than a person subject to the restrictions of subsection (d))—

“(i) employed at a rate of pay fixed according to subchapter II of chapter 53 of title 5, or a comparable or greater rate of pay under other authority,

“(ii) employed in a position which is not referred to in clause (i) and for which the basic rate of pay is equal to or greater than the basic rate of pay payable for GS-17 of the General Schedule,

“(iii) appointed by the President to a position under section 105(a)(2)(B) of title 3 or by the Vice President to a position under section 106(a)(1)(B) of title 3, or

“(iv) employed in a position which is held by an active duty commissioned officer of the uniformed services who is serving in a grade or rank for which the pay grade (as specified in section 201 of title 37) is pay grade O-7 or above.

“(B) Paragraph (1) shall not apply to a special Government employee who serves less than 60 days in the 1-year period before his or her service or employment as such employee terminates.

“(C) Subparagraph (A)(ii) includes persons employed in the Senior Executive Service at the basic rate of pay specified in that subparagraph.

“(D) At the request of a department or agency, the Director of the Office of Government Ethics may waive the restrictions contained in paragraph (1) with respect to any position, or category of positions, referred to in clause (ii) or (iv) of subparagraph (A), in such department or agency if the Director determines that—

“(i) the imposition of the restrictions with respect to such position or positions would create an undue hardship on the department or agency in obtaining qualified personnel to fill such position or positions, and

“(ii) granting the waiver would not create the potential for use of undue influence or unfair advantage.

“(d) RESTRICTIONS ON VERY SENIOR PERSONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.—

“(1) RESTRICTIONS.—In addition to the restrictions set forth in subsections (a) and (b), any person who—

“(A) serves in the position of Vice President of the United States,

“(B) is employed in a position paid at a rate of pay payable for level I of the Executive Schedule or employed in a position in the Executive Office of the President at a rate of pay payable for level II of the Executive Schedule, or

“(C) is appointed by the President to a position under section 105(a)(2)(A) of title 3 or by the Vice President to a position under section 106(a)(1)(A) of title 3,

and who, within 1 year after the termination of that person's service in that position, knowingly makes, with the intent to influence, any communication to or appearance before any person described in paragraph (2), on behalf of any other person

(except the United States), in connection with any matter on which such person seeks official action by any officer or employee of the executive branch of the United States, shall be punished as provided in section 216 of this title.

“(2) ENTITIES TO WHICH RESTRICTIONS APPLY.—The persons referred to in paragraph (1) with respect to appearances or communications by a person in a position described in subparagraph (A), (B), or (C) of paragraph (1) are—

“(A) any officer or employee of any department or agency in which such person served in such position within a period of 1 year before such person's service or employment with the United States Government terminated, and

“(B) any other person appointed to a position in the executive branch which is listed in section 5312, 5313, 5314, 5315, or 5316 of title 5.

“(e) RESTRICTIONS ON MEMBERS OF CONGRESS AND OFFICERS AND EMPLOYEES OF THE LEGISLATIVE BRANCH.—

“(1) MEMBERS OF CONGRESS AND ELECTED OFFICERS.—(A) Any person who is a Member of Congress or an elected officer of either House of Congress and who, within 1 year after that person leaves office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B) or (C), on behalf of any other person (except the United States) in connection with any matter on which such former Member of Congress or elected officer seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

“(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former Member of Congress are any Member, officer, or employee of either House of Congress, and any employee of any other legislative office of the Congress.

“(C) The persons referred to in subparagraph (A) with respect to appearances or communications by a former elected officer are any Member, officer, or employee of the House of Congress in which the elected officer served.

“(2) PERSONAL STAFF.—(A) Any person who is an employee of a Senator or an employee of a Member of the House of Representatives and who, within 1 year after the termination of that employment, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

“(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a person who is a former employee are the following:

“(i) the Senator or Member of the House of Representatives for whom that person was an employee; and

“(ii) any employee of that Senator or Member of the House of Representatives.

“(3) COMMITTEE STAFF.—Any person who is an employee of a committee of Congress and who, within 1 year after the termi-

nation of that person's employment on such committee, knowingly makes, with the intent to influence, any communication to or appearance before any person who is a Member or an employee of that committee or who was a Member of the committee in the year immediately prior to the termination of such person's employment by the committee, on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

"(4) **LEADERSHIP STAFF.**—(A) Any person who is an employee on the leadership staff of the House of Representatives or an employee on the leadership staff of the Senate and who, within 1 year after the termination of that person's employment on such staff, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

"(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the following:

"(i) in the case of a former employee on the leadership staff of the House of Representatives, those persons are any Member of the leadership of the House of Representatives and any employee on the leadership staff of the House of Representatives; and

"(ii) in the case of a former employee on the leadership staff of the Senate, those persons are any Member of the leadership of the Senate and any employee on the leadership staff of the Senate.

"(5) **OTHER LEGISLATIVE OFFICES.**—(A) Any person who is an employee of any other legislative office of the Congress and who, within 1 year after the termination of that person's employment in such office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by any officer or employee of such office, in his or her official capacity, shall be punished as provided in section 216 of this title.

"(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the employees and officers of the former legislative office of the Congress of the former employee.

"(6) **LIMITATION ON RESTRICTIONS.**—The restrictions contained in paragraphs (2), (3), (4), and (5) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was paid for such service at a basic rate of pay equal to or greater than the basic rate of pay payable for GS-17 of the General Schedule under section 5332 of title 5.

"(7) **DEFINITIONS.**—As used in this subsection—

“(A) the term ‘committee of Congress’ includes standing committees, joint committees, and select committees;

“(B) a person is an employee of a House of Congress if that person is an employee of the Senate or an employee of the House of Representatives;

“(C) the term ‘employee of the House of Representatives’ means an employee of a Member of the House of Representatives, an employee of a committee of the House of Representatives, an employee of a joint committee of the Congress whose pay is disbursed by the Clerk of the House of Representatives, and an employee on the leadership staff of the House of Representatives;

“(D) the term ‘employee of the Senate’ means an employee of a Senator, an employee of a committee of the Senate, an employee of a joint committee of the Congress whose pay is disbursed by the Secretary of the Senate, and an employee on the leadership staff of the Senate;

“(E) a person is an employee of a Member of the House of Representatives if that person is an employee of a Member of the House of Representatives under the clerk hire allowance;

“(F) a person is an employee of a Senator if that person is an employee in a position in the office of a Senator;

“(G) the term ‘employee of any other legislative office of the Congress’ means an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the Copyright Royalty Tribunal, the United States Capitol Police, and any other agency, entity, or office in the legislative branch not covered by paragraph (1), (2), (3), or (4) of this subsection;

“(H) the term ‘employee on the leadership staff of the House of Representatives’ means an employee of the office of a Member of the leadership of the House of Representatives described in subparagraph (L), and any elected minority employee of the House of Representatives;

“(I) the term ‘employee on the leadership staff of the Senate’ means an employee of the office of a Member of the leadership of the Senate described in subparagraph (M);

“(J) the term ‘Member of Congress’ means a Senator or a Member of the House of Representatives;

“(K) the term ‘Member of the House of Representatives’ means a Representative in, or a Delegate or Resident Commissioner to, the Congress;

“(L) the term ‘Member of the leadership of the House of Representatives’ means the Speaker, majority leader, minority leader, majority whip, minority whip, chief deputy majority whip, chief deputy minority whip, chairman of the Democratic Steering Committee, chairman and vice chairman of the Democratic Caucus, chairman, vice chairman, and secretary of the Republican Conference, chairman of the Republican Research Committee, and chairman of the Republican Policy Committee, of the House of Representatives (or any similar position created after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989);

“(M) the term ‘Member of the leadership of the Senate’ means the Vice President, and the President pro tempore, Deputy President pro tempore, majority leader, minority leader, majority whip, minority whip, chairman and secretary of the Conference of the Majority, chairman and secretary of the Conference of the Minority, chairman and co-chairman of the Majority Policy Committee, and chairman of the Minority Policy Committee, of the Senate (or any similar position created after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989).

“(f) RESTRICTIONS RELATING TO FOREIGN ENTITIES.—

“(1) RESTRICTIONS.—Any person who is subject to the restrictions contained in subsection (c), (d), or (e) and who knowingly, within 1 year after leaving the position, office, or employment referred to in subsection (c), (d), or (e), as the case may be—

“(A) represents the interests of a foreign entity before any officer or employee of any department or agency of the Government of the United States with the intent to influence a decision of such officer or employee in carrying out his or her official duties, or

“(B) aids or advises a foreign entity with the intent to influence a decision of any officer or employee of any department or agency of the Government of the United States, in carrying out his or her official duties, shall be punished as provided in section 216 of this title.

“(2) DEFINITION.—For purposes of this subsection, the term ‘foreign entity’ means the government of a foreign country as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, or a foreign political party as defined in section 1(f) of that Act.”

“(g) SPECIAL RULES FOR DETAILEES.—For purposes of this section, a person who is detailed from one department, agency, or other entity to another department, agency, or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies, or such entities.

“(h) DESIGNATIONS OF SEPARATE STATUTORY AGENCIES AND BUREAUS.—

“(1) DESIGNATIONS.—For purposes of subsection (c) and except as provided in paragraph (2), whenever the Director of the Office of Government Ethics determines that an agency or bureau within a department or agency in the executive branch exercises functions which are distinct and separate from the remaining functions of the department or agency and that there exists no potential for use of undue influence or unfair advantage based on past Government service, the Director shall by rule designate such agency or bureau as a separate department or agency. On an annual basis the Director of the Office of Government Ethics shall review the designations and determinations made under this subparagraph and, in consultation with the department or agency concerned, make such additions and deletions as are necessary. Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in the exercise of his or her responsibilities under this paragraph.

“(2) INAPPLICABILITY OF DESIGNATIONS.—No agency or bureau within the Executive Office of the President may be designated under paragraph (1) as a separate department or agency. No

designation under paragraph (1) shall apply to persons referred to in subsection (c)(2)(A) (i) or (iii).

“(i) DEFINITIONS.—For purposes of this section—

“(1) the term ‘intent to influence’ means the intent to affect any official action by a Government entity of the United States through any officer or employee of the United States, including Members of Congress;

“(2) the term ‘participated’ means an action taken as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other such action; and

“(3) the term ‘particular matter’ includes any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding.

“(j) EXCEPTIONS.—

“(1) OFFICIAL GOVERNMENT DUTIES.—The restrictions contained in subsections (a), (c), (d), and (e) shall not apply to acts done in carrying out official duties as an officer or employee of the United States Government or as an elected official of a State or local government.

“(2) STATE AND LOCAL GOVERNMENTS AND INSTITUTIONS, HOSPITALS, AND ORGANIZATIONS.—The restrictions contained in subsections (c), (d), and (e) shall not apply to acts done in carrying out official duties as an employee of—

“(A) an agency or instrumentality of a State or local government if the appearance, communication, or representation is on behalf of such government, or

“(B) an accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, or a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1986, if the appearance, communication, or representation is on behalf of such institution, hospital, or organization.

“(3) INTERNATIONAL ORGANIZATIONS.—The restrictions contained in subsections (c), (d), and (e) shall not apply to an appearance or communication on behalf of, or advice or aid to, an international organization of which the United States is a member.

“(4) PERSONAL MATTERS AND SPECIAL KNOWLEDGE.—The restrictions contained in subsections (c), (d), and (e) shall not apply to appearances or communications by a former officer or employee concerning matters of a personal and individual nature, such as personal income taxes or pension benefits; nor shall the prohibitions of those subsections prevent a former officer or employee from making or providing a statement, which is based on the former officer’s or employee’s own special knowledge in the particular area that is the subject of the statement, if no compensation is thereby received, other than that regularly provided for by law or regulation for witnesses.

“(5) EXCEPTION FOR SCIENTIFIC OR TECHNOLOGICAL INFORMATION.—The restrictions contained in subsections (a), (c), (d), and (e) shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information, if such communications are made under procedures acceptable to the department or agency concerned

or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee.

Vice President
of U.S.

“(6) EXCEPTION FOR TESTIMONY.—Nothing in this section shall prevent a former Member of Congress or officer or employee of the executive or legislative branch or an independent agency (including the Vice President and any special Government employee) from giving testimony under oath, or from making statements required to be made under penalty of perjury. Notwithstanding the preceding sentence, a former officer or employee subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the United States) in that matter.”

(b) CONFORMING AMENDMENT.—The item relating to section 207 in the table of sections at the beginning of chapter 11 of title 18, United States Code, is amended to read as follows:

“207. Restrictions on former officers, employees, and elected officials of the executive and legislative branches.”

18 USC 207 note.

SEC. 102. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by section 101 take effect on January 1, 1991.

(b) EFFECT ON EMPLOYMENT.—(1) The amendments made by section 101 apply only to persons whose service as a Member of Congress or an officer or employee to which such amendments apply terminates on or after the effective date of such amendments.

(2) With respect to service as an officer or employee which terminates before the effective date set forth in subsection (a), section 207 of title 18, United States Code, as in effect at the time of the termination of such service, shall continue to apply, on and after such effective date, with respect to such service.

TITLE II—FINANCIAL DISCLOSURE OF FEDERAL PERSONNEL

SEC. 201. REPEAL OF TITLES II AND III OF THE ETHICS IN GOVERNMENT ACT OF 1978.

Titles II and III of the Ethics in Government Act of 1978 (5 U.S.C. App.; 28 U.S.C. App.) are repealed.

SEC. 202. FINANCIAL DISCLOSURE REQUIREMENTS OF FEDERAL PERSONNEL.

Title I of the Ethics in Government Act of 1978 (2 U.S.C. 701 et seq.) is amended to read as follows:

**"TITLE I—FINANCIAL DISCLOSURE REQUIREMENTS OF
FEDERAL PERSONNEL****"PERSONS REQUIRED TO FILE**

5 USC app. 101.

"Sec. 101. (a) Within thirty days of assuming the position of an officer or employee described in subsection (f), an individual shall file a report containing the information described in section 102(b) unless the individual has left another position described in subsection (f) within thirty days prior to assuming such new position or has already filed a report under this title with respect to nomination for the new position or as a candidate for the position.

"(b)(1) Within five days of the transmittal by the President to the Senate of the nomination of an individual (other than an individual nominated for appointment to a position as a Foreign Service Officer or a grade or rank in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code, is O-6 or below) to a position, appointment to which requires the advice and consent of the Senate, such individual shall file a report containing the information described in section 102(b). Such individual shall, not later than the date of the first hearing to consider the nomination of such individual, make current the report filed pursuant to this paragraph by filing the information required by section 102(a)(1)(A) with respect to income and honoraria received as of the date which occurs five days before the date of such hearing. Nothing in this Act shall prevent any Congressional committee from requesting, as a condition of confirmation, any additional financial information from any Presidential nominee whose nomination has been referred to that committee.

"(2) An individual whom the President or the President-elect has publicly announced he intends to nominate to a position may file the report required by paragraph (1) at any time after that public announcement, but not later than is required under the first sentence of such paragraph.

"(c) Within thirty days of becoming a candidate as defined in section 301 of the Federal Campaign Act of 1971, in a calendar year for nomination or election to the office of President, Vice President, or Member of Congress, or on or before May 15 of that calendar year, whichever is later, but in no event later than 30 days before the election, and on or before May 15 of each successive year an individual continues to be a candidate, an individual other than an incumbent President, Vice President, or Member of Congress shall file a report containing the information described in section 102(b). Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

"(d) Any individual who is an officer or employee described in subsection (f) during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 102(a).

"(e) Any individual who occupies a position described in subsection (f) shall, on or before the later of May 15 or the thirtieth day after termination of employment in such position, file a report

containing the information described in section 102(a) covering the preceding calendar year if the report required by subsection (d) has not been filed and covering the portion of the calendar year in which such termination occurs up to the date the individual left such office or position, unless such individual has accepted employment in another position described in subsection (f).

“(f) The officers and employees referred to in subsections (a), (d), and (e) are—

“(1) the President;

“(2) the Vice President;

“(3) each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, whose position is classified at GS-16 or above of the General Schedule prescribed by section 5332 of title 5, United States Code, or the rate of basic pay for which is fixed (other than under the General Schedule) at a rate equal to or greater than the minimum rate of basic pay fixed for GS-16; each member of a uniformed service whose pay grade is at or in excess of O-7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined by the Director of the Office of Government Ethics to be of equal classification;

“(4) each employee appointed pursuant to section 3105 of title 5, United States Code;

“(5) any employee not described in paragraph (3) who is in a position in the executive branch which is excepted from the competitive service by reason of being of a confidential or policymaking character, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government;

“(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service or Postal Rate Commission whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed for GS-16;

“(7) the Director of the Office of Government Ethics and each designated agency ethics official;

“(8) any civilian employee not described in paragraph (3), employed in the Executive Office of the President (other than a special government employee) who holds a commission of appointment from the President;

“(9) a Member of Congress as defined under section 109(12);

“(10) an officer or employee of the Congress as defined under section 109(13);

“(11) a judicial officer as defined under section 109(10); and

“(12) a judicial employee as defined under section 109(8).

“(g) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the supervising ethics office for each branch, but the total of such extensions shall not exceed ninety days.

“(h) The provisions of subsections (a), (b), and (e) shall not apply to an individual who, as determined by the designated agency ethics

official or Secretary concerned (or in the case of a Presidential appointee under subsection (b), the Director of the Office of Government Ethics), the congressional ethics committees, or the Judicial Conference of the United States, is not reasonably expected to perform the duties of his office or position for more than sixty days in a calendar year, except that if such individual performs the duties of his office or position for more than sixty days in a calendar year—

“(1) the report required by subsections (a) and (b) shall be filed within fifteen days of the sixtieth day, and

“(2) the report required by subsection (e) shall be filed as provided in such subsection.

“(i) The supervising ethics office for each branch may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position less than one hundred and thirty days in a calendar year, but only if the supervising ethics office determines that—

“(1) such individual is not a full-time employee of the Government,

“(2) such individual is able to provide services specially needed by the Government,

“(3) it is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and

“(4) public financial disclosure by such individual is not necessary in the circumstances.

“CONTENTS OF REPORTS

“Sec. 102. (a) Each report filed pursuant to section 101 (d) and (e) shall include a full and complete statement with respect to the following:

5 USC app. 102.

“(1)(A) The source, type, and amount or value of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating \$200 or more in value and, effective January 1, 1991, the source, date, and amount of payments made to charitable organizations in lieu of honoraria, and such individuals shall simultaneously file with the applicable supervising ethics office, on a confidential basis, a corresponding list of recipients of all such payments, together with the dates and amounts of such payments.

Classified information.

“(B) The source and type of income which consists of dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds \$200 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within:

“(i) not more than \$1,000,

“(ii) greater than \$1,000 but not more than \$2,500,

“(iii) greater than \$2,500 but not more than \$5,000,

“(iv) greater than \$5,000 but not more than \$15,000,

“(v) greater than \$15,000 but not more than \$50,000,

“(vi) greater than \$50,000 but not more than \$100,000,

“(vii) greater than \$100,000 but not more than \$1,000,000,

or

“(viii) greater than \$1,000,000.

Gifts and
property.

“(2)(A) The identity of the source and a brief description (including a travel itinerary, dates, and nature of expenses provided) of any gifts of transportation, lodging, food, or entertainment aggregating \$250 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of \$75 or less need not be aggregated for purposes of this subparagraph.

“(B) The identity of the source, a brief description, and the value of all gifts other than transportation, lodging, food, or entertainment aggregating \$100 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any gift with a fair market value of \$75 or less need not be aggregated for purposes of this subparagraph.

“(C) The identity of the source and a brief description (including a travel itinerary, dates, and nature of expenses provided) of reimbursements received from any source aggregating \$250 or more in value and received during the preceding calendar year.

“(D) In an unusual case, a gift need not be aggregated under subparagraph (A) or (B) if a publicly available request for a waiver is granted.

Real property.

“(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds \$1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a spouse, parent, brother, sister, or child or any deposits aggregating \$5,000 or less in a personal savings account. For purposes of this paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

Real property.

“(4) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceed \$10,000 at any time during the preceding calendar year, excluding—

“(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse; and

“(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds \$10,000 as of the close of the preceding calendar year need be reported under this paragraph.

“(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale or exchange during the preceding calendar year which exceeds \$1,000—

Real property.

“(A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or

Securities.

“(B) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

“(6)(A) The identity of all positions held on or before the date of filing during the current calendar year (and, for the first report filed by an individual, during the two-year period preceding such calendar year) as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

“(B) If any person, other than the United States Government, paid a nonelected reporting individual compensation in excess of \$5,000 in any of the two calendar years prior to the calendar year during which the individual files his first report under this title, the individual shall include in the report—

“(i) the identity of each source of such compensation; and

“(ii) a brief description of the nature of the duties performed or services rendered by the reporting individual for each such source.

The preceding sentence shall not require any individual to include in such report any information which is considered confidential as a result of a privileged relationship, established by law, between such individual and any person nor shall it require an individual to report any information with respect to any person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless such individual was directly involved in the provision of such services.

“(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

“(b)(1) Each report filed pursuant to subsections (a), (b), and (c) of section 101 shall include a full and complete statement with respect to the information required by—

“(A) paragraph (1) of subsection (a) for the year of filing and the preceding calendar year,

“(B) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than thirty-one days before the filing date, and

“(C) paragraphs (6) and (7) of subsection (a) as of the filing date but for periods described in such paragraphs.

“(2)(A) In lieu of filling out one or more schedules of a financial disclosure form, an individual may supply the required information in an alternative format, pursuant to either rules adopted by the supervising ethics office for the branch in which such individual serves or pursuant to a specific written determination by such office for a reporting individual.

Classified
information.

“(B) In lieu of indicating the category of amount or value of any item contained in any report filed under this title, a reporting individual may indicate the exact dollar amount of such item.

“(c) In the case of any individual described in section 101(e), any reference to the preceding calendar year shall be considered also to include that part of the calendar year of filing up to the date of the termination of employment.

“(d)(1) The categories for reporting the amount or value of the items covered in paragraphs (3), (4), and (5) of subsection (a) are as follows:

“(A) not more than \$15,000;

“(B) greater than \$15,000 but not more than \$50,000;

“(C) greater than \$50,000 but not more than \$100,000;

“(D) greater than \$100,000 but not more than \$250,000;

“(E) greater than \$250,000 but not more than \$500,000;

“(F) greater than \$500,000 but not more than \$1,000,000; and

“(G) greater than \$1,000,000.

Real property.

“(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

Securities.

“(e)(1) Except as provided in the last sentence of this paragraph, each report required by section 101 shall also contain information listed in paragraphs (1) through (5) of subsection (a) of this section respecting the spouse or dependent child of the reporting individual as follows:

“(A) The source of items of earned income earned by a spouse from any person which exceed \$1,000 and the source and amount of any honoraria received by a spouse, except that, with respect to earned income (other than honoraria), if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

“(B) All information required to be reported in subsection (a)(1)(B) with respect to income derived by a spouse or dependent

child from any asset held by the spouse or dependent child and reported pursuant to subsection (a)(3).

“(C) In the case of any gifts received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

“(D) In the case of any reimbursements received by a spouse or dependent child which are not received totally independent of the relationship of the spouse or dependent child to the reporting individual, the identity of the source and a brief description of each such reimbursement.

“(E) In the case of items described in paragraphs (3) through (5), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

Reports required by subsections (a), (b), and (c) of section 101 shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

“(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

“(f)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a), (b), and (c) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

“(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

“(A) any qualified blind trust (as defined in paragraph (3));

“(B) a trust—

“(i) which was not created directly by such individual, his spouse, or any dependent child, and

“(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of; or

“(C) an entity described under the provisions of paragraph (8), but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust or other entity under subsection (a)(1)(B) of this section.

“(3) For purposes of this subsection, the term ‘qualified blind trust’ includes any trust in which a reporting individual, his spouse, or any minor or dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

“(A)(i) The trustee of the trust and any other entity designated in the trust instrument to perform fiduciary duties is a financial institution, an attorney, a certified public accountant, a broker, or an investment advisor who—

“(I) is independent of and not associated with any interested party so that the trustee or other person cannot be controlled or influenced in the administration of the trust by any interested party; and

“(II) is not and has not been an employee of or affiliated with any interested party and is not a partner of, or involved in, any joint venture or other investment with, any interested party; and

“(III) is not a relative of any interested party.

“(ii) Any officer or employee of a trustee or other entity who is involved in the management or control of the trust—

“(I) is independent of and not associated with any interested party so that such officer or employee cannot be controlled or influenced in the administration of the trust by any interested party;

“(II) is not or has not been a partner of any interested party and is not a partner of, or involved in any joint venture or other investment with any interested party; and

“(III) is not a relative of any interested party.

“(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.

“(C) The trust instrument which establishes the trust provides that—

“(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

“(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

“(iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than \$1,000;

“(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

“(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1) of this section, but such report shall not identify any asset or holding;

“(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

“(vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

“(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual’s supervising ethics office.

“(E) For purposes of this subsection, ‘interested party’ means a reporting individual, his spouse, and any minor or dependent child; ‘broker’ has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and ‘investment adviser’ includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.

“(F) Any trust qualified by a supervising ethics office before the effective date of this section shall continue to be governed by the law and regulations in effect immediately before such effective date.

“(4)(A) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of any applicable conflict of interest statutes, regulations, or rules of the Federal Government (including section 208 of title 18, United States Code), until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than \$1,000.

“(B)(i) The provisions of subparagraph (A) shall not apply with respect to a trust created for the benefit of a reporting individual, or the spouse, dependent child, or minor child of such a person, if the supervising ethics office for such reporting individual finds that—

“(I) the assets placed in the trust consist of a well-diversified portfolio of readily marketable securities;

“(II) none of the assets consist of securities of entities having substantial activities in the area of the reporting individual’s primary area of responsibility;

“(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraphs (3)(C)(iii) and (iv) of

this subsection, from making public or informing any interested party of the sale of any securities;

“(IV) the trustee is given power of attorney, notwithstanding the provisions of paragraph (3)(C)(v) of this subsection, to prepare on behalf of any interested party the personal income tax returns and similar returns which may contain information relating to the trust; and

“(V) except as otherwise provided in this paragraph, the trust instrument provides (or in the case of a trust established prior to the effective date of this Act which by its terms does not permit amendment, the trustee, the reporting individual, and any other interested party agree in writing) that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A).

“(ii) In any instance covered by subparagraph (B) in which the reporting individual is an individual whose nomination is being considered by a congressional committee, the reporting individual shall inform the congressional committee considering his nomination before or during the period of such individual's confirmation hearing of his intention to comply with this paragraph.

“(5)(A) The reporting individual shall, within thirty days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of—

“(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

“(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (d) of this section.

This subparagraph shall not apply with respect to a trust meeting the requirements for being considered a qualified blind trust under paragraph (7) of this subsection.

“(B) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (d) of this section.

“(C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall—

“(i) notify his supervising ethics office of such dissolution, and

“(ii) file with such office a copy of a list of the assets of the trust at the time of such dissolution and the category of value under subsection (d) of this section of each such asset.

“(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 105 and the provisions of that section shall apply with respect to such documents and lists.

“(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within five days of the date of the communication.

“(6)(A) A trustee of a qualified blind trust shall not knowingly or negligently (i) disclose any information to an interested party with

respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

“(B) A reporting individual shall not knowingly or negligently (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection or (ii) fail to file any document required by this subsection.

“(C)(i) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed \$10,000.

“(ii) The Attorney General may bring a civil action in any appropriate United States district court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed \$5,000.

“(7) Any trust may be considered to be a qualified blind trust if—

“(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which does not by its terms permit amendment, the trustee, the reporting individual, and any other interested party agree in writing that the trust shall be administered in accordance with the requirements of this subsection and the trustee of such trust meets the requirements of paragraph (3)(A); except that in the case of any interested party who is a dependent child, a parent or guardian of such child may execute the agreement referred to in this subparagraph;

“(B) a copy of the trust instrument (except testamentary provisions) and a copy of the agreement referred to in subparagraph (A), and a list of the assets held by the trust at the time of approval by the supervising ethics office, including the category of value of each asset as determined under subsection (d) of this section, are filed with such office and made available to the public as provided under paragraph (5)(D) of this subsection; and

“(C) the supervising ethics office determines that approval of the trust arrangement as a qualified blind trust is in the particular case appropriate to assure compliance with applicable laws and regulations.

“(8) A reporting individual shall not be required to report the financial interests held by a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

“(A)(i) the fund is publicly traded; or

“(ii) the assets of the fund are widely diversified; and

“(B) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

“(g) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

“(h) A report filed pursuant to subsection (a), (d), or (e) of section 101 need not contain the information described in subparagraphs (A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not an officer or employee of the Federal Government.

“FILING OF REPORTS

5 USC app. 103.

“SEC. 103. (a) Except as otherwise provided in this section, the reports required under this title shall be filed by the reporting individual with the designated agency ethics official at the agency by which he is employed (or in the case of an individual described in section 101(e), was employed) or in which he will serve. The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such official.

President of U.S.
Vice President
of U.S.

“(b) The President, the Vice President, and independent counsel and persons appointed by independent counsel under chapter 40 of title 28, United States Code, shall file reports required under this title with the Director of the Office of Government Ethics.

“(c) Copies of the reports required to be filed under this title by the Postmaster General, the Deputy Postmaster General, the Governors of the Board of Governors of the United States Postal Service, designated agency ethics officials, employees described in section 105(a)(2)(A) or (B), 106(a)(1)(A) or (B), or 107(a)(1)(A) or (b)(1)(A)(i), of title 3, United States Code, candidates for the office of President or Vice President and officers and employees in (and nominees to) offices or positions which require confirmation by the Senate or by both Houses of Congress other than those referred to in subsection (f) shall be transmitted to the Director of the Office of Government Ethics. The Director shall forward a copy of the report of each nominee to the congressional committee considering the nomination.

Public
information.

“(d) Reports required to be filed under this title by the Director shall be filed in the Office of Government Ethics and, immediately after being filed, shall be made available to the public in accordance with this title.

“(e) Each individual identified in section 101(c) shall file the reports required by this title with the Federal Elections Commission.

Uniformed
services.

“(f) Reports required of members of the uniformed services shall be filed with the Secretary concerned.

“(g) The Office of Government Ethics shall develop and make available forms for reporting the information required by this title.

“(h)(1) The reports required under this title shall be filed by a reporting individual with—

“(A)(i) the appropriate congressional ethics committee with regard to a Member of Congress, officer or employee of the Congress described under paragraphs (9) and (10) of section 101(f) (including individuals terminating service in such office or position under section 101(e) or immediately preceding service in such office or position); and

“(ii) in the case of an officer or employee of the Congress as described under section 101(f)(10) who is employed by an agency or commission established in the legislative branch after the date of the enactment of the Ethics Reform Act of 1989—

“(I) the congressional ethics committee designated in the statute establishing such agency or commission; or

“(II) if such statute does not designate such committee, the Senate Select Committee on Ethics for agencies and commissions established in even numbered calendar years, and the Committee on Standards of Official Conduct of the House of Representatives for agencies and commissions established in odd numbered calendar years; and

“(B) the Judicial Conference of the United States with regard to a judicial officer or employee described under paragraphs (11) and (12) of section 101(f) (including individuals terminating service in such office or position under section 101(e) or immediately preceding service in such office or position).

“(2) The date any report is received (and the date of receipt of any supplemental report) shall be noted on such report by such committee.

“FAILURE TO FILE OR FILING FALSE REPORTS

“SEC. 104. (a) The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 102. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed \$10,000.

5 USC app. 104.

“(b) The head of each agency, each Secretary concerned, the Director of the Office of Government Ethics, each congressional ethics committee, or the Chairman of the Judicial Conference of the United States, as the case may be, shall refer to the Attorney General the name of any individual which such official or committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported.

“(c) The President, the Vice President, the Secretary concerned, the head of each agency, the Office of Personnel Management, a congressional ethics committee, and the Judicial Conference of the United States, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

“(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of—

“(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or

“(B) if a filing extension is granted to such individual under section 101(g), the last day of the filing extension period,

shall pay a filing fee of \$200 to the miscellaneous receipts of the General Treasury.

“(2) The supervising ethics office may waive the filing fee under this subsection in extraordinary circumstances.

“CUSTODY OF AND PUBLIC ACCESS TO REPORTS

“SEC. 105. (a) Each agency and each supervisory ethics office shall make each report filed with it under this title available to the public in accordance with the provisions of subsection (b) of this section, except that this section does not require public availability of a report filed by—

5 USC app. 105.

Defense and
national security.

Classified
information.

“(1) any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds that, due to the nature of the office or position occupied by such individual, public disclosure of such report would, by revealing the identity of the individual or other sensitive information, compromise the national interest of the United States. In addition, such individuals may be authorized, notwithstanding section 104(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds that such filing is necessary in the national interest; or

“(2) an independent counsel or person appointed by independent counsel under chapter 40 of title 28, United States Code, whose identity has not otherwise been disclosed.

“(b)(1) Each agency and each supervising ethics office shall, within thirty days after any report is received by such agency or office under this title, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. The agency or office may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

“(2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

“(A) that person’s name, occupation and address;

“(B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

“(C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

“(c)(1) It shall be unlawful for any person to obtain or use a report—

“(A) for any unlawful purpose;

“(B) for any commercial purpose, other than by news and communications media for dissemination to the general public;

“(C) for determining or establishing the credit rating of any individual; or

“(D) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

“(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1) of this subsection. The court in which such action is brought may assess against such person a penalty in any amount not to exceed \$10,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

“(d) Any report filed with or transmitted to an agency or supervising ethics office pursuant to this title shall be retained by such agency or office, as the case may be. Such report shall be made available to the public for a period of six years after receipt of the report. After such six-year period the report shall be destroyed

unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such reports shall be destroyed one year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation.

“REVIEW OF REPORTS

“SEC. 106. (a)(1) Each designated agency ethics official or Secretary concerned shall make provisions to ensure that each report filed with him under this title is reviewed within sixty days after the date of such filing, except that the Director of the Office of Government Ethics shall review only those reports required to be transmitted to him under this title within sixty days after the date of transmittal.

5 USC app. 106.

“(2) Each congressional ethics committee and the Judicial Conference of the United States shall make provisions to ensure that each report filed under this title is reviewed within sixty days after the date of such filing.

“(b)(1) If after reviewing any report under subsection (a), the Director of the Office of Government Ethics, Secretary concerned, designated agency ethics official, or a person designated by the congressional ethics committee, or the Chairman of the Judicial Conference of the United States, as the case may be, is of the opinion that on the basis of information contained in such report the individual submitting such report is in compliance with applicable laws and regulations, he shall state such opinion on the report, and shall sign such report.

“(2) If the Director of the Office of Government Ethics, Secretary concerned, designated agency ethics official or a person designated by the congressional ethics committee, or the Chairman of the Judicial Conference of the United States, after reviewing any report under subsection (a)—

“(A) believes additional information is required to be submitted, he shall notify the individual submitting such report what additional information is required and the time by which it must be submitted, or

“(B) is of the opinion, on the basis of information submitted, that the individual is not in compliance with applicable laws and regulations, he shall notify the individual, afford a reasonable opportunity for a written or oral response, and after consideration of such response, reach an opinion as to whether or not, on the basis of information submitted, the individual is in compliance with such laws and regulations.

“(3) If the Director of the Office of Government Ethics, Secretary concerned, designated agency ethics official, a congressional ethics committee, or the Judicial Conference of the United States, reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable laws and regulations, the official or committee shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official or committee be appropriate for assuring compliance

with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—

- “(A) divestiture,
- “(B) restitution,
- “(C) the establishment of a blind trust,
- “(D) request for an exemption under section 208(b) of title 18, United States Code, or
- “(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

The use of any such steps shall be in accordance with such rules or regulations as the supervising ethics office may prescribe.

“(4) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by an individual in a position (other than in the foreign service or the uniformed services), appointment to which requires the advice and consent of the Senate, the matter shall be referred to the President for appropriate action.

“(5) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by a member of the foreign service or the uniformed services, the Secretary concerned shall take appropriate action.

“(6) If steps for assuring compliance with applicable laws and regulations are not taken by the date set under paragraph (3) by any other officer or employee the matter shall be referred to the head of the appropriate agency, the congressional ethics committee, or the Judicial Conference of the United States, for appropriate action; except that in the case of the Postmaster General or Deputy Postmaster General, the Director of the Office of Government Ethics shall recommend to the Governors of the Board of Governors of the United States Postal Service the action to be taken.

“(7) Each supervising ethics office may render advisory opinions interpreting this title within its respective jurisdiction. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title.

“CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS

5 USC app. 107.

“SEC. 107. (a)(1) Each supervising ethics office may require officers and employees under its jurisdiction (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as the supervising ethics office may prescribe. The information required to be reported under this subsection by the officers and employees of any department or agency shall be set forth in rules or regulations prescribed by the supervising ethics office, and may be less extensive than otherwise required by this title, or more extensive when determined by the supervising ethics office to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 101 shall not be required to file a confidential report pursuant to this subsection, except with respect

to information which is more extensive than information otherwise required by this title. Subsections (a), (b), and (d) of section 105 shall not apply with respect to any such report.

“(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.

“(3) Nothing in this subsection exempts any individual otherwise covered by the requirement to file a public financial disclosure report under this title from such requirement.

“(b) The provisions of this title requiring the reporting of information shall supersede any general requirement under any other provision of law or regulation with respect to the reporting of information required for purposes of preventing conflicts of interest or apparent conflicts of interest. Such provisions of this title shall not supersede the requirements of section 7342 of title 5, United States Code.

“(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, rule, or regulation.

“AUTHORITY OF COMPTROLLER GENERAL

“SEC. 108. (a) The Comptroller General shall have access to financial disclosure reports filed under this title for the purposes of carrying out his statutory responsibilities.

5 USC app. 108.

“(b) No later than December 31, 1992, and regularly thereafter, the Comptroller General shall conduct a study to determine whether the provisions of this title are being carried out effectively.

“DEFINITIONS

“SEC. 109. For the purposes of this title, the term—

5 USC app. 109.

“(1) ‘congressional ethics committees’ means the Senate Select Committee on Ethics and the Committee on Standards of Official Conduct of the House of Representatives;

“(2) ‘dependent child’ means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

“(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

“(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1986;

“(3) ‘designated agency ethics official’ means an officer or employee who is designated to administer the provisions of this title within an agency;

“(4) ‘executive branch’ includes each Executive agency (as defined in section 105 of title 5, United States Code) and any other entity or administrative unit in the executive branch;

“(5) ‘gift’ means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

“(A) bequest and other forms of inheritance;

“(B) suitable mementos of a function honoring the reporting individual;

“(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government;

“(D) food and beverages consumed at banquets, receptions, or similar events; or

“(E) communications to the offices of a reporting individual including subscriptions to newspapers and periodicals;

“(6) ‘honoraria’ has the meaning given such term in section 505 of this Act;

“(7) ‘income’ means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

“(8) ‘judicial employee’ means any employee of the judicial branch of the Government, of the Tax Court, of the Court of Veterans Appeals, or of the United States Court of Military Appeals, who is not a judicial officer and who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, or who receives compensation at a rate at or in excess of the minimum rate prescribed for grade 16 of the General Schedule under section 5332 of title 5, United States Code;

“(9) ‘Judicial Conference’ means the Judicial Conference of the United States;

“(10) ‘judicial officer’ means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the United States courts of appeals, United States district courts, including the district courts in the Canal Zone, Guam, and the Virgin Islands, Court of Claims, Court of Appeals for the Federal Circuit, Court of International Trade, Tax Court, United States Court of Military Appeals, and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior;

“(11) ‘legislative branch’ includes—

“(A) the Architect of the Capitol;

“(B) the Botanic Gardens;

“(C) the Congressional Budget Office;

“(D) the General Accounting Office;

“(E) the Government Printing Office;

“(F) the Library of Congress;

“(G) the United States Capitol Police;

“(H) the Office of Technology Assessment; and

“(I) any other agency, entity, office, or commission established in the legislative branch;

“(12) ‘Member of Congress’ means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;

“(13) ‘officer or employee of the Congress’ means—

“(A) any individual described under subparagraph (B), other than a Member of Congress or the Vice President,

whose compensation is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives;

“(B)(i) each officer or employee of the legislative branch who is compensated for 60 consecutive days at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS-16 of the General Schedule; and

“(ii) at least one principal assistant designated for purposes of this paragraph by each Member who does not have an employee compensated at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS-16 of the General Schedule;

“(14) ‘personal hospitality of any individual’ means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

“(15) ‘reimbursement’ means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

“(A) provided by the United States Government;

“(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

“(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

“(16) ‘relative’ means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancée of the reporting individual;

“(17) ‘Secretary concerned’ has the meaning set forth in section 101(8) of title 10, United States Code, and, in addition, means—

“(A) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration; and

“(B) the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service;

“(18) ‘supervising ethics office’ means—

“(A) the Select Committee on Ethics of the Senate, for Senators, officers and employees of the Senate, and other officers or employees of the legislative branch required to file financial disclosure reports with such committee pursuant to section 103(h) of this title;

“(B) the Committee on Standards of Official Conduct of the House of Representatives, for Members, officers and employees of the House of Representatives and other officers or employees of the legislative branch required to file financial disclosure reports with such committee pursuant to section 103(h) of this title;

“(C) the Judicial Conference of the United States for judicial officers and judicial employees; and

“(D) the Office of Government Ethics for all executive branch employees; and

“(19) ‘value’ means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual.

“NOTICE OF ACTIONS TAKEN TO COMPLY WITH ETHICS AGREEMENTS

5 USC app. 110.

“SEC. 110. (a) In any case in which an individual agrees with that individual’s designated agency ethics official, the Office of Government Ethics, a Senate confirmation committee, a congressional ethics committee, or the Judicial Conference of the United States, to take any action to comply with this Act or any other law or regulation governing conflicts of interest of, or establishing standards of conduct applicable with respect to, officers or employees of the Government, that individual shall notify in writing the designated agency ethics official, the Office of Government Ethics, the appropriate committee of the Senate, the congressional ethics committee, or the Judicial Conference of the United States, as the case may be, of any action taken by the individual pursuant to that agreement. Such notification shall be made not later than the date specified in the agreement by which action by the individual must be taken, or not later than three months after the date of the agreement, if no date for action is so specified.

“(b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with such individual’s designated agency ethics official or the appropriate supervising ethics office within the time prescribed in the last sentence of subsection (a).

“ADMINISTRATION OF PROVISIONS

5 USC app. 111.

“SEC. 111. The provisions of this title shall be administered by—

“(1) the Director of the Office of Government Ethics, the designated agency ethics official, or the Secretary concerned, as appropriate, with regard to officers and employees described in paragraphs (1) through (8) of section 101(f);

“(2) the Senate Select Committee on Ethics and the Committee on Standards of Official Conduct of the House of Representatives, as appropriate, with regard to officers and employees described in paragraphs (9) and (10) of section 101(f); and

“(3) the Judicial Conference of the United States and clerk of the applicable court, as appropriate, in the case of an officer or employee described in paragraphs (11) and (12) of section 101(f).

“EFFECTIVE DATE

5 USC app. 112.

“SEC. 112. The provisions made by this title shall take effect on January 1, 1990, and shall be applicable to reports filed under this title after January 1, 1991.”

SEC. 203. PRESIDENT'S COMMISSION ON THE FEDERAL APPOINTMENT PROCESS.

(a) **ESTABLISHMENT.**—There shall be established an advisory commission to study the best means of simplifying the Presidential appointment process, in particular by reducing the number and complexity of forms to be completed by nominees. The Commission shall be known as the President's Commission on the Federal Appointment Process.

(b) **MEMBERSHIP.**—The Commission shall be composed of 14 members from among officers and employees of the three branches of the Federal Government. Eight members shall be appointed by the President, two members shall be appointed by the majority leader of the Senate, two members shall be appointed by the minority leader of the Senate, one member shall be appointed by the Speaker of the House of Representatives, and one member shall be appointed by the minority leader of the House of Representatives. Any vacancy on the Commission shall be filled in the same manner as the initial appointment.

(c) **REPORT.**—The Commission shall present its report to the President no later than ninety days after its first meeting. The Commission shall cease to exist upon submission of its report.

TITLE III—GIFTS AND TRAVEL**SEC. 301. GIFTS TO SUPERIORS.**

Section 7351 of title 5, United States Code, is amended by—

(1) adding "(a)" before "An employee may not"; and

(2) striking the final sentence and inserting the following:

"(b) An employee who violates this section shall be subject to appropriate disciplinary action by the employing agency or entity.

"(c) The Office of Government Ethics is authorized to issue regulations implementing this section, including regulations exempting voluntary gifts or contributions that are given or received for special occasions such as marriage or retirement or under other similar circumstances."

Regulations.

SEC. 302. TRAVEL ACCEPTANCE AUTHORITY.

(a) **IN GENERAL.**—Subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end thereof the following:

"§ 1352. Acceptance of travel and related expenses from non-Federal sources

"(a) Notwithstanding any other provision of law, the Administrator of General Services, in consultation with the Director of the Office of Government Ethics, shall prescribe by regulation the conditions under which an agency or employee in the executive branch may accept payment from non-Federal sources for travel, subsistence, and related expenses with respect to attendance of the employee (or the spouse of such employee) at any meeting or similar function relating to the official duties of the employee. Any cash payment so accepted shall be credited to the appropriation applicable to such expenses. In the case of a payment in kind so accepted, a pro rata reduction shall be made in any entitlement of the employee to payment from the Government for such expenses.

Regulations.

"(b) Except as provided in this section or section 4111 of title 5, an agency or employee may not accept payment for expenses referred to in subsection (a). An employee who accepts any payment in violation of the preceding sentence—

"(1) may be required, in addition to any penalty provided by law, to repay, for deposit in the general fund of the Treasury, an amount equal to the amount of the payment so accepted; and

"(2) in the case of a repayment under paragraph (1) shall not be entitled to any payment from the Government for such expenses.

"(c) As used in this section—

"(1) the term 'executive branch' means any executive agency (as such term is defined in section 105 of title 5); and

"(2) the term 'employee in the executive branch' means—

"(A) an appointed officer or employee in the executive branch; and

"(B) an expert or consultant in the executive branch, under section 3109 of title 5; and

"(3) the term 'payment' means a payment or reimbursement, in cash or in kind.

"(d)(1) The head of each agency of the executive branch shall, in the manner provided in paragraph (2), submit to the Director of the Office of Government Ethics reports of payments of more than \$250 accepted under this section with respect to employees of the agency. The Director shall make such reports available for public inspection and copying.

"(2) The reports required by paragraph (1) shall, with respect to each payment—

"(A) specify the amount and method of payment, the name of the person making the payment, the name of the employee, the nature of the meeting or similar function, the time and place of travel, the nature of the expenses, and such other information as the Administrator of General Services may prescribe by regulation under subsection (a);

"(B) be submitted not later than May 31 of each year with respect to payments in the preceding period beginning on October 1 and ending on March 31; and

"(C) be submitted not later than November 30 of each year with respect to payments in the preceding period beginning on April 1 and ending on September 30."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end the following new item:

"1352. Acceptance of travel and related expenses from non-Federal sources."

SEC. 303. GIFTS TO FEDERAL EMPLOYEES.

(a) IN GENERAL.—Subchapter V of chapter 73 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 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 branches 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 agency; or

"(2) whose interests may be substantially affected by the performance or nonperformance of the individual's official duties.

"(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.

Regulations.

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

"(3) Nothing in this section precludes a Member, officer, or employee from accepting gifts on behalf of the United States Government or any of its agencies in accordance with statutory authority.

"(c) An employee who violates this section shall be subject to appropriate disciplinary and other remedial action in accordance with any applicable laws, Executive orders, and rules or regulations.

"(d) For purposes of this section—

"(1) the term 'supervising ethics office' means—

"(A) the Committee on Standards of Official Conduct of the House of Representatives or the House of Representatives as a whole, for Members, officers, and employees of the House of Representatives;

"(B) the Select Committee on Ethics of the Senate, or the Senate as a whole, for Senators, officers and employees of the Senate;

"(C) the Judicial Conference of the United States for judges and judicial branch officers and employees;

"(D) the Office of Government Ethics for all executive branch officers and employees; and

"(E) the ethics committee with which the officer or employee is required to file financial disclosure forms, for all legislative branch officers and employees other than those specified in subparagraphs (A) and (B), except that such authority may be delegated; and

"(2) the term 'officer or employee' means an individual holding an appointive or elective position in the executive, legislative, or judicial branch of Government other than a Member of Congress.

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents for chapter 73 of title 5, United States Code, is amended by inserting after the item relating to section 7352 the following new item:

"7353. Gifts to Federal employees."

TITLE IV—AMENDMENTS TO TITLE 18 OF THE UNITED STATES CODE

SEC. 401. AMENDMENT TO SECTION 202 OF TITLE 18, UNITED STATES CODE.

Section 202 of title 18, United States Code, is amended by adding at the end thereof the following new subsections:

"(c) Except as otherwise provided in such sections, the terms 'officer' and 'employee' in sections 203, 205, 207, 208, and 209 of this title, mean those individuals defined in sections 2104 and 2105 of

title 5. The terms 'officer' and 'employee' shall not include the President, the Vice President, a Member of Congress, or a Federal judge.

"(d) The term 'Member of Congress' in sections 204 and 207 shall include—

"(1) a United States Senator; and

"(2) a Representative in, or a Delegate or Resident Commissioner to, the House of Representatives.

"(e) As used in this chapter, the term—

"(1) 'executive branch' means any executive agency as defined in title 5, and any other entity or administrative unit in the executive branch;

"(2) 'judicial branch' means the Supreme Court of the United States; the United States courts of appeals; the United States district courts; the Court of International Trade; the United States bankruptcy courts; any court created pursuant to article I of the United States Constitution, including the Court of Military Appeals, the United States Claims Court, and the United States Tax Court, but not including a court of a territory or possession of the United States; the Federal Judicial Center; and any other agency, office, or entity in the judicial branch; and

"(3) 'legislative branch' means—

"(A) a Member of Congress, or any officer or employee of the United States Senate or United States House of Representatives; and

"(B) an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the United States Capitol Police, and any other agency, entity, office, or commission established in the legislative branch."

SEC. 402. AMENDMENTS TO SECTION 203 OF TITLE 18, UNITED STATES CODE.

Section 203 of title 18, United States Code, is amended by—

(1) striking "services" the first place it appears in subsection (a)(1) and inserting "representational services, as agent or attorney or otherwise,";

(2) inserting "court," after "department, agency," in subsection (a)(1);

(3) striking "shall be fined under this title or imprisoned for not more than two years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States" in subsection (a) and inserting "shall be subject to the penalties set forth in section 216 of this title";

(4) inserting "representational" before "services" in subsection (a)(2);

(5) inserting "Member Elect," after "Member," in subsection (a)(2);

(6) inserting "Delegate Elect," after "Delegate," in subsection (a)(2);

(7) striking "including the District of Columbia," in subsection (a)(1)(B);

(8) in subsection (b)—

(A) by redesignating such subsection as subsection (c); and

(B) by striking "subsection (a)" and inserting "subsections (a) and (b)";

(9) by inserting after subsection (a) the following:

"(b) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly—

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"(1) demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another, at a time when such person is an officer or employee of the District of Columbia, in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the District of Columbia is a party or has a direct and substantial interest, before any department, agency, court, officer, or commission; or

"(2) knowingly gives, promises, or offers any compensation for any such services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was an officer or employee of the District of Columbia; shall be subject to the penalties set forth in section 216 of this title."; and

(10) adding at the end the following:

"(d) Nothing in this section prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for or otherwise representing his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except—

"(1) in those matters in which he has participated personally and substantially as a Government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise; or

"(2) in those matters that are the subject of his official responsibility,

subject to approval by the Government official responsible for appointment to his position.

"(e) Nothing in this section prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States if the head of the department or agency concerned with the grant or contract certifies in writing that the national interest so requires and publishes such certification in the Federal Register."

Grants.
Contracts.
Federal
Register,
publication.

SEC. 403. AMENDMENT TO SECTION 204 OF TITLE 18, UNITED STATES CODE.

Section 204 of title 18, United States Code, is amended to read as follows:

"§ 204. Practice in United States Claims Court or the United States Court of Appeals for the Federal Circuit by Members of Congress

"Whoever, being a Member of Congress or Member of Congress Elect, practices in the United States Claims Court or the United States Court of Appeals for the Federal Circuit shall be subject to the penalties set forth in section 216 of this title."

SEC. 404. AMENDMENT TO SECTION 205 OF TITLE 18, UNITED STATES CODE.

Section 205 of title 18, United States Code, is amended to read as follows:

“§ 205. Activities of officers and employees in claims against and other matters affecting the Government

“(a) Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, other than in the proper discharge of his official duties—

“(1) acts as agent or attorney for prosecuting any claim against the United States, or receives any gratuity, or any share of or interest in any such claim, in consideration of assistance in the prosecution of such claim; or

“(2) acts as agent or attorney for anyone before any department, agency, court, court-martial, officer, or any civil, military, or naval commission in connection with any covered matter in which the United States is a party or has a direct and substantial interest;

shall be subject to the penalties set forth in section 216 of this title.

District of
Columbia.

“(b) Whoever, being an officer or employee of the District of Columbia or an officer or employee of the Office of the United States Attorney for the District of Columbia, otherwise than in the proper discharge of official duties—

“(1) acts as agent or attorney for prosecuting any claim against the District of Columbia, or receives any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim; or

“(2) acts as agent or attorney for anyone before any department, agency, court, officer, or any commission in connection with any covered matter in which the District of Columbia is a party or has a direct and substantial interest;

shall be subject to the penalties set forth in section 216 of this title.

“(c) A special Government employee shall be subject to subsections (a) and (b) only in relation to a covered matter involving a specific party or parties—

“(1) in which he has at any time participated personally and substantially as a Government employee or special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise; or

“(2) which is pending in the department or agency of the Government in which he is serving.

Paragraph (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

“(d) Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for, or otherwise representing, any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings.

“(e) Nothing in subsection (a) or (b) prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for, or otherwise representing, his parents, spouse, child, or any person for whom, or

for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except—

“(1) in those matters in which he has participated personally and substantially as a Government employee or special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or

“(2) in those matters which are the subject of his official responsibility,

subject to approval by the Government official responsible for appointment to his position.

“(f) Nothing in subsection (a) or (b) prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States if the head of the department or agency concerned with the grant or contract certifies in writing that the national interest so requires and publishes such certification in the Federal Register.

“(g) Nothing in this section prevents an officer or employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

“(h) For the purpose of this section, the term ‘covered matter’ means any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter.”.

Grants.
Contracts.
Federal
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publication.

SEC. 405. AMENDMENTS TO SECTION 208 OF TITLE 18, UNITED STATES CODE.

Section 208 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “or” after “United States Government,”;

(B) by inserting “an officer or employee” before “of the District of Columbia”;

(C) by striking “partner” and inserting “general partner”; and

(D) by striking “Shall be fined not more than \$10,000, or imprisoned not more than two years, or both.” and inserting “Shall be subject to the penalties set forth in section 216 of this title.”; and

(2) by striking subsection (b) and inserting the following:

“(b) Subsection (a) shall not apply—

“(1) if the officer or employee first advises the Government official responsible for appointment to his or her position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee;

“(2) if, by regulation issued by the Director of the Office of Government Ethics, applicable to all or a portion of all officers and employees covered by this section, and published in the Federal Register, the financial interest has been exempted from the requirements of paragraph (1) as being too remote or too inconsequential to affect the integrity of the services of the

Government officers or employees to which such regulation applies;

"(3) in the case of a special Government employee serving on an advisory committee within the meaning of the Federal Advisory Committee Act (including an individual being considered for an appointment to such a position), the official responsible for the employee's appointment, after review of the financial disclosure report filed by the individual pursuant to section 107 of the Ethics in Government Act of 1978, certifies in writing that the need for the individual's services outweighs the potential for a conflict of interest created by the financial interest involved; or

"(4) the financial interest that would be affected by the particular matter involved is that resulting solely from the interest of the officer or employee, or his or her spouse or minor child, in birthrights—

"(A) in an Indian tribe, band, nation, or other organized group or community, including any Alaska Native village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians,

"(B) in an Indian allotment the title to which is held in trust by the United States or which is inalienable by the allottee without the consent of the United States, or

"(C) in an Indian claims fund held in trust or administered by the United States,

if the particular matter does not involve the Indian allotment or claims fund or the Indian tribe, band, nation, organized group or community, or Alaska Native village corporation as a specific party or parties.

"(c)(1) For the purpose of paragraph (1) of subsection (b), in the case of class A and B directors of Federal Reserve Banks, the Board of Governors of the Federal Reserve System shall be deemed to be the Government official responsible for appointment.

"(2) The potential availability of an exemption under any particular paragraph of subsection (b) does not preclude an exemption being granted pursuant to another paragraph of subsection (b).

"(d)(1) A copy of any determination by other than the Director of the Office of Government Ethics granting an exemption pursuant to subsection (b)(1) or (b)(3) shall be submitted to the Director, who shall make all determinations available to the public pursuant to section 105 of the Ethics in Government Act of 1978. For determinations pursuant to subsection (b)(3), the information from the financial disclosure report of the officer or employee involved describing the asset or assets that necessitated the waiver shall also be made available to the public. This subsection shall not apply, however, if the head of the agency or his or her designee determines that the determination under subsection (b)(1) or (b)(3), as the case may be, involves classified information.

"(2) The Office of Government Ethics, after consultation with the Attorney General, shall issue uniform regulations for the issuance of waivers and exemptions under subsection (b) which shall—

"(A) list and describe exemptions; and

"(B) provide guidance with respect to the types of interests that are not so substantial as to be deemed likely to affect the

Indians.
Alaska.

Claims.

Public
information.

Classified
information.

Regulations.

integrity of the services the Government may expect from the employee.”.

SEC. 406. AMENDMENT TO SECTION 209 OF TITLE 18, UNITED STATES CODE.

Section 209(a) of title 18, United States Code, is amended by striking “Shall be fined not more than \$5,000 or imprisoned not more than one year, or both.” and inserting “Shall be subject to the penalties set forth in section 216 of this title.”.

SEC. 407. PENALTIES AND INJUNCTIONS.

(a) **IN GENERAL.**—Chapter 11 of title 18, United States Code, is amended by inserting after section 215 the following new section:

“§ 216. Penalties and injunctions

“(a) The punishment for an offense under sections 203, 204, 205, 207, 208, and 209 of this title is the following:

“(1) Whoever engages in the conduct constituting the offense shall be imprisoned for not more than one year or fined in the amount set forth in this title, or both.

“(2) Whoever willfully engages in the conduct constituting the offense shall be imprisoned for not more than five years or fined in the amount set forth in this title, or both.

“(b) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under sections 203, 204, 205, 207, 208, and 209 of this title and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than \$50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

“(c) If the Attorney General has reason to believe that a person is engaging in conduct constituting an offense under section 203, 204, 205, 207, 208, or 209 of this title, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.”.

(b) **TABLE OF SECTIONS.**—The table of sections at the beginning of chapter 11 of title 18, United States Code, is amended by inserting after the item relating to section 215 the following:

“216. Penalties and injunctions.”.

TITLE V—OTHER ETHICS REFORMS

SEC. 501. REFERRAL OF ETHICS VIOLATIONS BY THE SENATE ETHICS COMMITTEE TO THE GENERAL ACCOUNTING OFFICE FOR INVESTIGATION.

2 USC 72a-1g.

If the Committee on Ethics of the Senate determines that there is a reasonable basis to believe that a Member, officer, or employee of the Senate may have committed an ethics violation, the committee may request the Office of Special Investigations of the General

Accounting Office to conduct factfinding and an investigation into the matter. The Office of Special Investigations shall promptly investigate the matter as directed by the committee.

Taxes.

SEC. 502. NONRECOGNITION FOR CERTAIN SALES TO COMPLY WITH CONFLICT-OF-INTEREST REQUIREMENTS.

(a) **GENERAL RULE.**—Part III of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

“SEC. 1043. SALE OF PROPERTY TO COMPLY WITH CONFLICT-OF-INTEREST REQUIREMENTS.

“(a) **NONRECOGNITION OF GAIN.**—If an eligible person sells any property pursuant to a certificate of divestiture, at the election of the taxpayer, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds the cost (reduced by any basis adjustment under subsection (c) attributable to a prior sale) of any permitted property purchased by the taxpayer during the 60-day period beginning on the date of such sale.

“(b) **DEFINITIONS.**—For purposes of this section—

“(1) **ELIGIBLE PERSON.**—The term ‘eligible person’ means—

“(A) an officer or employee of the executive branch of the Federal Government, but does not mean a special Government employee as defined in section 202 of title 18, United States Code, and

“(B) any spouse or minor or dependent child whose ownership of any property is attributable under any statute, regulation, rule, or executive order referred to in paragraph (2) to a person referred to in subparagraph (A).

“(2) **CERTIFICATE OF DIVESTITURE.**—The term ‘certificate of divestiture’ means any written determination—

“(A) that states that divestiture of specific property is reasonably necessary to comply with any Federal conflict of interest statute, regulation, rule, or executive order (including section 208 of title 18, United States Code), or requested by a congressional committee as a condition of confirmation,

“(B) that has been issued by the President or the Director of the Office of Government Ethics, and

“(C) that identifies the specific property to be divested.

“(3) **PERMITTED PROPERTY.**—The term ‘permitted property’ means any obligation of the United States or any diversified investment fund approved by regulations issued by the Office of Government Ethics.

“(4) **PURCHASE.**—The taxpayer shall be considered to have purchased any permitted property if, but for subsection (c), the unadjusted basis of such property would be its cost within the meaning of section 1012.

“(c) **BASIS ADJUSTMENTS.**—If gain from the sale of any property is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any permitted property which is purchased by the taxpayer during the 60-day period described in subsection (a).”.

(b) **TECHNICAL AMENDMENTS.**—

(1) Section 1223 of such Code (relating to holding period of property) is amended by redesignating paragraph (14) as para-

graph (15) and by inserting after paragraph (13) the following new paragraph:

“(14) In determining the period for which the taxpayer has held property the acquisition of which resulted under section 1043 in the nonrecognition of any part of the gain realized on the sale of other property, there shall be included the period for which such other property had been held as of the date of such sale.”

(2) Subsection (a) of section 1016 of such Code (relating to adjustments to basis) is amended by striking “and” at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting “, and”, and by adding at the end thereof the following new paragraph:

“(25) in the case of property the acquisition of which resulted under section 1043 in the nonrecognition of any part of the gain realized on the sale of other property, to the extent provided in section 1043(c).”

(3) The table of sections for part III of subchapter O of chapter 1 of such Code is amended by adding at the end thereof the following new item:

“Sec. 1043. Sale of property to comply with conflict-of-interest requirements.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to sales after the date of the enactment of this Act.

26 USC 1016
note.

SEC. 503. USE OF GOVERNMENT VEHICLES.

Notwithstanding any other provision of law, the head of each department, agency, or other entity of each branch of the Government shall prescribe by rule appropriate conditions for the incidental use, for other than official business, of vehicles owned or leased by the Government. Such use with respect to vehicles owned or leased by, or the cost of which is reimbursed by, the House of Representatives or the Senate shall be only as prescribed by rule of the House of Representatives or the Senate, as applicable.

31 USC 1344
note.

SEC. 504. AMENDMENT TO THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 TO ELIMINATE THE EXCESS CAMPAIGN FUND GRANDFATHER PROVISION.

(a) **IN GENERAL.**—Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended by striking “, with respect to” and all that follows through “1979.”

2 USC 439a note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a)—

(1) in the case of an individual who serves as a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress in the 102nd Congress or an earlier Congress, shall apply, except as provided in paragraph (2), to the use of excess amounts totaling more than the amount equal to the unobligated balance on hand on the date of the enactment of this Act; and

(2) in the case of an individual who serves as a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress after the 102nd Congress (including an individual referred to in paragraph (1) who so serves), shall apply to the use of any excess amount on or after the first day of such service.

SEC. 505. REPEAL OF CERTAIN OBSOLETE PROVISIONS.

(a) **RESTRICTION ON PAYMENT TO CERTAIN RETIRED MILITARY OFFICERS.**—Subsection (a) of section 801 of title 37, United States Code, is repealed.

(b) **INTERIOR APPROPRIATIONS.**—Section 319 of the Act of September 27, 1988 (Interior Department Appropriations, Fiscal Year 1988) (Public Law 100-446, 102 Stat. 1774, 1826) is repealed.

18 USC 208 note.

SEC. 506. RECERTIFICATION OF SENIOR EXECUTIVES.

(a) Chapter 33 of title 5, United States Code, is amended—

(1) by inserting immediately following section 3393 the following new section:

“§ 3393a. Recertification

“(a)(1) In order to ensure that the performance of career appointees demonstrates the excellence needed to meet the goals of the Senior Executive Service, as set forth in section 3131, each career appointee shall be subject to recertification by the employing agency in accordance with the provisions of this section.

“(2) Beginning in calendar year 1991, and recurring every third calendar year thereafter, the head of an agency shall determine a time during such calendar year when the performance of career appointees in the agency shall be subject to recertification. Recertification shall not be required of any career appointee who has not been continuously employed as a senior executive for the 156 weeks preceding the time determined for the recertification. For the purposes of the previous sentence, a break in service of 6 months shall be deemed not to interrupt the 156 weeks of continuous employment.

“(b) The supervising official of each career appointee shall submit to a performance review board established by the agency under section 4314 a recommendation as to whether the career appointee's performance justifies recertification as a senior executive, based on such factors as the career appointee's performance ratings for the 3 preceding years under section 4314, any award or other recognition received by the career appointee, any developmental activities of the career appointee, and any other relevant factors. The supervising official's recommendation shall reflect that official's view as to whether the career appointee's overall performance over the 3 preceding years has demonstrated the excellence expected of a senior executive in relation to the written performance requirements for the career appointee's senior executive position as established under section 4312(b). The career appointee may submit to the performance review board a statement of accomplishments and other documentation giving evidence of the quality of the career appointee's performance.

“(c)(1) After considering the recommendation and other information received under subsection (b), the performance review board shall submit to the appointing authority a recommendation as to whether the career appointee should be recertified, conditionally recertified, or not recertified as a senior executive. If the board proposes to recommend conditional recertification or non-recertification, then the affected appointee shall be so notified and shall have the opportunity to appear before the performance review board. If the board is recommending that the career appointee be recertified, the board may also recommend that the career appointee's rate of basic pay be increased to a higher rate

established under section 5382. If the board is recommending that the career appointee be conditionally recertified, the board may recommend that the career appointee's pay be reduced to the next lower rate established under section 5382. The board shall also provide to the appointing authority the recommendation and other information received under subsection (b).

"(2) More than one-half of the members of a performance review board under this section shall consist of career appointees. The requirement of the preceding sentence shall not apply in any case in which the Office of Personnel Management determines that there exists an insufficient number of career appointees available to comply with the requirement.

"(d)(1) If the appointing authority determines that the career appointee's performance during the preceding 3 years demonstrates the excellence expected of a senior executive, the appointing authority shall recommend to the head of the agency that the career appointee be recertified as a senior executive.

"(2) If the appointing authority determines that the career appointee's performance has not demonstrated the excellence expected of a senior executive, the appointing authority shall recommend to the head of the agency that the career appointee be conditionally recertified as a senior executive or not be recertified as a senior executive.

"(e)(1) If the head of the agency decides that the career appointee's performance warrants recertification as a senior executive, the career appointee shall continue in the Senior Executive Service. If a career appointee is recertified as a senior executive, the career appointee's rate of basic pay may not be reduced at the time of recertification.

"(2) If the head of the agency decides that the career appointee's performance does not warrant full recertification, but does warrant conditional recertification, the career appointee—

"(A) shall remain a career appointee in the Senior Executive Service;

"(B) shall be subject to continuing close review of the career appointee's performance by the supervising official in coordination with an executive resources board established under section 3393, in accordance with a performance improvement plan developed by the supervising official and subject to the approval of the executive resources board;

"(C) may, if the head of the agency so determines, be reduced to the next lower rate of basic pay established under section 5382; and

"(D) shall be removed from the Senior Executive Service if the career appointee is not recertified as a senior executive at the end of the 12-month period following the conditional recertification.

If, at the end of the 12-month period following the conditional recertification, the career appointee is recertified as a senior executive, any reduction that was made in the career appointee's rate of basic pay under subparagraph (C) shall be restored prospectively.

"(3) If the head of the agency decides that the career appointee's performance does not demonstrate that the career appointee qualifies for recertification or conditional recertification as a senior executive, the career appointee shall be removed from the Senior Executive Service in accordance with section 3592.

“(f) The Office of Personnel Management shall prescribe standards and procedures to ensure consistency and fairness for the process of recertification under this section.”.

(2) by inserting in the analysis, immediately following the item relating to section 3393, the following new item:

“3393a. Recertification.”.

(b) Title 5, United States Code, is further amended as follows:

(1) in section 3151(a)(5)—

(A) by striking “and” at the end of subparagraph (C);

(B) by inserting “and” after the semicolon at the end of subparagraph (D); and

(C) by inserting after subparagraph (D) the following new subparagraph:

“(E) recertification consistent with section 3393a;”;

(2) in section 3393(g), by inserting after “1207,” the following: “3393a;”;

(3) in section 3592(a)—

(A) by striking “or” at the end of paragraph (1);

(B) by inserting “or” after the comma at the end of paragraph (2);

(C) by inserting after paragraph (2) the following new paragraph:

“(3) if the career appointee is not recertified as a senior executive under section 3393a;” and

(D) by inserting at the end thereof the following: “In the case of a removal under paragraph (3) of this subsection, the career appointee shall have the right to appeal the removal from the Senior Executive Service to the Merit Systems Protection Board under section 7701.”;

(4) in section 3593(a)(2)—

(A) by striking “or”;

(B) by striking the period and inserting in lieu thereof the following: “, or failure to be recertified as a senior executive under section 3393a.”;

(5) in section 3594(b)—

(A) by striking “or” at the end of paragraph (1);

(B) by inserting “or” after the semicolon at the end of paragraph (2); and

(C) by inserting after paragraph (2) the following new paragraph:

“(3) is removed from the Senior Executive Service for failure to be recertified under section 3393a;”;

(6) in section 7701(c)(1)(A) by striking “of” and inserting in lieu thereof the following: “of a removal from the Senior Executive Service for failure to be recertified under section 3393a or”;

(7) in section 8336(h)—

(A) in paragraph (1) by striking “for” and inserting in lieu thereof the following: “for failure to be recertified as a senior executive under section 3393a or for”;

(B) in paragraph (2) by striking “for” and inserting in lieu thereof the following: “for failure to be recertified as a senior executive or for”; and

(C) in paragraph (3) by striking “for” and inserting in lieu thereof the following: “for failure to be recertified as a senior executive or for”;

(8) in section 8339(h) by striking the period at the end of the first sentence and inserting in lieu thereof the following: “, except that such reduction shall not apply in the case of an employee retiring under section 8336(h) for failure to be recertified as a senior executive.”;

(9) in section 8414(a)—

(A) in paragraph (1) by striking “for” and inserting in lieu thereof the following: “for failure to be recertified as a senior executive under section 3393a or for”;

(B) in paragraph (2) by striking “for” and inserting in lieu thereof the following: “for failure to be recertified as a senior executive or for”; and

(C) in paragraph (3) by striking “for” and inserting in lieu thereof the following: “for failure to be recertified as a senior executive or for”; and

(10) in section 8421(a)(2) by striking the period and inserting in lieu thereof the following: “, except that an individual entitled to an annuity under section 8414(a) for failure to be recertified as a senior executive shall be entitled to an annuity supplement without regard to such applicable minimum retirement age”.

(c)(1) Section 305 of the Foreign Service Act of 1980 is amended by inserting at the end thereof the following new subsection: 22 USC 3945.

“(c) The Secretary shall by regulation establish a recertification process for members of the Senior Foreign Service that is equivalent to the recertification process for the Senior Executive Service under section 3393a of title 5, United States Code.” Regulations.

(2) Section 12(a)(1) of the National Security Agency Act of 1959 is amended— 50 USC 402 note.

(A) by striking “and” at the end of paragraph (F);

(B) by inserting “and” after the semicolon at the end of paragraph (G); and

(C) by inserting after paragraph (G) the following new paragraph:

“(H) provide for the recertification of members of the Senior Cryptologic Executive Service consistent with the provisions of section 3393a of such title.”

(3) Section 1601(a) of title 10, United States Code, is amended—

(A) by striking “and” at the end of paragraph (6);

(B) by inserting “and” after the semicolon at the end of paragraph (7); and

(C) by inserting after paragraph (7) the following new paragraph:

“(8) provide for the recertification of members of the Defense Intelligence Senior Executive Service consistent with the provisions of section 3393a of title 5.”

(d) The amendments made by this section shall take effect on January 1, 1991. Effective date.
5 USC 3151 note.

SEC. 507. SUSPENSION OF EFFECT OF CERTAIN PROVISIONS OF LAW.

The following provisions of law shall have no force or effect during the period beginning on the day after the date of enactment of this Act and ending one year after such day:

(1) Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423). 41 USC 423 note.

(2) Sections 2397a and 2397b of title 10, United States Code. 10 USC 2397a note, 2397b note.

18 USC 281 note.
42 USC 7213
note, 7214 note,
7215 note, 7216
note, 7217 note,
7218 note.

(3) Section 281 of title 18, United States Code.

(4) Sections 603 through 606, subsections (a) and (b) of section 607, and subsections (a) and (c) of section 608 of the Department of Energy Organization Act.

TITLE VI—LIMITATIONS ON OUTSIDE EMPLOYMENT AND ELIMINATION OF HONORARIA

SEC. 601. LIMITATIONS ON OUTSIDE EARNED INCOME AND EMPLOYMENT.

(a) LIMITATIONS.—Title V of the Ethics in Government Act of 1978 is amended to read as follows:

“TITLE V—GOVERNMENT-WIDE LIMITATIONS ON OUTSIDE EARNED INCOME AND EMPLOYMENT

5 USC app. 501.

“SEC. 501. OUTSIDE EARNED INCOME LIMITATION.

“(a) OUTSIDE EARNED INCOME LIMITATION.—

“(1) Except as provided by paragraph (2), a Member or an officer or employee who is not a career civil servant and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS-16 of the General Schedule under section 5332 of title 5, United States Code, may not in any calendar year have outside earned income attributable to such calendar year which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year.

“(2) In the case of any individual who becomes a Member or an officer or employee who is not a career civil servant and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS-16 of the General Schedule during a calendar year, such individual may not have outside earned income attributable to the portion of that calendar year which occurs after such individual becomes a Member, officer or employee which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year multiplied by a fraction the numerator of which is the number of days such individual is a Member, officer or employee during such calendar year and the denominator of which is 365.

“(b) HONORARIA PROHIBITION.—An individual may not receive any honorarium while that individual is a Member, officer or employee.

“(c) TREATMENT OF CHARITABLE CONTRIBUTIONS.—Any honorarium which, except for subsection (b), might be paid to a Member, officer or employee, but which is paid instead on behalf of such Member, officer or employee to a charitable organization, shall be deemed not to be received by such Member, officer or employee. No such payment shall exceed \$2,000 or be made to a charitable organization from which such individual or a parent, sibling, spouse, child, or dependent relative of such individual derives any financial benefit.

"SEC. 502. LIMITATIONS ON OUTSIDE EMPLOYMENT.

5 USC app. 502.

"A Member or an officer or employee who is not a career civil servant and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS-16 of the General Schedule shall not—

"(1) affiliate with or be employed by a firm, partnership, association, corporation, or other entity to provide professional services which involves a fiduciary relationship for compensation;

"(2) permit that Member's, officer's, or employee's name to be used by any such firm, partnership, association, corporation, or other entity;

"(3) practice a profession which involves a fiduciary relationship for compensation;

"(4) serve for compensation as an officer or member of the board of any association, corporation, or other entity; or

"(5) receive compensation for teaching, without the prior notification and approval of the appropriate entity referred to in section 503.

"SEC. 503. ADMINISTRATION.

5 USC app. 503.

"This title shall be subject to the rules and regulations of—

"(1) and administered by the committee of the House of Representatives assigned responsibility for administering the reporting requirements of title I with respect to Members, officers and employees of the House of Representatives;

"(2) the Office of Government Ethics and administered by designated agency ethics officials with respect to officers and employees of the executive branch; and

"(3) and administered by the Judicial Conference of the United States (or such other agency as it may designate) with respect to officers and employees of the judicial branch.

"SEC. 504. CIVIL PENALTIES.

5 USC app. 504.

"(a) CIVIL ACTION.—The Attorney General may bring a civil action in any appropriate United States district court against any individual who violates any provision of section 501 or 502. The court in which such action is brought may assess against such individual a civil penalty of not more than \$10,000 or the amount of compensation, if any, which the individual received for the prohibited conduct, whichever is greater.

"(b) ADVISORY OPINIONS.—Any entity described in section 503 may render advisory opinions interpreting this title, in writing, to individuals covered by this title. Any individual to whom such an advisory opinion is rendered and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who, after the issuance of such advisory opinion, acts in good faith in accordance with its provisions and findings shall not, as a result of such actions, be subject to any sanction under subsection (a).

"SEC. 505. DEFINITIONS.

5 USC app. 505.

"For purposes of this title:

"(1) The term 'Member' means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

"(2) The term 'officer or employee' means any officer or employee of the Government except (A) any individual (other

than the Vice President) whose compensation is disbursed by the Secretary of the Senate or (B) any special Government employee (as defined in section 202 of title 18, United States Code).

“(3) The term ‘honorarium’ means a payment of money or any thing of value for an appearance, speech or article by a Member, officer or employee, excluding any actual and necessary travel expenses incurred by such individual (and one relative) to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that such expenses are not paid or reimbursed.

“(4) The term ‘travel expenses’ means, with respect to a Member, officer or employee, or a relative of any such individual, the cost of transportation, and the cost of lodging and meals while away from his or her residence or principal place of employment.

“(5) The term ‘charitable organization’ means an organization described in section 170(c) of the Internal Revenue Code of 1986.”

(b) CONFORMING AMENDMENTS.—

(1) Section 323 of the Federal Election Campaign Act of 1971

(2 U.S.C. 441i) is amended—

(A) in subsection (a) by striking “No person while an elected or appointed officer or employee of the Federal Government” and by inserting “No person while a Senator or officer or employee of the Senate”, and by striking “accept” the first place it appears; and

(B) in subsection (b) by striking “an elected or appointed officer or employee of any branch of the Federal Government” and by inserting “a Senator or any officer or employee of the Senate”.

(2) Section 908(a)(3) of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1(a)(3)), is amended to read as follows:

“(3) ‘Member’ means a Senator; and”.

SEC. 602. TAX TREATMENT OF AMOUNTS PAID TO CHARITY.

26 USC 7701.

Section 7701 of the Internal Revenue Code of 1986 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following:

“(k) **TREATMENT OF CERTAIN AMOUNTS PAID TO CHARITY.**—In the case of any payment which, except for section 501(b) of the Ethics in Government Act of 1978, might be made to any officer or employee of the Federal Government but which is made instead on behalf of such officer or employee to an organization described in section 170(c)—

“(1) such payment shall not be treated as received by such officer or employee for all purposes of this title and for all purposes of any tax law of a State or political subdivision thereof, and

“(2) no deduction shall be allowed under any provision of this title (or of any tax law of a State or political subdivision thereof) to such officer or employee by reason of having such payment made to such organization.

For purposes of this subsection, a Representative in, or a Delegate or Resident Commissioner to, the Congress shall be treated as an officer or employee of the Federal Government and a Senator or

State and local governments.

officer (except the Vice President) or employee of the Senate shall not be treated as an officer or employee of the Federal Government.”

SEC. 603. EFFECTIVE DATE.

2 USC 31-1 note.

The amendments made by this title shall take effect on January 1, 1991. Such amendments shall cease to be effective if the provisions of section 703 are subsequently repealed, in which case the laws in effect before such amendments shall be deemed to be reenacted.

TITLE VII—CITIZENS' COMMISSION ON PUBLIC SERVICE AND COMPENSATION

SEC. 701. CITIZENS' COMMISSION ON PUBLIC SERVICE AND COMPENSATION.

(a) REDESIGNATION.—

(1) **IN GENERAL.**—Section 225(a) of the Federal Salary Act of 1967 (2 U.S.C. 351) is amended by striking “Commission on Executive, Legislative, and Judicial Salaries” and inserting “Citizens' Commission on Public Service and Compensation”.

(2) **CONFORMING AMENDMENT.**—The heading for section 225 of such Act (2 U.S.C. 351 and following) is amended to read as follows:

“CITIZENS' COMMISSION ON PUBLIC SERVICE AND COMPENSATION”.

(b) MEMBERSHIP.—Section 225(b) of such Act (2 U.S.C. 352) is amended to read as follows:

“(b) MEMBERSHIP.—

“(1) The Commission shall be composed of 11 members, who shall be appointed from private life as follows:

“(A) 2 appointed by the President of the United States;

“(B) 1 appointed by the President pro tempore of the Senate, upon the recommendation of the majority and minority leaders of the Senate;

“(C) 1 appointed by the Speaker of the House of Representatives;

“(D) 2 appointed by the Chief Justice of the United States; and

“(E) 5 appointed by the Administrator of General Services in accordance with paragraph (4).

“(2) No person shall serve as a member of the Commission who is—

“(A) an officer or employee of the Federal Government;

“(B) registered (or required to register) under the Federal Regulation of Lobbying Act; or

“(C) a parent, sibling, spouse, child, or dependent relative, of anyone under subparagraph (A) or (B).

“(3) The persons appointed under subparagraphs (A) through (D) of paragraph (1) shall be selected without regard to political affiliation, and should be selected from among persons who have experience or expertise in such areas as government, personnel management, or public administration.

President of U.S.

Regulations.

“(4) The Administrator of General Services shall by regulation establish procedures under which persons shall be selected for appointment under paragraph (1)(E). Such procedures—

“(A) shall be designed in such a way so as to provide for the maximum degree of geographic diversity practicable among members under paragraph (1)(E);

“(B) shall include provisions under which those members shall be chosen by lot from among names randomly selected from voter registration lists; and

“(C) shall otherwise comply with applicable provisions of this subsection.

President of U.S.

“(5) The chairperson shall be designated by the President.

“(6) A vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made.

“(7) Each member of the Commission shall be paid at the rate of \$100 for each day such member is engaged upon the work of the Commission and shall be allowed travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when engaged in the performance of services for the Commission.

“(8)(A) The terms of office of persons first appointed as members of the Commission shall be for the period of the 1993 fiscal year of the Federal Government, and shall begin not later than February 14, 1993.

“(B) After the close of the 1993 fiscal year of the Federal Government, persons shall be appointed as members of the Commission with respect to every fourth fiscal year following the 1993 fiscal year. The terms of office of persons so appointed shall be for the period of the fiscal year with respect to which the appointment is made, except that, if any appointment is made after the beginning and before the close of any such fiscal year, the term of office based on such appointment shall be for the remainder of such fiscal year.

“(C)(i) Notwithstanding any provision of subparagraph (A) or (B), members of the Commission may continue to serve after the close of a fiscal year, if the date designated by the President under subsection (g) (relating to the date by which the Commission is to submit its report to the President) is subsequent to the close of such fiscal year, and only if or to the extent necessary to allow the Commission to submit such report.

“(ii) Notwithstanding any provision of subsection (c), authority under such subsection shall remain available, after the close of a fiscal year, so long as members of the Commission continue to serve.”

(c) AMENDMENTS TO SECTION 225(c).—Section 225(c) of such Act (2 U.S.C. 353) is amended by striking “subsection (b) (2) and (3)” each place it appears and inserting “subparagraphs (A) and (B) of subsection (b)(8)”.

(d) AMENDMENT TO SECTION 225(f).—Section 225(f) of such Act (2 U.S.C. 356) is amended by striking “subsection (b) (2) and (3)” and inserting “subparagraphs (A) and (B) of subsection (b)(8)”.

(e) REPORT TO THE PRESIDENT.—Section 225(g) of such Act (2 U.S.C. 357) is amended—

(1) by amending the subsection heading to read as follows:
 “REPORT BY COMMISSION TO THE PRESIDENT WITH RESPECT TO PAY”;

(2) in the first sentence, by striking "Commission of" and inserting "Commission with respect to rates of pay for"; and

(3) in the second sentence, by striking "December 15" and all that follows thereafter through the period and inserting "December 15 next following the close of the fiscal year in which the review is conducted by the Commission."

(f) **RECOMMENDATIONS OF THE PRESIDENT WITH RESPECT TO PAY.**—Section 225(h) of such Act (2 U.S.C. 358) is amended to read as follows:

"(h) **RECOMMENDATIONS OF THE PRESIDENT WITH RESPECT TO PAY.**—

"(1) After considering the report and recommendations of the Commission submitted under subsection (g), the President shall transmit to Congress his recommendations with respect to the exact rates of pay, for offices and positions within the purview of subparagraphs (A), (B), (C), and (D) of subsection (f), which the President considers to be fair and reasonable in light of the Commission's report and recommendations, the prevailing market value of the services rendered in the offices and positions involved, the overall economic condition of the country, and the fiscal condition of the Federal Government.

"(2) The President shall transmit his recommendations under this subsection to Congress on the first Monday after January 3 of the first calendar year beginning after the date on which the Commission submits its report and recommendations to the President under subsection (g)."

(g) **EFFECTIVE DATE OF RECOMMENDATIONS OF THE PRESIDENT.**—Section 225(i) of such Act (2 U.S.C. 359) is amended to read as follows:

"(i) **EFFECTIVE DATE OF RECOMMENDATIONS OF THE PRESIDENT.**—

"(1) None of the President's recommendations under subsection (h) shall take effect unless approved under paragraph (2).

"(2)(A) The recommendations of the President under subsection (h) shall be considered approved under this paragraph if there is enacted into law a bill or joint resolution approving such recommendations in their entirety. This bill or joint resolution shall be passed by recorded vote to reflect the vote of each Member of Congress thereon.

"(B)(i) The provisions of this subparagraph are enacted by the Congress—

"(I) as an exercise of the rulemaking power of the Senate and the House of Representatives and as such shall be considered as part of the rules of each House, and shall supersede other rules only to the extent that they are inconsistent therewith; and

"(II) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedures of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(ii) During the 60-calendar-day period beginning on the date that the President transmits his recommendations to the Congress under subsection (h), it shall be in order as a matter of highest privilege in each House of Congress to consider a bill or joint resolution, if offered by the majority leader of such House (or a designee), approving such recommendations in their entirety.

“(3) Except as provided in paragraph (4), any recommended pay adjustment approved under paragraph (2) shall take effect as of the date proposed by the President under subsection (h) with respect to such adjustment.

“(4)(A) Notwithstanding the approval of the President’s pay recommendations in accordance with paragraph (2), none of those recommendations shall take effect unless, between the date on which the bill or resolution approving those recommendations is signed by the President (or otherwise becomes law) and the earliest date as of which the President proposes (under subsection (h)) that any of those recommendations take effect, an election of Representatives shall have intervened.

“(B) For purposes of this paragraph, the term ‘election of Representatives’ means an election held on the Tuesday following the first Monday of November in any even-numbered calendar year.”.

(h) AMENDMENT TO SECTION 225(j).—Section 225(j)(A) of such Act (2 U.S.C. 360(A)) is amended by striking “(other than” and all that follows thereafter through “, and” and inserting “(other than any provision of law enacted with respect to such recommendations in the period beginning on the date the President transmits his recommendations to the Congress under subsection (h) and ending on the date of their approval under subsection (i)(2)), and”.

(i) REQUIREMENTS APPLICABLE TO RECOMMENDATIONS.—Section 225 of such Act (2 U.S.C. 351 and following) is amended by adding at the end the following:

“(1) REQUIREMENTS APPLICABLE TO RECOMMENDATIONS.—Notwithstanding any other provision of this section, the recommendations submitted by the Commission to the President under subsection (g), and the recommendations transmitted by the President to the Congress under subsection (h), shall be in conformance with the following:

“(1) Any recommended pay adjustment shall specify the date as of which it is proposed that such adjustment take effect.

“(2) The proposed effective date of a pay adjustment may occur no earlier than January 1 of the second fiscal year, and no later than December 31 next following the close of the fifth fiscal year, beginning after the fiscal year in which the Commission conducts its review under subsection (f).

“(3)(A)(i) The rates of pay recommended for the Speaker of the House of Representatives, the Vice President of the United States, and the Chief Justice of the United States, respectively, shall be equal.

“(ii) The rates of pay recommended for the majority and minority leaders of the Senate and the House of Representatives, the President pro tempore of the Senate, and each office or position under section 5312 of title 5, United States Code (relating to level I of the Executive Schedule), respectively, shall be equal.

“(iii) The rates of pay recommended for a Senator, a Member of the House of Representatives, the Resident Commissioner from Puerto Rico, a Delegate to the House of Representatives, a judge of a district court of the United States, a judge of the United States Court of International Trade, and each office or position under section 5313 of title 5, United States Code (relating to level II of the Executive Schedule), respectively, shall be equal.

“(B) Nothing in this subsection shall be considered to require that the rate recommended for any office or position by the President under subsection (h) be the same as the rate recommended for such office or position by the Commission under subsection (g).”

(j) **ADDITIONAL FUNCTION.**—Section 225 of such Act (2 U.S.C. 351 and following), as amended by subsection (i), is further amended by adding at the end the following:

2 USC 363.

“(m) **ADDITIONAL FUNCTION.**—The Commission shall, whenever it conducts a review under subsection (f), also conduct a review under this subsection relating to any recruitment or retention problems, and any public policy issues involved in maintaining appropriate ethical standards, with respect to any offices or positions within the Federal public service. Any findings or recommendations under this subsection shall be included by the Commission as part of its report to the President under subsection (g).”

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(k) **PROVISION RELATING TO CERTAIN OTHER PAY ADJUSTMENTS.**—Section 225 of such Act (2 U.S.C. 351 and following) is amended by adding after subsection (m) (as added by subsection (j)) the following:

2 USC 364.

“(n) **PROVISION RELATING TO CERTAIN OTHER PAY ADJUSTMENTS.**—

“(1) A provision of law increasing the rate of pay payable for an office or position within the purview of subparagraph (A), (B), (C), or (D) of subsection (f) shall not take effect before the beginning of the Congress following the Congress during which such provision is enacted.

“(2) For purposes of this subsection, a provision of law enacted during the period beginning on the Tuesday following the first Monday of November of an even-numbered year of any Congress and ending at noon on the following January 3 shall be considered to have been enacted during the first session of the following Congress.

“(3) Nothing in this subsection shall be considered to apply with respect to any pay increase—

“(A) which takes effect under the preceding subsections of this section;

“(B) which is based on a change in the Employment Cost Index (as determined under section 704(a)(1) of the Ethics Reform Act of 1989) or which is in lieu of any pay adjustment which might otherwise be made in a year based on a change in such index (as so determined); or

“(C) which takes effect under section 702 or 703 of the Ethics Reform Act of 1989.”

SEC. 702. RESTORATION OF COMPARABILITY ADJUSTMENTS.

5 USC 5305 note.

(a) RESTORATION.—

(1) **IN GENERAL.**—Effective for pay periods beginning on or after the date of enactment of this Act, the rate of basic pay for any office or position in the executive, legislative, or judicial branch of the Government or in the government of the District of Columbia shall be determined as if the provisions of law cited in paragraph (2) had never been enacted.

District of Columbia.

(2) **CITATIONS.**—The provisions of law referred to in paragraph (1) are as follows:

(A) Section 620(b) of the Treasury, Postal Service and General Government Appropriations Act, 1989 (2 U.S.C. 5305 note).

5 USC 5305 note.

(B) Section 619(b) of the Treasury, Postal Service and General Government Appropriations Act, 1990 (Public Law 101-136).

5 USC 5305 note.

(b) **EXCEPTIONS.**—Notwithstanding any other provision of this section, the rate of basic pay for a Senator, the President pro tempore of the Senate, and the majority leader and the minority leader of the Senate shall be determined as if subsection (a) had not been enacted.

(c) **SPECIFIC AUTHORITY.**—For purposes of section 140 of Public Law 97-92 (28 U.S.C. 461 note), appropriate salary increases are hereby authorized for Federal judges and Justices of the Supreme Court pursuant to subsection (a).

(d) **SPECIAL RULE.**—Notwithstanding any other provision of this section, no adjustment in any rate of pay shall become effective, as a result of the enactment of this section, before the first applicable pay period beginning on or after the date as of which the order issued by the President on October 16, 1989, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is rescinded.

5 USC 5318 note.

SEC. 703. SALARY LEVELS OF SENIOR GOVERNMENT OFFICIALS.

(a) SALARY LEVELS.—

(1) **EXECUTIVE POSITIONS.**—Effective the first day of the first applicable pay period that begins on or after January 1, 1991, the rate of basic pay for positions in the Executive Schedule shall be increased in the amount of 25 percent of their respective rates (as last in effect before the increase), rounded to the nearest multiple of \$100 (or, if midway between multiples of \$100, to the next higher multiple of \$100).

(2) LEGISLATIVE POSITIONS; OFFICE OF THE VICE PRESIDENT.—

(A) **GENERALLY.**—Effective the first day of the first applicable pay period that begins on or after January 1, 1991, the rate of basic pay for the offices and positions under subparagraphs (A) and (B) of section 225(f) of the Federal Salary Act of 1967 (2 U.S.C. 356 (A) and (B)) shall be increased in the amount of 25 percent of their respective rates (as last in effect before the increase), rounded to the nearest multiple of \$100 (or, if midway between multiples of \$100, to the next higher multiple of \$100), except as provided in subparagraph (B).

(B) **EXCEPTIONS.**—Nothing in subparagraph (A) shall affect the rate of basic pay for a Senator, the President pro tempore of the Senate, or the majority leader or the minority leader of the Senate.

(3) **JUDICIAL POSITIONS.**—Effective the first day of the first applicable pay period that begins on or after January 1, 1991, the rate of basic pay for the Chief Justice of the United States, an associate justice of the Supreme Court of the United States, a judge of a United States circuit court, a judge of a district court of the United States, and a judge of the United States Court of International Trade shall be increased in the amount of 25 percent of their respective rates (as last in effect before the increase), rounded to the nearest multiple of \$100 (or, if midway between multiples of \$100, to the next higher multiple of \$100).

(b) **COORDINATION RULE.**—If a pay adjustment under subsection (a) is to be made for an office or position as of the same date as any other pay adjustment affecting such office or position, the adjustment under subsection (a) shall be made first.

SEC. 704. REVISION IN METHOD BY WHICH ANNUAL PAY ADJUSTMENTS FOR CERTAIN EXECUTIVE, LEGISLATIVE, AND JUDICIAL POSITIONS ARE TO BE MADE.

5 USC 5318 note.

(a) PERCENT CHANGE IN THE EMPLOYMENT COST INDEX.—

(1) METHOD FOR COMPUTING PERCENT CHANGE IN THE ECI.—

(A) DEFINITIONS.—For purposes of this paragraph—

(i) the term “Employment Cost Index” or “ECI” means the Employment Cost Index (wages and salaries, private industry workers) published quarterly by the Bureau of Labor Statistics; and

(ii) the term “base quarter” means the 3-month period ending on December 31 of a year.

(B) METHOD.—For purposes of the provisions of law amended by paragraph (2), the “most recent percentage change in the ECI”, as of any date, shall be one-half of 1 percent less than the percentage (rounded to the nearest one-tenth of 1 percent) derived by—

(i) reducing—

(I) the ECI for the last base quarter prior to that date, by

(II) the ECI for the second to last base quarter prior to that date,

(ii) dividing the difference under clause (i) by the ECI for the base quarter referred to in clause (i)(II), and

(iii) multiplying the quotient under clause (ii) by 100, except that no percentage change determined under this paragraph shall be—

(I) less than zero; or

(II) greater than 5 percent.

(2) PROVISIONS THROUGH WHICH NEW METHOD IS TO BE IMPLEMENTED.—

(A) AMENDMENT TO TITLES 3, 5, AND 28 OF THE UNITED STATES CODE.—Section 104 of title 3, United States Code, section 5318 of title 5, United States Code, and section 461(a) of title 28, United States Code, are amended by striking “corresponds to” and all that follows thereafter through the period, and inserting the following:

“corresponds to the most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such adjustment in the rates of pay under the General Schedule takes effect.”

(B) AMENDMENT TO THE LEGISLATIVE REORGANIZATION ACT OF 1946.—Section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended by striking “corresponds to” and all that follows thereafter through the period and inserting the following:

“corresponds to the most recent percentage change in the ECI (relative to the date described in the next sentence), as determined under section 704(a)(1) of the Ethics Reform Act of 1989. The appropriate date under this sentence is the first day of the fiscal year in which such adjustment in the rates of pay under the General Schedule takes effect.”

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on January 1, 1991.

SEC. 705. WORK PERFORMED BY SENIOR JUDGES IN ORDER TO RECEIVE CERTAIN SALARY INCREASES.

(a) IN GENERAL.—Section 371 of title 28, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting “(1)” after “(b)”;

(B) by inserting “or her” after “his”; and

(C) by striking the period and inserting the following: “if he or she meets the requirements of subsection (f).

“(2) In a case in which a justice or judge who retires under paragraph (1) does not meet the requirements of subsection (f), the justice or judge shall continue to receive the salary that he or she was receiving when he or she was last in active service or, if a certification under subsection (f) was made for such justice or judge, when such a certification was last in effect. The salary of such justice or judge shall be adjusted under section 461 of this title.”; and

(2) by adding at the end the following new subsection:

“(f)(1) In order to continue receiving the salary of the office under subsection (b), a justice must be certified in each calendar year by the Chief Justice, and a judge must be certified by the chief judge of the circuit in which the judge sits, as having met the requirements set forth in at least one of the following subparagraphs:

“(A) The justice or judge must have carried in the preceding calendar year a caseload involving courtroom participation which is equal to or greater than the amount of work involving courtroom participation which an average judge in active service would perform in three months. In the instance of a justice or judge who has sat on both district courts and courts of appeals, the caseload of appellate work and trial work shall be determined separately and the results of those determinations added together for purposes of this paragraph.

“(B) The justice or judge performed in the preceding calendar year substantial judicial duties not involving courtroom participation under subparagraph (A), including settlement efforts, motion decisions, writing opinions in cases that have not been orally argued, and administrative duties for the court to which the justice or judge is assigned. Any certification under this subparagraph shall include a statement describing in detail the nature and amount of work and certifying that the work done is equal to or greater than the work described in this subparagraph which an average judge in active service would perform in three months.

“(C) The justice or judge has, in the preceding calendar year, performed work described in subparagraphs (A) and (B) in an amount which, when calculated in accordance with such subparagraphs, in the aggregate equals at least 3 months work.

“(D) The justice or judge has, in the preceding calendar year, performed substantial administrative duties directly related to the operation of the courts, or has performed substantial duties for a Federal or State governmental entity. A certification under this subparagraph shall specify that the work done is equal to the full-time work of an employee of the judicial branch.

“(E) The justice or judge was unable in the preceding calendar year to perform judicial or administrative work to the extent

required by any of subparagraphs (A) through (D) because of a temporary or permanent disability. A certification under this subparagraph shall be made to a justice who certifies in writing his or her disability to the Chief Justice, and to a judge who certifies in writing his or her disability to the chief judge of the circuit in which the judge sits. A justice or judge who is certified under this subparagraph as having a permanent disability shall be deemed to have met the requirements of this subsection for each calendar year thereafter.

“(2) Determinations of work performed under subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be made pursuant to rules promulgated by the Judicial Conference of the United States. In promulgating such criteria, the Judicial Conference shall take into account existing standards promulgated by the Conference for allocation of space and staff for senior judges.

“(3) If in any year a justice or judge who retires under subsection (b) does not receive a certification under this subsection (except as provided in paragraph (1)(E)), he or she is thereafter ineligible to receive such a certification.

“(4) In the case of any justice or judge who retires under subsection (b) during a calendar year, there shall be included in the determination under this subsection of work performed during that calendar year all work performed by that justice or judge (as described in subparagraphs (A), (B), (C), and (D) of paragraph (1)) during that calendar year before such retirement.”

(b) EFFECTIVE DATE.—

28 USC 371 note.

(1) IN GENERAL.—The amendments made by subsection (a) shall first apply with respect to work performed on or after January 1, 1990, by a justice or judge of the United States who has retired under section 371(b) of title 28, United States Code.

(2) CALENDAR YEAR 1990.—In the case of certifications required by section 371(f) of title 28, United States Code, for calendar year 1990—

(A) such certifications shall be based on the 10-month period beginning on January 1, 1990, and ending on October 31, 1990, and shall be completed not later than December 15, 1990;

(B) determinations of work performed under section 371(f) of title 28, United States Code, shall be made pro rata on the basis of such 10-month period; and

(C) such certifications shall be deemed to be certifications made in calendar year 1991.

TITLE VIII—AMENDMENTS TO THE RULES OF THE HOUSE OF REPRESENTATIVES

SEC. 801. ACCEPTANCE OF GIFTS.

(a) DOLLAR LIMITS.—Clause 4 of rule XLIII of the Rules of the House of Representatives is amended to read as follows:

“4. A Member, officer or employee of the House of Representatives shall not accept gifts (other than the personal hospitality of an individual or with a fair market value of \$75 or less) in any calendar year aggregating more than the minimal value as established by paragraph (5) of section 7342 of title 5, United States Code, directly or indirectly from any person (other than from a relative), except to

the extent permitted by written waiver granted in exceptional circumstances by the Committee on Standards of Official Conduct pursuant to clause 4(e)(1)(E) of rule X.”

(b) **DEFINITIONS.**—The last undesignated paragraph of rule XLIII of the Rules of the House of Representatives is amended—

(1) by striking the dash after “Conduct” and by striking “(1) The” and by inserting “, the”;

(2) by striking “the person reporting” and by inserting “such Member, officer, or employee, and shall be deemed to include the fiance or fiancée of the Member, officer, or employee”; and

(3) by repealing subparagraph (2).

(c) Rule XLIII of the Rules of the House of Representatives is amended by inserting after clause 11 the following:

“12. (a) Except as provided by paragraph (b), any employee of the House of Representatives who is required to file a report pursuant to rule XLIV shall refrain from participating personally and substantially as an employee of the House of Representatives 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) Paragraph (a) shall not apply if an employee first advises his employing 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 Committee on Standards of Official Conduct.”

(d) **ADDITIONAL DUTIES OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT.**—Clause 4(e)(1) of rule X of the Rules of the House of Representatives is amended by striking “and” before “(D)” and by inserting before the period the following: “; and (E) to give consideration to the request of any Member, officer, or employee of the House for a written waiver in exceptional circumstances with respect to clause 4 of rule XLIII”.

(e) **ADVISORY OPINION AMENDMENTS.**—The Committee on Standards of Official Conduct of the House of Representatives shall amend its advisory opinions relating to the acceptance of gifts (1) to prohibit lodging received as personal hospitality in excess of 30 days in any calendar year from any individual unless a written waiver is granted by the committee and (2) to exempt gifts of food and beverages consumed not in connection with gifts of lodging from coverage under clause 4 of rule XLIII of the Rules of the House of Representatives.

(f) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on January 1, 1990.

SEC. 802. USE OF OFFICIAL RESOURCES.

(a) **QUALIFICATIONS OF OFFICERS AND EMPLOYEES.**—Rule XLI of the Rules of the House of Representatives is amended to read as follows:

“RULE XLI.

“QUALIFICATIONS OF OFFICERS AND EMPLOYEES.

“No person shall be an officer or employee of the House, or continue in its employment, who shall be an agent for the prosecution of any claim against the Government or be interested in such

2 USC 29d note.

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claim otherwise than as an original claimant or than in the proper discharge of official duties.”

(b) **RIGHTS AND DUTIES OF STAFF.**—(1) Clause 8 of rule XLIII of the Rules of the House of Representatives is amended to read as follows:

“8. A Member or officer of the House of Representatives shall retain no one under his payroll authority who does not perform official duties commensurate with the compensation received in the offices of the employing authority. In the case of committee employees who work under the direct supervision of a Member other than a chairman, the chairman may require that such Member affirm in writing that the employees have complied with the preceding sentence (subject to clause 6 of rule XI) as evidence of the chairman’s compliance with this clause and with clause 6 of rule XI.”

(2) Clause 9 of rule XLIII of the Rules of the House of Representatives is amended by inserting “(including marital or parental status), handicap” after “sex” and by inserting before the period the following: “, but may take into consideration the domicile or political affiliation of such individual”.

(3) Clause 6 of rule XI of the Rules of the House of Representatives is amended—

(A) in paragraph (a)(3) by striking subdivision (A) and by redesignating subdivisions (B) and (C) as subdivisions (A) and (B), respectively; and

(B) in paragraph (a)(3)(A) (as redesignated) by inserting “during congressional working hours” after “business”; and

(C) in paragraph (b)(1) by striking “, without regard to race, creed, sex, or age”.

(c) **CLARIFICATION OF POLITICAL ACTIVITIES.**—The second sentence of clause 6 of rule XLIII of the Rules of the House of Representatives is amended to read as follows: “A Member shall convert no campaign funds to personal use in excess of reimbursement for legitimate and verifiable campaign expenditures and shall expend no funds from his campaign account not attributable to bona fide campaign or political purposes.”

(d) **USE OF OFFICIAL VEHICLES.**—The Committee on House Administration of the House of Representatives shall take such action as may be necessary to carry out section 503 with respect to vehicles of the House of Representatives.

31 USC 1844
note.

(e) **USE OF CAMPAIGN VEHICLES.**—The Committee on Standards of Official Conduct of the House of Representatives shall issue an advisory opinion to provide for appropriate conditions for the incidental noncampaign use of vehicles owned or leased by a campaign committee of a Member of the House of Representatives.

2 USC 29d note.

(f) **CONFORMING AMENDMENT.**—Clause 1 of rule XLIV of the Rules of the House of Representatives is amended by striking “July 1” and by inserting “August 1” and by striking “May 15” and by inserting “June 15”.

(g) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on January 1, 1990.

SEC. 803. REFORMS RESPECTING THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT.

(a) **MEMBERSHIP OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT.**—Clause (6)(a)(2) of rule X of the Rules of the House of Representatives is amended by inserting at the end the following: “No Member shall serve as a member of the Committee on Standards of Official Conduct during more than 3 Congresses in any

period of 5 successive Congresses (disregarding for this purpose any service performed as a member of such committee for less than a full session in any Congress).”.

2 USC 29d.

(b) **COMMITTEE COMPOSITION.**—The respective party caucus or conference of the House of Representatives shall each nominate to the House of Representatives at the beginning of each Congress 7 members to serve on the Committee on Standards of Official Conduct.

2 USC 29d.

(c) **INVESTIGATIVE SUBCOMMITTEES.**—The Committee on Standards of Official Conduct shall adopt rules providing—

(1) for the establishment of a 4 or 6-member investigative subcommittee (with equal representation from the majority and minority parties) whenever the committee votes to undertake any investigation;

(2) that the senior majority and minority members on an investigative subcommittee shall serve as the chairman and ranking minority member of the subcommittee; and

(3) that the chairman and ranking minority member of the full committee may only serve as non-voting, ex officio members on an investigative subcommittee.

Clause 5(d) of rule XI of the House of Representatives shall not apply to any investigative subcommittee.

2 USC 29d.

(d) **ADJUDICATORY SUBCOMMITTEES.**—The Committee on Standards of Official Conduct shall adopt rules providing—

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(1) that upon the completion of an investigation, an investigative subcommittee shall report its findings and recommendations to the committee;

(2) that, if an investigative subcommittee by majority vote of its membership adopts a statement of alleged violation, the remaining members of the committee shall comprise an adjudicatory subcommittee to hold a disciplinary hearing on the violation alleged in the statement;

(3) that any statement of alleged violation and any written response thereto shall be made public at the first meeting or hearing on the matter which is open to the public after the respondent has been given full opportunity to respond to the statement in accordance with committee rules, but, if no public hearing or meeting is held on the matter, the statement of alleged violation and any written response thereto shall be included in the committee's final report to the House of Representatives as required by clause 4(e)(1)(B) of rule X of the Rules of the House of Representatives;

(4) that a quorum for an adjudicatory subcommittee for the purpose of taking testimony and conducting any business shall consist of a majority of the membership of the subcommittee plus one; and

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(5) that an adjudicatory subcommittee shall determine, after receiving evidence, whether the counts in the statement have been proved and shall report its findings to the committee.

Clause 5(d) of rule XI of the Rules of the House of Representatives shall not apply to any adjudicatory subcommittee.

(e) **ADMINISTRATIVE ACTIONS.**—Clause 4(e)(1)(A) of rule X of the Rules of the House of Representatives is amended by inserting after “House” the second time it appears the following: “, and any letter of reproof or other administrative action of the committee pursuant to an investigation under subdivision (B) shall only be issued or implemented as a part of a report required by such subdivision”.

(f) **REPORT TO THE HOUSE.**—Clause 4(e)(1)(B) of rule X of the Rules of the House of Representatives is amended by striking everything after “hearing” through the semicolon and by inserting the following: “(unless the right to a hearing is waived by the Member, officer, or employee), shall report to the House its findings of fact and recommendations, if any, upon the final disposition of any such investigation, and such action as the committee may deem appropriate in the circumstances;”.

(g) **STATUTE OF LIMITATIONS.**—Clause 4(e)(2)(C) of rule X of the Rules of the House of Representatives is amended by inserting before the period the following: “; nor shall any investigation be undertaken by the committee of any alleged violation which occurred before the third previous Congress unless the committee determines that the alleged violation is directly related to any alleged violation which occurred in a more recent Congress”.

(h) **RIGHT TO COUNSEL.**—Clause 1 of rule XXXII of the Rules of the House of Representatives is amended by inserting “and one attorney to accompany any Member who is the respondent in an investigation undertaken by the Committee on Standards of Official Conduct when the recommendation of such committee is under consideration;” after the last semicolon.

(i) **ADVICE AND EDUCATION.**—

(1) The Committee on Standards of Official Conduct shall establish within the committee an Office on Advice and Education (hereinafter in this subsection referred to as the “Office”) under the supervision of the chairman.

(2) The Office shall be headed by a director who shall be appointed by the chairman, in consultation with the ranking minority member, and shall be comprised of such staff as the chairman determines is necessary to carry out the responsibilities of the Office.

(3) The primary responsibilities of the Office shall include:

(A) Providing information and guidance to Members, officers and employees of the House regarding any laws, rules, regulations, and other standards of conduct applicable to such individuals in their official capacities, and any interpretations and advisory opinions of the committee.

(B) Submitting to the chairman and ranking minority member of the committee any written request from any such Member, officer or employee for an interpretation of applicable laws, rules, regulations, or other standards of conduct, together with any recommendations thereon.

(C) Recommending to the committee for its consideration formal advisory opinions of general applicability.

(D) Developing and carrying out, subject to the approval of the chairman, periodic educational briefings for Members, officers and employees of the House on those laws, rules, regulations, or other standards of conduct applicable to them.

(4) No information provided to the Committee on Standards of Official Conduct by a Member, officer or employee of the House of Representatives when seeking advice regarding prospective conduct of such Member, officer or employee may be used as the basis for initiating an investigation under clause 4(e)(1)(B) of rule X of the Rules of the House of Representatives, if such Member, officer or employee acts in accordance with the written advice of the committee.

2 USC 29d.
Establishment.

2 USC 29d note.

(j) **EFFECTIVE DATE.**—This section shall take effect immediately before noon January 3, 1991, except that subsections (g), (h), and (i) shall take effect on January 1, 1990.

SEC. 804. ELIMINATION OF HONORARIA AND LIMITATIONS ON OUTSIDE EARNED INCOME AND EMPLOYMENT.

(a) **HONORARIA AND OUTSIDE EARNED INCOME.**—Clauses 1 and 2 of rule XLVII of the Rules of the House of Representatives are amended to read as follows:

“1. (a)(1) Except as provided by subparagraph (2), in calendar year 1991 or thereafter, a Member or an officer or employee of the House may not—

“(A) have outside earned income attributable to such calendar year which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year; or

“(B) receive any honorarium.

“(2) In the case of any individual who becomes a Member or an officer or employee of the House during calendar year 1991 or thereafter, such individual may not have outside earned income attributable to the portion of that calendar year which occurs after such individual becomes a Member, officer or employee which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year multiplied by a fraction the numerator of which is the number of days such individual is a Member, officer, or employee during such calendar year and the denominator of which is 365.

“(3) In calendar year 1991 or thereafter, any payment in lieu of an honorarium which is made to a charitable organization on behalf of a Member, officer or employee of the House may not be received by such individual. No such payment shall exceed \$2,000 or be made to a charitable organization from which such individual or a parent, sibling, spouse, child, or dependent relative of such individual derives any financial benefit.

“(b)(1) Except as provided by subparagraph (2), in calendar year 1990, a Member may not have outside earned income (including honoraria received in such calendar year) attributable to such calendar year which exceeds 30 percent of the annual pay as a Member to which the Member was entitled in 1989.

“(2) In the case of any individual who becomes a Member during calendar year 1990, such individual may not have outside earned income (including honoraria) attributable to the portion of that calendar year which occurs after such individual becomes a Member which exceeds 30 percent of \$89,500 multiplied by a fraction the numerator of which is the number of days such individual is a Member during such calendar year and the denominator of which is 365.”

(b) **LIMITATIONS ON OUTSIDE EMPLOYMENT.**—Rule XLVII of the Rules of the House of Representatives is amended by inserting after clause 1 the following new clause:

“2. On or after January 1, 1991, a Member or an officer or employee of the House shall not—

“(1) affiliate with or be employed by a firm, partnership, association, corporation, or other entity to provide professional services which involves a fiduciary relationship for compensation;

“(2) permit that Member’s, officer’s, or employee’s name to be used by any such firm, partnership, association, corporation, or other entity;

“(3) practice a profession which involves a fiduciary relationship for compensation;

“(4) serve for compensation as an officer or member of the board of any association, corporation, or other entity; or

“(5) receive compensation for teaching, without the prior notification and approval of the Committee on Standards of Official Conduct.”.

(c) DEFINITIONS.—Clause 3 of rule XLVII is amended—

(1) by redesignating paragraphs (b) through (d) as paragraphs (c) through (e), respectively, and by inserting after paragraph (a) the following new paragraph:

“(b)(1) Except as provided by paragraph (2), the term ‘officer or employee of the House’ means any individual (other than a Member) whose pay is disbursed by the Clerk and who is paid at a rate equal to or greater than the annual rate of basic pay in effect for grade GS-16 of the General Schedule under section 5332 of title 5, United States Code, and so employed for more than 90 days in a calendar year.

“(2) When used with respect to honoraria, the term ‘officer or employee of the House’ means any individual (other than a Member) whose salary is disbursed by the Clerk.”;

(2) by striking paragraphs (c) and (d) (as redesignated) and by inserting the following:

“(c) The term ‘honorarium’ means a payment of money or any thing of value for an appearance, speech or article by a Member or an officer or employee of the House, excluding any actual and necessary travel expenses incurred by such individual (and one relative) to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that such expenses are not paid or reimbursed.

“(d) The term ‘travel expenses’ means, with respect to a Member or an officer or employee of the House, or a relative of any such individual, the cost of transportation, and the cost of lodging and meals while away from his or her residence or principal place of employment.”.

(3) in paragraph (e) (as redesignated)—

(A) by striking “professional fees, honorariums,” and inserting “fees,”;

(B) by striking “(other than copyright royalties)”; and

(C) by striking “and” at the end of subparagraph (3), by striking the period at the end of subparagraph (4) and inserting “; and”, and by inserting after subparagraph (4) the following:

“(5) copyright royalties received from established publishers pursuant to usual and customary contractual terms.”; and

(4) by inserting at the end the following:

“(f) The term ‘charitable organization’ means an organization described in section 170(c) of the Internal Revenue Code of 1986.”.

(d) TITLE CHANGE.—The title of rule XLVII of the Rules of the House of Representatives is amended to read as follows: “LIMITATIONS ON OUTSIDE EMPLOYMENT AND EARNED INCOME.”.

Effective date.

(e) **CONFORMING AMENDMENT.**—Effective January 1, 1991, clause 5 of rule XLIII of the Rules of the House of Representatives is amended by striking everything after “activity” and inserting a period.

(f) **EFFECTIVE DATE.**—Except as provided by subsection (e), the amendments made by this section shall take effect on January 1, 1990. The amendments made by this section shall cease to be effective if the provisions of section 703 are subsequently repealed, in which case the rules in effect before the amendments made by this section shall be deemed to be readopted.

SEC. 805. RESTRICTIONS ON REIMBURSABLE TRAVEL EXPENSES.

(a) **RESTRICTIONS.**—The Committee on Standards of Official Conduct of the House of Representatives shall amend its advisory opinions relating to the acceptance of necessary travel expenses incurred on or after January 1, 1990, in connection with speaking engagements and similar events to—

(1) prohibit the acceptance of such expenses for more than 4 consecutive days in the case of domestic travel and 7 consecutive days (excluding travel days) in the case of foreign travel; and

(2) permit the acceptance of travel expenses for the spouse or other family member in connection with any substantial participation event or fact-finding activity.

(b) **EXEMPTION AUTHORITY.**—The Committee on Standards of Official Conduct of the House of Representatives is authorized to grant prior written exemptions from the limitations contained in subsection (a)(1) in exceptional circumstances.

SEC. 806. EXERCISE OF RULEMAKING POWERS.

The provisions of this title are enacted by the Congress as an exercise of the rulemaking power of the House of Representatives and as such they shall be considered as part of the rules of the House and shall supersede other rules only to the extent they are inconsistent therewith; and with full recognition of the constitutional right of the House to change such rules (so far as relating to the House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

TITLE IX—REGULATIONS RELATING TO THE SENATE

2 USC 31-2.

SEC. 901. GIFTS AND TRAVEL.

(a) **GIFTS.**—(1) No Member, officer, or employee of the Senate, or the spouse or dependent thereof, shall knowingly accept, directly or indirectly, any gift or gifts having an aggregate value exceeding \$100 during a calendar year directly or indirectly from any person, organization, or corporation having a direct interest in legislation before the Congress or from any foreign national unless, in an unusual case, a waiver is granted by the Select Committee on Ethics.

(2) No Member, officer, or employee of the Senate, or the spouse or dependent thereof, shall knowingly accept, directly or indirectly, any gift or gifts having an aggregate value exceeding \$300 during a calendar year from any person, organization, or corporation unless,

in an unusual case, a waiver is granted by the Select Committee on Ethics.

(3) In determining the aggregate value of any gift or gifts accepted by an individual during a calendar year from any person, organization, or corporation, there may be deducted the aggregate value of gifts (other than gifts described in paragraph (5)) given by such individual to such person, organization, or corporation during that calendar year.

(4) For purposes of this subsection, only the following shall be deemed to have a direct interest in legislation before the Congress:

(A) a person, organization, or corporation registered under the Federal Regulation of Lobbying Act of 1946, or any successor statute, a person who is an officer or director of such a registered lobbyist, or a person who has been employed or retained by such a registered lobbyist for the purpose of influencing legislation before the Congress; or

(B) a corporation, labor organization, or other organization which maintains a separate segregated fund for political purposes (within the meaning of section 321 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b)), a person who is an officer or director of such corporation, labor organization, or other organization, or a person who has been employed or retained by such corporation, labor organization, or other organization for the purpose of influencing legislation before the Congress.

(5) The prohibitions of this subsection do not apply to gifts—

(A) from relatives;

(B) with a value of less than \$75;

(C) of personal hospitality of an individual; or

(D) from an individual who is a foreign national if that individual is not acting; directly or indirectly, on behalf of a foreign corporation, partnership or business enterprise, a foreign trade, cultural, educational or other association, a foreign political party or a foreign government.

(6) For purposes of this subsection—

(A) the term "gift" means a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, including food, lodging, transportation, or entertainment, and reimbursement for other than necessary expenses, unless consideration of equal or greater value is received, but does not include (1) a political contribution otherwise reported as required by law, (2) a loan made in a commercially reasonable manner (including requirements that the loan be repaid and that a reasonable rate of interest be paid), (3) a bequest, inheritance, or other transfer at death, (4) a bona fide award presented in recognition of public service and available to the general public, (5) a reception at which the Member, officer, or employee is to be honored, provided such individual receives no other gifts that exceed the restrictions in this rule, other than a suitable memento, (6) meals or beverages consumed or enjoyed, provided the meals or beverages are not consumed or enjoyed in connection with a gift of overnight lodging, or (7) anything of value given to a spouse or dependent of a reporting individual by the employer of such spouse or dependent in recognition of the service provided by such spouse or dependent; and

(B) the term "relative" has the same meaning given to such term in section 107(2) of title I of the Ethics in Government Act of 1978 (Public Law 95-521).

(7) If a Member, officer, or employee, after exercising reasonable diligence to obtain the information necessary to comply with this rule, unknowingly accepts a gift described in paragraph (1) such Member, officer, or employee shall, upon learning of the nature of the gift and its source, return the gift or, if it is not possible to return the gift, reimburse the donor for the value of the gift.

(8)(A) Notwithstanding the provisions of this subsection, a Member, officer, or employee of the Senate may participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization if such participation is not in violation of any law and if the select Committee on Ethics has determined that participation in such program by Members, officers, or employees of the Senate is in the interests of the Senate and the United States.

(B) Any Member who accepts an invitation to participate in any such program shall notify the Select Committee in writing of his acceptance. A Member shall also notify the Select Committee in writing whenever he has permitted any officer or employee whom he supervises to participate in any such program. The chairman of the Select Committee shall place in the Congressional Record a list of all individuals, participating, the supervisors of such individuals where applicable; and the nature and itinerary of such program.

(C) No Member, officer, or employee may accept funds in connection with participation in a program permitted under subparagraph (A) if such funds are not used for necessary food, lodging, transportation, and related expenses of the Member, officer, or employee.

(b) **LIMITS ON DOMESTIC AND FOREIGN TRAVEL BY MEMBERS AND STAFF OF THE SENATE.**—The term "necessary expenses", with respect to limits on domestic and foreign travel by Members and staff of the Senate, means reasonable expenses for food, lodging, or transportation which are incurred by a Member, officer, or employee of the Senate in connection with services provided to (or participation in an event sponsored by) the organization which provides reimbursement for such expenses or which provides the food, lodging, or transportation directly. Necessary expenses do not include the provision of food, lodging, or transportation, or the payment for such expenses, for a continuous period in excess of 3 days (and 2 nights) exclusive of travel time within the United States or 7 days (and 6 nights) exclusive of travel time outside of the United States unless such travel is approved by the Committee on Ethics as necessary for participation in a conference, seminar, meeting or similar matter. Necessary expenses do not include the provision of food, lodging, or transportation, or the payment for such expenses, for anyone accompanying a Member, officer, or employee of the Senate, other than the spouse of a Member, officer, or employee of the Senate or one Senate employee acting as an aide to a Member.

SEC. 902. TRANSMITTAL OF FINANCIAL DISCLOSURE REPORTS.

(a) The Select Committee on Ethics shall transmit a copy of each report filed with it under title I of the Ethics in Government Act of 1978 (other than a report filed by a Member of Congress) to the head of the employing office of the individual filing the report.

(b) For purposes of this section, the head of the employing office shall be—

(A) in the case of an employee of a Member, the Member by whom that person is employed;

(B) in the case of an employee of a Committee, the chairman and ranking minority member of such Committee;

(C) in the case of an employee on the leadership staff, the Member of the leadership on whose staff such person serves; and

(D) in the case of any other employee of the legislative branch, the head of the office in which such individual serves.

SEC. 903. AMENDMENT TO SENATE CONFLICT OF INTEREST RULE.

2 USC 60-2.

(a) Except as provided by subsection (b), any employee of the Senate who is required to file a report pursuant to Senate rules 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) Subsection (a) shall not apply if an employee first advises his supervisor of his significant financial interest and obtains from such supervisor 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.

TITLE X—RULEMAKING POWER OF THE CONGRESS

SEC. 1001. RULEMAKING POWER OF THE CONGRESS.

5 USC app. 101 note.

The provisions of this Act that are applicable to Members, officers, or employees of the legislative branch are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

TITLE XI—PAY AND HONORARIA ADJUSTMENTS

SEC. 1101. ADJUSTMENTS IN RATES OF PAY AND REDUCTION IN HONORARIUM OF SENATORS.

5 USC 5305 note.

(a)(1) **ADJUSTMENTS IN RATES OF PAY.**—Notwithstanding any other provision of law (including any provision of this Act or amendment made by this Act), effective as provided in paragraph (2), the rate of pay of each office and position of United States Senator, the President pro tempore of the Senate, and the majority and minority leaders of the Senate shall be increased by—

(A) the percentage increase that would have taken effect in fiscal year 1988 if the provisions of section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) were applied to the rate of pay of each such office and position in effect on January 1, 1988 without regard to section 108 of the resolution entitled "Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes", approved December 22, 1987 (101 Stat. 1329-434; 5 U.S.C. 5305 note);

(B) the percentage increase that would have taken effect in fiscal year 1989 if the provisions of section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) were applied to the rate of pay of each such office and position in effect on January 1, 1989 (as adjusted under subparagraph (A) of this paragraph) without regard to subsection (b) of section 620 of the Treasury, Postal Service and General Government Appropriations Act, 1989 (Public Law 100-440; 102 Stat. 1756; 5 U.S.C. 5305 note); and

(C) the percentage increase that would take effect in fiscal year 1990 by the application of section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) (as adjusted under subparagraphs (A) and (B) of this paragraph) without regard to subsection (b) of section 619 of the Treasury, Postal Service and General Government Appropriations Act, 1990 (Public Law 101-136).

(2) The increase in the rates of pay for each office and position described under paragraph (1) shall be effective on the first day of the first pay period beginning on or after January 1, 1990.

(b) **REDUCTION OF HONORARIUM.**—Section 908(b) of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1) is amended by adding at the end thereof the following new paragraph:

"(4) Notwithstanding the provisions of this subsection—

"(A) the percentage referred to under paragraphs (1) and (2) shall be 27 percent as such paragraphs apply to United States Senators in the calendar year beginning on January 1, 1990;

"(B)(i) beginning on and after January 1, 1991, if the aggregate salary of a United States Senator is increased pursuant to section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)), section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.), or any other provision of law, the percentage referred to under paragraphs (1) and (2) (with respect to United States Senators) shall be reduced by a percentage resulting in a dollar amount decrease in the limit of honorarium for each dollar amount of increase of such aggregate salary; and

"(ii) beginning on January 1 of the calendar year in which the adjustments under clause (i) of this subparagraph result in a limitation of accepting honoraria less than or equal to 1 percent of the aggregate salary paid to United States Senators for service as Senators in such calendar year, the acceptance of honoraria shall be prohibited, and thereafter no Senator shall accept honoraria."

(c) **SPECIAL RULE.**—Notwithstanding any other provision of this section, no adjustment in any rate of pay and section 908(b)(4)(A) of the Supplemental Appropriations Act, 1983, as added by subsection (b) of this section, shall become effective, as a result of the enactment of

this section, before the first applicable pay period beginning on or after the date as of which the order issued by the President on October 16, 1989, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is rescinded.

Approved November 30, 1989.

LEGISLATIVE HISTORY—H.R. 3660:

CONGRESSIONAL RECORD, Vol. 135 (1989):

Nov. 16, considered and passed House.

Nov. 17, considered and passed Senate, amended. House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 25 (1989):

Nov. 30, Presidential statement.