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TITLE 2.—THE CONGRESS

Chapter 1.—ELECTION OF SENATORS AND REPRESENTATIVES

205 § 1. Time for election of Senators. **205**

At the regular election held in any State next preceding the expiration of the term for which any Senator was elected to represent such State in Congress, at which election a Representative to Congress is regularly by law to be chosen, a United States Senator from said State shall be elected by the people thereof for the term commencing on the 3d day of January next thereafter. (June 4, 1914, ch. 103, § 1, 38 Stat. 384; June 5, 1934, ch. 390, § 3, 48 Stat. 879.)

205.1 CONSTITUTIONAL PROVISIONS **205.1**

The first section of Amendment XX to the Constitution provides in part: "* * * the terms of Senators and Representatives [shall end] at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin."

CROSS REFERENCES

Time for election of Senators, see Const. Art. I, § 4, cl. 1 (Senate Manual section **761.14**).

Vacancies in the Senate, see Const. Amend. XVII (Senate Manual section **787**).

206 § 1a. Election to be certified by governor. **206**

It shall be the duty of the executive of the State from which any Senator has been chosen to certify his election, under the seal of the State, to the President of the Senate of the United States. (R.S. § 18.)

207 § 1b. Same; countersignature by secretary of state. **207**

The certificate mentioned in section la of this title shall be countersigned by the secretary of state of the State. (R.S. § 19.)

Chapter 2.—ORGANIZATION OF CONGRESS

210 § 21. Oath of Senators. **210**

The oath of office shall be administered by the President of the Senate to each Senator who shall be elected, previous to his taking his seat. (R.S. § 28.)

211 § 22. Oath of President of Senate. **211**

When a President of the Senate has not taken the oath of office, it shall be administered to him by any Member of the Senate. (R.S. § 29.)

212 § 23. Presiding officer of Senate may administer oaths. **212**

The presiding officer, for the time being, of the Senate of the United States, shall have power to administer all oaths and affirmations that are or may be required by the Constitution, or by law, to be taken by any Senator, officer of the Senate, witness, or other person, in respect

to any matter within the jurisdiction of the Senate. (Apr. 18, 1876, ch. 66, § 1, 19 Stat. 34.)

213 § 24. Secretary of Senate or Assistant Secretary may administer oaths. 213

The Secretary of the Senate, and the Assistant Secretary thereof, shall, respectively, have power to administer any oath or affirmation required by law, or by the rules or orders of the Senate, to be taken by any officer of the Senate, and to any witness produced before it. (Apr. 18, 1876, ch. 66, § 2, 19 Stat. 34; amended, Pub. L. 92–51, § 101, July 9, 1971, 85 Stat. 125.)

214 § 27. Change of place of meeting. 214

Whenever Congress is about to convene, and from the prevalence of contagious sickness, or the existence of other circumstances, it would, in the opinion of the President, be hazardous to the lives or health of the Members to meet at the seat of Government, the President, is authorized, by proclamation, to convene Congress at such other place as he may judge proper. (R.S. § 34.)

215 § 30. Term of service of Members of Congress as trustees or directors of corporations or institutions appropriated for. 215

In all cases where Members of Congress or Senators are appointed to represent Congress on any board of trustees or board of directors of any corporation or institution to which Congress makes any appropriation, the term of said Members or Senators, as such trustee or director, shall continue until the expiration of two months after the first meeting of the Congress chosen next after their appointment. (Mar. 3, 1893, ch. 199, § 1, 27 Stat. 553.)

215a § 30a. Jury duty exemption of elected officials of the legislative branch. 215a

(a) Notwithstanding any other provision of Federal, State or local law, no elected official of the legislative branch of the United States Government shall be required to serve on a grand or petit jury, convened by any Federal, State or local court, whether such service is requested by judicial summons or by some other means of compulsion.

(b) "Elected official of the legislative branch" shall mean each Member of the United States House of Representatives, the Delegates from the District of Columbia, Guam, the American Virgin Islands, and American Samoa, and the Resident Commissioner from Puerto Rico, and each United States Senator. (Pub. L. 101–520, Title III, § 310, Nov. 5, 1990, 104 Stat. 2278.)

Chapter 3.—COMPENSATION AND ALLOWANCES OF MEMBERS

220 § 31. Compensation of Members of Congress. 220

(1) The annual rate of pay for–

(A) each Senator, Member of the House of Representatives, and Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico,

(B) the President pro tempore of the Senate, the Majority Leader and the Minority Leader of the Senate, and the Majority Leader and the Minority Leader of the House of Representatives, and

(C) the Speaker of the House of Representatives,

shall be the rate determined for such positions under chapter 11 of this title, as adjusted by paragraph (2) of this section.

(2)(A) Subject to subparagraph (B), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 of title 5 in the rates of pay under the General Schedule, each annual rate referred to in paragraph (1) shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such annual rate which 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) In no event shall the percentage adjustment taking effect under subparagraph (A) in any calendar year (before rounding), in any rate of pay, exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5, United States Code, in the rates of pay under the General Schedule. (Mar. 4, 1925, ch. 549, § 4, 43 Stat. 1301; May 17, 1932, ch. 190, 47 Stat. 158; Aug. 2, 1946, ch. 753, Title VI, § 601(a), 60 Stat. 850; Jan. 19, 1949, ch. 2, § 1(d), 63 Stat. 4; Mar. 2, 1955, ch. 9, § 4(a), 69 Stat. 11; Aug. 14, 1964, Pub. L. 88–426, Title II, § 204, 78 Stat. 415; Oct. 29, 1965, Pub. L. 89–301, § 11(e), 79 Stat. 1120; Dec. 16, 1967, Pub. L. 90–206, Title II, § 225(h), 81 Stat. 644; Sept. 15, 1969, Pub. L. 91–67, § 2, 83 Stat. 107; Aug. 9, 1975, Pub. L. 94–82, Title II, § 204(a), 89 Stat. 421; Nov. 30, 1989, Pub. L. 101–194, Title VII, § 704(a)(2)(B), 103 Stat. 1769; Nov. 5, 1990, Pub. L. 101–509, Title I, § 101(b)(4)(D), 104 Stat. 1439; Oct. 13, 1994, Pub. L. 103–356, § 101, 108 Stat. 3410.)

§ 31–1 (Repealed). (Aug. 14, 1991, Pub. L. 102–90, § 6(c), Honoraria prohibited Title V, Ethics in Government Act of 1978 (5 U.S.C. App))

220.1 § 31–2. Gifts and travel. **220.1**

(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 in any calendar year aggregating more than the minimal value as established by section 7342(a)(5) of title 5, U.S.C. or $250, whichever is greater from any person, organization, or corporation unless, in an unusual case, a waiver is granted by the Select Committee on Ethics.

(2) The prohibitions of this subsection do not apply to gifts—

(A) from relatives;

(B) with a value of $100 or less, as adjusted under section 102(a)(2)(A) of the Ethics in Government Act of 1978, or

(C) of personal hospitality of an individual.

(D) Repealed. Pub. L. 101–280, § 8(l)(A)(iii), May 4, 1990, 104 Stat. 162.

(3) 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 (Pub. L. 95–521).

(4) 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.

(5)(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 exclusive of travel time within the United States or 7 days 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 or child of such Member, officer, or employee of the Senate or one Senate employee acting as an aide to a Member. (Pub. L. 101–194, Title IX, § 901, Nov. 30, 1989, 103 Stat. 1778; amended Pub. L. 101–280, § 8, May 4, 1990, 104 Stat. 162; Pub. L. 102–90, Title III § 314(c), Aug. 14, 1991, 105 Stat. 470.)

220.5 § 31a–1. Expense allowance of Majority and Minority Leaders of Senate; expense allowance of Majority and Minority Whips; methods of payment; taxability. 220.5

Effective fiscal year 1978 and each fiscal year thereafter, the expense allowances of the Majority and Minority Leaders of the Senate are increased to $10,000 each fiscal year for each leader: *Provided,* That, effective with the fiscal year 1983 and each fiscal year thereafter, the expense allowance of the Majority and Minority Whips of the Senate which shall not exceed $5,000 each fiscal year for each Whip: *Provided further,* That, during the period beginning on January 3, 1977, and ending September 30, 1977, and during each fiscal year thereafter, the Vice President, the Majority Leader, the Minority Leader, the Majority Whip, and the Minority Whip may receive the expense allowance (a) as reimbursement for actual expenses incurred upon certification and documentation of such expenses by the Vice President, the respective Leader or the respective Whip, or (b) in equal monthly payments: *Provided further,* That effective January 3, 1977, the amounts paid to the Vice President, the Majority or Minority Leader of the Senate, or the Majority or Minority Whip of the Senate as reimbursement of actual expenses incurred upon certification and documentation pursuant to the second proviso of this section shall not be reported as income, and the expenses so reimbursed shall not be allowed as a deduction, under title 26. (Pub. L. 95–26, Title I, § 100, May 4, 1977, 91 Stat. 79; Pub. L. 95–94, Title I, § 109, Aug. 5, 1977, 91 Stat. 661; Pub. L. 95–355, Title I, § 100, Sept. 8, 1978, 92 Stat. 532; Pub. L. 98–63, Title I, § 101, July 30, 1983, 97 Stat. 333; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

220.6 § 31a–2. Representation Allowance Account for the Majority and Minority Leaders of Senate. 220.6

(a) Establishment; purpose

There is hereby established an account, within the Senate, to be known as the "Representation Allowance Account for the Majority and Minority Leaders". Such Allowance Account shall be used by the Majority and Minority Leaders of the Senate to assist them properly to dis-

charge their appropriate responsibilities in the United States to members of foreign legislative bodies and prominent officials of foreign governments and intergovernmental organizations.

(b) Payments; allotment; reimbursement for actual expenses; taxability

Payments authorized to be made under this section shall be paid by the Secretary of the Senate. Of the funds available for expenditure from such Allowance Account for any fiscal year, one-half shall be allotted to the Majority Leader and one-half shall be allotted to the Minority Leader. Amounts paid from such Allowance Account to the Majority or Minority Leader shall be paid to him from his allotment and shall be paid to him only as reimbursement for actual expenses incurred by him and upon certification and documentation of such expenses. Amounts paid to the Majority or Minority leader pursuant to this section shall not be reported as income and shall not be allowed as a deduction under title 26.

(c) Authorization of appropriations

There are authorized to be appropriated for each fiscal year (commencing with the fiscal year ending September 30, 1985) not more than $20,000 to the Allowance Account established by this section. (Aug. 15, 1985, Pub. L. 99–88, Title I, § 197, 99 Stat. 350.)

220.7 § 31a–2a. Transfer of funds from representation allowance of Majority and Minority Leaders of Senate to expense allowance; availability; definitions. 220.7

(a) The Secretary of the Senate shall, upon the written request of the Majority or Minority Leader of the Senate, transfer from any available funds in such Leader's allotment in the Leader's Representation Allowance (as defined in subsection (b)(1) of this section) for any fiscal year (commencing with the fiscal year ending September 30, 1985) to such Leader's Expense Allowance (as defined in subsection (b)(2) of this section) to such year such amount as is specified in the request. Any funds so transferred for any fiscal year at the request of either such Leader shall be available to such Leader for such year for the same purposes as, and in like manner and subject to the same conditions as, are other funds which are available to him for such year as his expense allowance as Majority or Minority Leader.

(b)(1) The term "Leader's Representation Allowance" means the Representation Allowance Account for the Majority and Minority Leaders established by section 31a–2 of this title.

(2) The term "Leader's Expense Allowance", when used in reference to the Majority or Minority Leader of the Senate, refers to the moneys available, for any fiscal year, to such Leader as an expense allowance and the appropriation account from which such moneys are funded. (July 11, 1987, Pub. L. 100–71, Title I, § 1, 101 Stat. 422, 423.)

220.7a § 31a–2b Transfer of funds from appropriations account of Majority and Minority Leaders of Senate to appropriations account for "Miscellaneous Items" within Senate contingent fund. 220.7a

(a) Upon the written request of the Majority or Minority Leader of the Senate, the Secretary of the Senate shall transfer during any fiscal year, from the appropriations account appropriated under the headings

"Salaries, Officers and Employees" and "Offices of the Majority and Minority Leaders," such amount as either Leader shall specify to the appropriations account, within the contingent fund of the Senate, "Miscellaneous Items".

(b) The Majority and Minority Leaders of the Senate are each authorized to incur such expenses as may be necessary or appropriate. Expenses incurred by either such leader shall be paid from the amount transferred pursuant to subsection (a) by such leader and upon vouchers approved by such leader.

(c) The Secretary of the Senate is authorized to advance such sums as may be necessary to defray expenses incurred in carrying out subsections (a) and (b) of this section. (Pub. L. 102–27, Apr. 10, 1991, 105 Stat. 144.)

220.8 § 31a–3. Expense allowance for Chairmen of Majority and Minority Conference Committees of Senate; method of payment; taxability. 220.8

For each fiscal year (commencing with the fiscal year ending September 30, 1985), there is hereby authorized an expense allowance for the Chairmen of the Majority and Minority Conference Committees which shall not exceed $3,000 each fiscal year for each such Chairman; and amounts from such allowance shall be paid to either of such Chairmen only as reimbursement for actual expenses incurred by him and upon certification and documentation of such expenses, and amounts so paid shall not be reported as income and shall not be allowed as a deduction under title 26. (Aug. 15, 1985, Pub. L. 99–88, Title I, 99 Stat. 348.)

222 § 32. Compensation of President pro tempore of Senate. 222

Whenever there is no Vice President, the President of the Senate for the time being is entitled to the compensation provided by law for the Vice President. (R.S. § 36.)

CROSS REFERENCES

Compensation of Vice President, see section 104 of Title 3, United States Code, relating to the President (Senate Manual section **421**).

222.5 § 32a. Compensation of Deputy President pro tempore of Senate. 222.5

Effective January 5, 1977, the compensation of a Deputy President pro tempore of the Senate shall be at a rate equal to the rate of annual compensation of the President pro tempore and the Majority and Minority Leaders of the Senate. (May 4, 1977, Pub. L. 95–26, Title I, § 100, 91 Stat. 79.)

NOTE

See Senate Manual section **79.7**. The Senate may designate any Member to hold the Office of Deputy President pro tempore of the Senate. Such person is authorized to appoint and fix the compensation of such employees as he deems appropriate, but the gross compensation to such employees shall not exceed $90,000 for any fiscal year.

222.6 § 32b. Expense allowance of President pro tempore of Senate; methods of payment; taxability. 222.6

Effective with fiscal year 1978 and each fiscal year thereafter, there is hereby authorized an expense allowance for the President Pro Tem-

pore which shall not exceed $10,000 each fiscal year. The President Pro Tempore may receive the expense allowance (1) as reimbursement for actual expenses incurred upon certification and documentation of such expenses by the President Pro Tempore, or (2) in equal monthly payments. Such amounts paid to the President Pro Tempore as reimbursement of actual expenses incurred upon certification and documentation pursuant to this provision, shall not be reported as income, and the expenses so reimbursed shall not be allowed as a deduction, under title 26. (Sept. 8, 1978, Pub. L. 95–355, Title I, § 100, 92 Stat. 532; Oct. 22, 1986, Pub. L. 99–514, § 2, 100 Stat. 2095.)

223 § 33. Senators' salaries. 223

Senators elected, whose term of office begins on the 3d day of January, and whose credentials in due form of law shall have been presented in the Senate, may receive their compensation from the beginning of their term. (June 19, 1934, ch. 648, Title I, § 1, 48 Stat. 1022; Oct. 1, 1981, Pub. L. 97–51, § 112(b)(2), 95 Stat. 963.)

224 § 36. Salaries of Senators. 224

Salaries of Senators appointed to fill vacancies in the Senate shall commence on the day of their appointment and continue until their successors are elected and qualified: *Provided,* That when Senators have been elected during a sine die adjournment of the Senate to succeed appointees, the salaries of Senators so elected shall commence on the day following their election.

Salaries of Senators elected during a session to succeed appointees shall commence on the day they qualify: *Provided,* That when Senators have been elected during a session to succeed appointees, but have not qualified, the salaries of Senators so elected shall commence on the day following the sine die adjournment of the Senate.

When no appointments have been made the salaries of Senators elected to fill such vacancies shall commence on the day following their election. (Feb. 13, 1935, ch. 6, § 1, 49 Stat. 22, 23.)

225 CONSTITUTIONAL PROVISIONS 225

The first section of amendment XX to the Constitution provides in part: "* * * the terms of Senators and Representatives [shall end] at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin."

226 § 36a. Payment of sums due deceased Senators and Senate personnel. 226

Under regulations prescribed by the Secretary of the Senate, a person serving as a Senator or officer or employee whose compensation is disbursed by the Secretary of the Senate may designate a beneficiary or beneficiaries to be paid any unpaid balance of salary or other sums due such person at the time of his death. When any person dies while so serving, any such unpaid balance shall be paid by the disbursing officer of the Senate to the designated beneficiary or beneficiaries. If no designation has been made, such unpaid balance shall be paid to the widow or widower of that person, or if there is no widow or widower, to the next of kin or heirs at law of that person. (Jan. 6, 1951, ch. 1213, § 1, 64 Stat. 1224; Oct. 31, 1972, Pub. L. 92–607, § 503, 86 Stat. 1505.)

227 § 39. Deductions for absence. 227

The Secretary of the Senate and the Chief Administrative Officer of the House of Representatives (upon certification by the Clerk of the House of Representatives), respectively, shall deduct from the monthly payments (or other periodic payments authorized by law) of each Member or Delegate the amount of his salary for each day that he has been absent from the Senate or House, respectively, unless such Member or Delegate assigns as the reason for such absence the sickness of himself or of some member of his family. (R.S. § 40; Oct. 1, 1981, Pub. L. 97–51, § 112(d), 95 Stat. 963; Aug. 20, 1996, Pub. L. 104–186, Title II, § 203(7), 110 Stat. 1726.)

228 § 40. Deductions for withdrawal. 228

When any Member or Delegate withdraws from his seat and does not return before the adjournment of Congress, he shall, in addition to the sum deducted for each day, forfeit a sum equal to the amount which would have been allowed by law for his mileage in returning home; and such sum shall be deducted from his compensation, unless the withdrawal is with the leave of the Senate or House of Representatives, respectively. (R.S. § 41.)

229 § 40a. Deductions for delinquent indebtedness. 229

Whenever a Representative, Delegate, or Resident Commissioner, or a United States Senator, shall fail to pay any sum or sums due from such person to the House of Representatives or Senate respectively, the appropriate committee or officer of the House of Representatives or Senate, as the case may be, having jurisdiction of the activity under which such debt arose, shall certify such delinquent sum or sums to the Chief Administrative Officer of the House of Representatives in the case of an indebtedness to the House of Representatives and to the Secretary of the Senate in the case of an indebtedness to the Senate, and such latter officials are authorized and directed, respectively, to deduct from any salary, mileage, or expense money due to any such delinquent such certified amounts or so much thereof as the balance or balances due such delinquent may cover. Sums so deducted by the Secretary of the Senate shall be disposed of by him in accordance with existing law and sums so deducted by the Chief Administrative Officer of the House of Representatives shall be disposed of by him in accordance with existing law. (June 19, 1934, ch. 648, Title I, § 1, 48 Stat. 1024; Aug. 20, 1996, Pub. L. 104–186, Title II, § 203(8), 110 Stat. 1726.)

231 § 42a. Special delivery postage allowance for President of the Senate. 231

The Secretary of the Senate is authorized and directed to procure and furnish each fiscal year (commencing with the fiscal year ending September 30, 1982) to the President of the Senate, upon request by such person, United States special-delivery postage stamps in such amount as may be necessary for the mailing of postal matters arising in connection with his official business. (Pub. L. 97–51, § 127(a)(1), 95 Stat. 965.)

234 § 43d. Organizational expenses of Senator-elect. 234

(a) Appointment of employees by Secretary of Senate to assist; termination of employment

Upon the recommendation of a Senator-elect (other than an incumbent Senator or a Senator elected to fill a vacancy), the Secretary of the Senate shall appoint two employees to assist such Senator-elect. Any employee so appointed shall serve through the day before the date on which the Senator-elect recommending his appointment commences his service as a Senator, except that his employment may be terminated before such day upon recommendation of such Senator-elect.

(b) Payment of salaries of appointed employees; funding; maximum amount

(1) Salaries of employees appointed under subsection (a) of this section shall be paid from the appropriation for "Administrative, Clerical, and Legislative Assistance to Senators."

(2) Salaries paid to employees appointed upon recommendation of a Senator-elect under subsection (a) of this section shall be charged against the amount of compensation which may be paid to employees in his office under section 61–1(d) of this title (hereinafter referred to as the "clerk-hire allowance"), for the fiscal year in which his service as a Senator commences. The total amount of salaries paid to employees so appointed upon recommendation of a Senator-elect shall be charged against his clerk-hire allowance for each month in such fiscal year beginning with the month in which his service as a Senator commences (until the total amount has been charged) by whichever of the following amounts is greater: (1) one-ninth of the amount of salaries so paid, or (2) the amount by which the aggregate amount of his clerk-hire allowance which may be paid as of the close of such month under section 61–1(d)(1)(B) of this title exceeds the aggregate amount of his clerk-hire allowance actually paid as of the close of such month.

(c) Payment of transportation and per diem expenses of Senator-elect and appointed employees for one round trip from home State to Washington, D.C. for business of impending Congress; funding; maximum amount

Each Senator-elect and each employee appointed under subsection (a) of this section is authorized one round trip from the home State of the Senator-elect to Washington, D.C., and return, for the purposes of attending conferences, caucuses, or organizational meetings, or for any other official business connected with the impending Congress. In addition, each Senator-elect and each such employee is authorized per diem for not more than seven days while en route to and from Washington, D.C., and while in Washington, D.C. Such transportation and per diem expenses shall be in the same amounts as are payable to Senators and employees in the office of a Senator under section 58(e) of this title, and shall be paid from the contingent fund of the Senate upon itemized vouchers certified by the Senator-elect concerned and approved by the Secretary of the Senate.

(d) Payment of telegrams, telephone services, and stationery expenses

(1) Each Senator-elect is authorized to be reimbursed for expenses incurred for telegrams, telephone services, and stationery related to his position as a Senator-elect in an amount not exceeding one-twelfth of the total amount of expenses authorized to be paid to or on behalf of a Senator from the State which he will represent under section 58 of this title. Reimbursement to a Senator-elect under this subsection shall be paid from the contingent fund of the Senate upon itemized vouchers certified by such Senator-elect and approved by the Secretary of the Senate.

(2) Amounts reimbursed to a Senator-elect under this subsection shall be charged against the amount of expenses which are authorized to be paid to him or on his behalf under section 58 of this title, for each of the twelve months beginning with the month in which his service as a Senator commences (until all of such amounts have been charged) by whichever of the following amounts is greater: (1) one-twelfth of the amounts so reimbursed, or (2) the amount by which the aggregate amount authorized to be so paid under section 58(c) of this title as of the close of such month exceeds the aggregate amount actually paid under such section 58 as of the close of such month.

(e) Effective date

This section shall take effect on October 1, 1978.

(Pub. L. 95–355, Title I, § 105, Sept. 8, 1978, 92 Stat. 534; Pub. L. 104–197, Title I, § 2, Sept. 16, 1996, 110 Stat. 2397.)

236 § 46a. Stationery allowance for President of the Senate. **236**

Effective April 1, 1975, and each fiscal year thereafter, the annual allowance for stationery for the President of the Senate shall be $4,500.

(Jan. 6, 1964, Pub. L. 88–258, 77 Stat. 864; May 29, 1967, Pub. L. 90–21, 81 Stat. 38; Dec. 12, 1969, Pub. L. 91–145, § 101, 83 Stat. 342; July 9, 1971, Pub. L. 92–51, § 101, 85 Stat. 128; Dec. 15, 1971, Pub. L. 92–184, § 401, 85 Stat. 635; Oct. 31, 1972, Pub. L. 92–607, § 506(k)(3), 86 Stat. 1508; June 12, 1975, Pub. L. 94–32, Title I, § 101, 89 Stat. 182.)

237 § 46a.–1. Senate Revolving fund for stationery allowances; availability of unexpended balances; withdrawals. **237**

There is established within the contingent fund of the Senate a revolving fund which shall consist of (1) the unexpended balance of the appropriation "Contingent Expenses, Senate, Stationery, fiscal year 1957", (2) any amounts hereafter appropriated for stationery allowances of the President of the Senate, and for stationery for use of officers of the Senate and the Conference of the Majority and the Conference of the Minority of the Senate, and (3) any undeposited amounts heretofore received, and any amounts hereafter received as proceeds of sales by the stationery room of the Senate. Any moneys in the fund shall be available until expended for use in the same manner and for the same purposes as funds heretofore appropriated to the contingent fund of the Senate for stationery, except that (1) the balance of any amount appropriated for stationery for use of committees and officers of the Senate which remains unexpended at the end of any fiscal year and (2) allowances which are not available for obligation due to vacancies

or waiver of entitlement thereto, shall be withdrawn from the revolving fund. Disbursements from the fund shall be made upon vouchers approved by the Secretary of the Senate, or his designee. (June 21, 1957, Pub. L. 85–58, § 1101, 71 Stat. 188; Oct. 31, 1972, Pub. L. 92–607, § 506(1), 86 Stat. 1508; July 8, 1980, Pub. L. 96–304, § 112(b)(3), 94 Stat. 889, 892; Oct. 7, 1997, Pub. L. 105–55, Title I, § 7, 111 Stat. 1181.)

240 **§ 46d.–1. Long-distance telephone calls for Vice President.** 240

Commencing January 20, 1949, the provisions of existing law relating to long-distance telephone calls for Senators shall be equally applicable to the Vice President of the United States. (May 24, 1949, ch. 138, § 101, 63 Stat. 77.)

243 **§ 47. Mode of payment.** 243

The compensation of Members and Delegates shall be passed as public accounts, and paid out of the Public Treasury. (R.S. § 46.)

244 **§ 48. Certification of salary and mileage accounts.** 244

Salary and mileage accounts of Senators shall be certified by the President of the Senate, and those of Representatives and Delegates by the Speaker of the House of Representatives; and such certificates shall be conclusive upon all the departments and officers of the Government. (R.S. §§ 47, 48.)

245 **§ 55. United States Code Annotated and United States Code Service; procurement for Senators.** 245

In lieu of the volumes of the Code of Laws of the United States, and the supplements thereto, supplied a Senator under section 212 of title 1, the Secretary of the Senate is authorized and directed to supply to a Senator upon written request of, and as specified by, that Senator—

(1) one copy of each of the volumes of the United States Code Annotated being published at the time the Senator takes office, and, as long as that Senator holds office, one copy of each replacement volume, each annual pocket part, and each pamphlet supplementing each such pocket part to the United States Code Annotated; or

(2) one copy of each of the volumes of the United States Code Service being published at the time the Senator takes office, and, as long as that Senator holds office, one copy of each replacement volume and each pocket supplement to the United States Code Service.

A Senator is entitled to make a written request under this paragraph and be supplied such volumes, pocket parts, and supplements the first time he takes office as a Senator and each time thereafter he takes office as a Senator after a period of time during which he has not been a Senator. In submitting such written request, the Senator shall certify that the volumes, pocket parts, or supplements he is to be supplied are to be for his exclusive, personal use. A Senator holding office on July 9, 1971, shall be entitled to file a written request and receive the volumes, pocket parts, and supplements, as the case may be, referred to in this paragraph if such request is filed within 60 days after July 9, 1971. Expenses incurred under this authorization shall be paid from the contingent fund of the Senate. (July 9, 1971, Pub. L. 92–51, § 101, 85 Stat. 129; Oct. 31, 1972, Pub. L. 92–607, § 501, 86 Stat. 1504.)

246 § 58. Mail, telegraph, telephone, stationery, office supplies, and home state office and travel expenses for Senators. 246

246.1 (a) Authorization for payment from Senate contingent fund 246.1

The contingent fund of the Senate is made available for payment (including reimbursement) to or on behalf of each Senator, upon certification of the Senator, for the following expenses incurred by the Senator and his staff:

(1) telecommunications equipment and services subject to such regulations as may be promulgated by the Committee on Rules and Administration of the Senate;

(2)(A) stationery and other office supplies procured for use for official business, and

(B) metered charges for use of copying equipment provided by the Sergeant at Arms and Doorkeeper of the Senate;

(3)(A) Repealed. (Pub. L. 101–520, Title I, § 11, Nov. 5, 1990, 104 Stat. 2260.)

(B) postage on, and fees and charges in connection with official mail matter sent through the mail other than the franking privilege upon certification by the Senate Sergeant at Arms and subject to such regulations as may be promulgated by the Committee on Rules and Administration, and

(C) costs incurred in the preparation of required official reports, and the acquisition of mailing lists to be used for official purposes, and in the mailing, delivery, or transmitting of matters relating to official business;

(4) official office expenses incurred (other than for equipment and furniture and expenses described in paragraphs (1) through (3)) for an office in his home State;

(5) expenses incurred for publications printed or recorded in any way for auditory and visual use (including subscriptions to books, newspapers, magazines, clipping, and other information services);

(6) subject to the provisions of subsection (e) of this section, reimbursement of travel expenses incurred by the Senator and employees in his office;

(7) expenses incurred for additional office equipment and services related thereto (but not including personal services), in accordance with regulations promulgated by the Committee on Rules and Administration of the Senate;

(8) charges officially incurred for recording and photographic services and products; and

(9) such other official expenses as the Senator determines to be necessary.

Payment under this section shall be made only upon presentation of itemized vouchers for expenses incurred and, in the case of expenses paid or reimbursed under paragraphs (6) and (9), only upon presentation of detailed itemized vouchers for such expenses. Vouchers presented for payment under this section shall be accompanied by such documentation as is required under regulations promulgated by the Committee on Rules and Administration of the Senate. No payment shall be made under paragraph (4) or (9) for any expense incurred for entertainment or meals.

246.2 (b) Limits for authorized expenses; recalculation formula 246.2

(1)(A) Except as is otherwise provided in the succeeding paragraphs of this subsection and subject to subparagraph (B) of this paragraph, the total amount of expenses authorized to be paid to or on behalf of a Senator under this section shall not exceed for calendar year 1977 or any calendar year thereafter an amount equal to one-half of the sum of the amounts authorized to be paid under this section on the day before August 5, 1977, to or on behalf of both of the Senators from the State which he represents, increased by an amount equal to twenty percent thereof and rounded to the next higher multiple of $1,000.

(B) In the event that the term of office of a Senator begins after the first month of any such calendar year or ends (except by reason of death, resignation, or expulsion) before the last month of any such calendar year, the aggregate amount available to such Senator for such year shall be the aggregate amount computed under paragraph (1) of this subsection, divided by 12, and multiplied by the number of months in such year which are included in the Senator's term of office, counting any fraction of a month as a full month.

(2)(A) In the case of the period which commences January 1, 1988, and ends September 30, 1988, the total of—

(i) the expenses paid to or on behalf of a Senator under this section for such period, plus

(ii) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for such period (as determined for purposes of section 61–1(d) of this title),

shall not exceed the aggregate of—

(iii) subject to subparagraph (B), an amount equal to 75 percent of the amount of the authorized expenses under this section for the calendar year ending December 31, 1987, as determined in the case of a Senator, who represents the State which such Senator represents, whose term of office included all of such calendar year, plus

(iv) the amount by which (I) the aggregate of the gross compensation which may be paid to employees in the office of such Senator for the fiscal year ending September 30, 1988, pursuant to the limitations imposed by section 61–1(d) of this title (as determined without regard to paragraph (1)(B) thereof), exceeds (II) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for that part of such fiscal year which precedes January 1, 1988.

(B) In the event that the term of office of a Senator begins after the first month of the period which commences January 1, 1988, and ends September 30, 1988, or ends (except by reason of death, resignation, or exclusion) before the last month of such period, the amount computed pursuant to subparagraph (A)(iii) of this paragraph (but before application of this subparagraph) shall be recalculated as follows: such amount, as computed under subparagraph (A)(iii) of this paragraph, shall be divided by 9, and multiplied by the number of months in such period which are included in the Senator's term of office, counting any fraction of a month as a full month.

(3)(A) In the case of the fiscal year beginning October 1, 1988, or any fiscal year thereafter, the total of—

(i) the expenses paid to or on behalf of a Senator under this section for such fiscal year, plus

(ii) the aggregate amount of gross compensation which is paid to employees in the office of such Senator for such fiscal year (as determined for purposes of section 61–1(d) of this title),

shall not exceed the aggregate of—

(iii) subject to subparagraph (B)—

(I) in case the Senator represents Alabama, $116,300, Alaska, $221,600, Arizona, $128,975, Arkansas, $118,250, California, $168,950, Colorado, $124,100, Connecticut, $105,575, Delaware, $95,825, Florida, $120,200, Georgia, $116,300, Hawaii, $245,000, Idaho, $128,000, Illinois, $138,725, Indiana, $116,300, Iowa, $119,225, Kansas, $119,225, Kentucky, $115,325, Louisiana, $120,200, Maine, $110,450, Maryland, $100,700, Massachusetts, $114,350, Michigan $124,100, Minnesota, $120,200, Mississippi, $118,250, Missouri, $121,175, Montana, $128,000, Nebraska, $120,200, Nevada, $129,950, New Hampshire, $106,550, New Jersey, $110,450, New Mexico, $125,075, New York, $145,550, North Carolina, $112,400, North Dakota, $119,225, Ohio, $129,950, Oklahoma, $123,125, Oregon, $132,875, Pennsylvania, $128,975, Rhode Island, $104,600, South Carolina, $110,450, South Dakota, $120,200, Tennessee, $116,300, Texas, $149,450, Utah, $128,000, Vermont, $105,575, Virginia, $106,550, Washington, $135,800, West Virginia, $105,575, Wisconsin, $119,225, Wyoming, $123,125, plus

(II) the amount that is equal to the Senator's share for the fiscal year, as determined in accordance with regulations of the Committee on Rules and Administration, of the amount made available within the Senators' Official Personnel and Office Expense Account in the contingent fund of the Senate for official mail expenses of Senators, plus

(iv) the aggregate of the gross compensation which may be paid to employees in the office of such Senator for such fiscal year, under the limitations imposed by section 61–1(d) of this title, but without regard to the provisions of paragraph (1)(C)(iv) thereof.

(B) In the event that the term of office of a Senator begins after the first month of any such fiscal year or ends (except by reason of death, resignation, or expulsion) before the last month of any such fiscal year, that part of the amount referred to in subparagraph (A)(iii)(I) shall be recalculated as follows: such amount, as computed under subparagraph (iii), shall be divided by 12, and multiplied by the number of months in such year which are included in the Senator's term of office, counting any fraction of a month as a full month; and the amount referred to in subparagraph (A)(iii)(II) shall be recalculated in accordance with regulations of the Committee on Rules and Administration.

(c) Repealed. (Pub. L. 97–51, § 122, Oct. 1, 1981, 95 Stat. 965.)

(d) Repealed. (Pub. L. 93–371, § 101(3)(e), Aug. 13, 1974, 88 Stat. 429

246.3 **(e) Transportation, essential travel-related expenses, and per diem expenses; coverage; limitations; amounts** [1] 246.3

Subject to and in accordance with regulations promulgated by the Committee on Rules and Administration of the Senate, a Senator and the employees in his office shall be reimbursed under this section for travel expenses incurred by the Senator or employee while traveling on official business within the United States. The term "travel expenses" includes actual transportation expenses, essential travel-related expenses, and, where applicable, per diem expenses (but not in excess of actual expenses.) A Senator or an employee of the Senator shall not be reimbursed for any travel expenses (other than actual transportation expenses) for any travel occurring during the sixty days immediately before the date of any primary or general election (whether regular, special, or runoff) in which the Senator is a candidate for public office (within the meaning of section 431(b) of this title), unless his candidacy in such election is uncontested. For purposes of this subsection and subsection (a)(6) of this section, an employee in the Office of the President pro tempore, Deputy President pro tempore, Majority Leader, Minority Leader, Majority Whip, Minority Whip, Secretary of the Conference of the Majority, or Secretary of the Conference of the Minority shall be considered to be an employee in the office of the Senator holding such office.

(f) Omitted.

246.4 **(g) Closing of deceased Senator's State offices** 246.4

In the case of the death of any Senator, the chairman of the Committee on Rules and Administration may certify for such deceased Senator for any portion of such sum already obligated but not certified to at the time of such Senator's death, and for any additional amount which may be reasonably needed for the purpose of closing such deceased Senator's State offices, for payment to the person or persons designated as entitled to such payment by such chairman.

246.5 **(h) Individuals serving on panels or other bodies recommending nominees for Federal judgeships, service academies, United States Attorneys, or United States Marshalls** 246.5

For purposes of subsections (a) and (e) of this section, an individual who is selected by a Senator to serve on a panel or other body to make recommendations for nominees to one or more Federal judgeships or to one or more service academies or one or more positions of United States Attorney or United States Marshall shall be considered to be an employee in the office of that Senator with respect to travel and official expenses incurred in performing duties as a member of such panel or other body, and shall be reimbursed (A) for actual transpor-

[1] S. Res. 540, 96–2, agreed to Dec. 8, 1980, provided: "That, until otherwise provided by law, reimbursement with respect to travel expenses incurred by a Senator or employee described in section 506(e) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(e)); shall be made as if the phrase 'only for actual transportation expenses' read 'for travel expenses essential to the transaction of official business while away from his official station or post of duty.'"

tation expenses and per diem expenses (but not exceeding actual travel expenses) incurred while traveling in performing such duties within the Senator's home State or between that State and Washington, District of Columbia, and each of the service academies, (B) for official expenses incurred in performing such duties. For purposes of this subsection and subsection (a) of this section, "official expenses" means expenses of the type for which reimbursement may be made to an employee in the office of a Senator when traveling on business of a committee of which that Senator is a member, and, for accounting purposes, such expenses shall be treated as expenses for which reimbursement may be made under subsection (a)(4) of this section.

246.6 (i) Authorization of Secretary of Senate to pay reimbursable expenses 246.6

Whenever a Senator or an employee in his office has incurred an expense for which reimbursement may be made under this section, the Secretary of the Senate is authorized to make payment to that Senator or employee for the expense incurred, subject to the same terms and conditions as apply to reimbursement of the expense under this section.

246.7 (j) Advances from contingent fund of the Senate for travel expenses for official business trips; vouchers; settlement 246.7

Whenever a Senator or employee of his office plans an official business trip with respect to which reimbursement for travel expenses is authorized under the preceding provisions of section (a), the Senator (or such an employee who has been designated by the Senator to do so) may, prior to the commencement of such trip and in accordance with applicable regulations of the Senate Committee on Rules and Administration, obtain from any moneys in the contingent fund of the Senate which are available to him for purposes specified in subsection (a)(6) of this section, such advance sum as he shall certify (and be accountable for), to the Secretary of the Senate, to be necessary to defray some or all of the expenses to be incurred on such trip which expenses are reimbursable under the preceding provisions of this section. The receipt by any Senator for any sum so advanced to him or his order out of the contingent fund of the Senate by the Secretary of the Senate shall be taken and passed by the accounting officers of the Government as a full and sufficient voucher; but it shall be the duty of such Senator (or employee of his office, as the case may be), as soon as practicable, to furnish to the Secretary of the Senate a detailed voucher of the expenses incurred for the travel with respect to which the sum was so advanced, and make settlement with respect to such sum. (Oct. 31, 1972, Pub. L. 92–607, § 506(a)–(j), 86 Stat. 1505; amended Aug. 13, 1974, Pub. L. 93–371, § (3)(e), 88 Stat. 429; July 25, 1975, Pub. L. 94–59, § 103, 89 Stat. 274; Aug. 5, 1977, Pub. L. 95–94, Title I, § 112, 91 Stat. 663; Mar. 7, 1978, Pub. L. 95–240, Title II, § 208, 92 Stat. 117; Sept. 30, 1978, Pub. L. 95–391, Title I, § 108(a), 92 Stat. 773; July 8, 1980, Pub. L. 96–304, Title I, §§ 101, 102(a), 103, 104, 94 Stat. 889; July 6, 1981, Pub. L. 97–19, 95 Stat. 103; July 14, 1983, Pub. L. 98–51, § 102, 97 Stat. 266; July 12, 1985, Pub. L. 99–65, § 1(a), 99 Stat. 163; October 21, 1987, Pub. L. 100–137, 101 Stat. 815, 816, 817, 818, and 829; October 1, 1988, Pub. L. 100–458, § 8, 13, 14, 102 Stat. 2162; Pub. L. 101–163, Title I, § 5(a), Nov. 21, 1989, 103 Stat. 1045; Pub. L. 101–520, Title I, §§ 4(c), 8, 9(a), 11, Title III, § 311(h)(2), Nov. 5, 1990, 104 Stat.

2258, 2259, 2260, 2280; Pub. L. 102–90, § 7(a), Aug. 14, 1991, 105 Stat. 451; Pub. L. 105–55, Title I, § 3(a), Oct. 7, 1997, 111 Stat. 1180; Pub. L. 105–275, Title I, § 1, Oct. 21, 1998, 112 Stat. 2432; Pub. L. 106–57, Title I, § 1(a), (b), Sept. 29, 1999, 113 Stat. 410, 411.)

246.8 § 58a. Telecommunications services for Senators; payment of costs out of contingent fund. 246.8

The Sergeant at Arms and Doorkeeper of the Senate shall furnish each Senator local and long-distance telecommunications services in Washington, District of Columbia, and in such Senator's State in accordance with regulations prescribed by the Senate Committee on Rules and Administration; and the costs of such service shall be paid out of the contingent fund of the Senate from moneys made available to him for that purpose. (Nov. 30, 1983, Pub. L. 98–181, § 1205(a), as amended, 97 Stat. 1290; July 12, 1985, Pub. L. 99–65, § 1(b), 99 Stat. 163; Oct. 2, 1986, Pub. L. 99–439, 100 Stat. 1085.)

§ 58a.–1. Payment for telecommunications equipment and services; definitions.

As used in sections 58a–1 to 58a–3 of this title, the term—

(1) "Sergeant at Arms" means the Sergeant at Arms and Doorkeeper of the United States Senate; and

(2) "user" means any Senator, Officer of the Senate, Committee, office, or entity provided telephone equipment and services by the Sergeant at Arms. (Pub. L. 100–123, § 1, Oct. 5, 1987, 101 Stat. 794.)

§ 58a–2. Certification of telecommunications equipment and services as official.

(a) Subject to such regulations as may hereafter be issued by the Committee on Rules and Administration of the Senate, the Sergeant at Arms shall have the authority, with respect to telephone equipment and services provided to any user on a reimbursable basis (including repair or replacement), solely for the purposes of this section, to make such certification as may be necessary to establish such services and equipment as official, issue invoices in conjunction therewith, and receive payment for such services and equipment by certification, voucher, or otherwise.

(b) For purposes of sections 58–1 to 58a–3 of this title, telephone equipment and services provided to any user for which payment, prior to October 1, 1987, was not authorized from the contingent fund of the Senate shall, on and after October 1, 1987, be considered telephone equipment and services provided on a reimbursable basis for which payment may be obtained from such fund in accordance with subsection (a) of this section.

(c) Subject to the approval of the Committee on Rules and Administration, the Sergeant at Arms may establish reasonable charges for telephone equipment and services provided to any user which may be in addition to that regularly authorized by the Committee.

(d) All moneys, derived from payments for telephone equipment and services provided from funds from the Appropriation Account within the contingent fund of the Senate for "Contingent Expenses, Sergeant at Arms and Doorkeeper of the Senate" under the line item for Telecommunications (including receipts from carriers and others for loss

or damage to such services or equipment for which repair or replacement has been provided by the Sergeant at Arms), and all other moneys received by the Sergeant at Arms as charges or commissions for telephone services, shall be deposited in and made a part of such Appropriation Account and under such line item, and shall be available for expenditure or obligation, or both, in like manner and subject to the same limitations as any other moneys in such account and under such line item.

(e) Nothing in sections 58a–1 to 58a–3 of this title shall be construed as limiting or otherwise affecting the authority of the Committee on Rules and Administration of the Senate to classify or reclassify telephone equipment and services provided to any user as equipment or services for which reimbursement may or may not be required. (Pub. L. 100–123, § 2, Oct. 5, 1987, 101 Stat. 794, amended Pub. L. 101–163, Title I, § 3, Nov. 21, 1989, 103 Stat. 1044.)

§ 58a–3. Report on telecommunications to Committee on Rules and Administration.

The Sergeant at Arms shall report to the Committee on Rules and Administration of the Senate, at such time or times, and in such form and manner, as the Committee may direct, on expenditures made, and revenues received, pursuant to sections 58a–1 to 58a–3 of this title. It shall be the function of the Sergeant at Arms to advise the Committee, as soon as possible, of any dispute regarding payments to and from such Appropriation Account as related to the line item for Telecommunications, including any amounts due and unpaid by any user, if any such dispute has remained unresolved for a period of at least 60 days. (Oct. 5, 1987, Pub. L. 100–123, § 3, 101 Stat. 795.)

246.9 § 58a–4. Metered charges on copiers; "Sergeant at Arms" and "user" defined; certification of services and equipment as official; deposit of payments; availability for expenditure. 246.9

(a) As used in this section, the term—

(1) "Sergeant at Arms" means the Sergeant at Arms and Doorkeeper of the United States Senate; and

(2) "user" means any Senator, Officer of the Senate, Committee, office, or entity provided copiers by the Sergeant at Arms.

(b)(1) Subject to such regulations as may on and after November 5, 1990, be issued by the Committee on Rules and Administration of the Senate, the Sergeant at Arms shall have the authority, with respect to metered charges on copying equipment provided by the Sergeant at Arms, solely for the purposes of this section, to make such certification as may be necessary to establish such services and equipment as official, issue invoices in conjunction therewith, and receive payment for such services and equipment by certification, voucher, or otherwise.

(2) All moneys, derived from the payment of metered charges on copying equipment provided from funds from the Appropriation Account within the contingent fund of the Senate for "Contingent Expenses, Sergeant at Arms and Doorkeeper of the Senate" under the line item for the Service Department, shall be deposited in and made a part of such Appropriation Account and under such line item, and shall be available for expenditure or obligation, or both, in like manner and subject to the same limitations as any other moneys in such account and under

such line item. (Pub. L. 101–520, Title I, § 4(a), (b), Nov. 5, 1990, 104 Stat. 2257.)

§ 58b. Repealed. (October 21, 1987, Pub. L. 100–137, § 2, 101 Stat. 819.)

246.10 **§ 58c. Senators' Official Personnel and Office Expense Account.** 246.10

(1) Effective January 1, 1988, there shall be, within the contingent fund of the Senate, a separate appropriation account to be known as the "Senators' Official Personnel and Office Expense Account" (hereinafter in this section referred to as the "Senators' Account").

(2) The Senators' Account shall be used for the funding of all items, activities, and expenses which, immediately prior to January 1, 1988, were funded under either (A) the Senate appropriation account for "Administrative, Clerical, and Legislative Assistance Allowance to Senators" (hereinafter in this section referred to as the "Senators' Clerk Hire Allowance Account") under the headings "SENATE" and "SALARIES, OFFICERS AND EMPLOYEES", or (B) that part of the account, within the contingent fund of the Senate, for "Miscellaneous Items" (hereinafter in this section referred to as the "Senators' Official Expense Account") which is available for allocation to Senatorial Official Office Expense Accounts. In addition, the Senators' Account shall be used for the funding of agency contributions payable with respect to compensation payable by such account, but moneys appropriated to such account for this purpose shall not be available for any other purpose. The account, which in clause (A) of the first sentence of this paragraph is identified as the "Senators' Clerk Hire Allowance Account" and the account, which in clause (B) of such sentence is identified as the "Senators' Official Expense Account" shall, when referred to in other law, rule, regulation, or order (whether referred to by such name or any other) shall on or after January 1, 1988, be deemed to refer to the "Senators' Official Personnel and Office Expense Account."

(3)(A) Effective on January 1, 1988, there shall be transferred to the Senators' Account from the Senators' Clerk Hire Allowance Account all funds therein which were available for expenditure or obligation during the fiscal year ending September 30, 1988, and from the Senators' Official Office Expense Account so much of the funds therein as was available for expenditure or obligation for the period commencing January 1, 1988, and ending September 30, 1988; except that the Senators' Official Office Expense Account shall remain in being solely for the purpose of being available to pay for any authorized item, activity, or expense, for which funds therein had been obligated, but not paid, prior to such transfer.

(B) Any of the funds transferred to the Senators' Account from the Senators' Clerk Hire Allowance Account pursuant to subparagraph (A) which, prior to such transfer, had been obligated, but not expended, for any authorized item, activity, or expense, shall be available to pay for such item, activity, or expense in like manner as if such transfer had not been made.

(4) On January 1, 1988, there shall be transferred to the Senators' Account, from the appropriation account for "Agency Contributions", under the headings "SENATE" and "SALARIES, OFFICERS AND EMPLOYEES", so much of the moneys in such account as was appropriated for the purpose of making agency contributions for administrative, clerical,

and legislative assistance to Senators with respect to compensation payable for the period commencing January 1, 1988, and ending September 30, 1988; and the moneys so transferred shall be available only for the payment of such agency contributions with respect to such compensation.

(5) Vouchers shall not be required for the disbursement, from the Senators' Account, of salaries of employees in the office of a Senator.

(6) Effective on and after October 1, 1997 the Senator's account shall be available for the payment of franked mail expenses of Senators. (Oct. 21, 1987, Pub. L. 100–137, § 1(a), 101 Stat. 814, 815; Pub. L. 105–55 Title I, § 3(b), Oct. 7, 1997, 111 Stat. 1180.)

246.11 § 58c–1. Repealed. (Public Law 105–55, Title I, § 3(c)(1), Oct. 7, 1997, 111 Stat. 1180) 246.11

247 § 59. Home State office space for Senators; lease of office space. 247

247.1 (a) Procurement by Sergeant at Arms of Senate in places designated by Senator; places subject to use; lease of office space 247.1

(1) The Sergeant at Arms of the Senate shall secure for each Senator office space suitable for the Senator's official use in places designated by the Senator in the State he represents. That space shall be secured in post offices or other Federal buildings at such places. In the event suitable office space is not available in post offices or other Federal buildings, the Sergeant at Arms shall secure other office space in those places.

(2) The Senator may lease, on behalf of the United States Senate, the office space so secured for a term not extending beyond the term of office which he is serving on the first day of such lease, except that, in the case of a Senator whose term of office is expiring and who has been elected for another term, such lease may extend until the end of the term for which he has been so elected. Each such lease shall contain a provision permitting its cancellation upon sixty days written notice by the Sergeant at Arms and Doorkeeper of the Senate, in the event of the death or resignation of the Senator. A copy of each such lease shall be furnished to the Sergeant at Arms. Nothing in this paragraph shall be construed to require the Sergeant at Arms to enter into or execute any lease for or on behalf of a Senator.

247.2 (b) Maximum amount of aggregate square feet for each Senator 247.2

The aggregate square feet of office space secured for Senator shall not at any time exceed—

(1) 5,000 square feet if the population of the State of the Senator is less than 3,000,000;

(2) 5,200 square feet if such population is 3,000,000 but less than 4,000,000;

(3) 5,400 square feet if such population is 4,000,000 but less than 5,000,000;

(4) 5,800 square feet if such population is 5,000,000 but less than 7,000,000;

(5) 6,200 square feet if such population is 7,000,000 but less than 9,000,000;

(6) 6,400 square feet if such population is 9,000,000 but less than 10,000,000;

(7) 6,600 square feet if such population is 10,000,000 but less than 11,000,000;

(8) 6,800 square feet if such population is 11,000,000 but less than 12,000,000;

(9) 7,000 square feet if such population is 12,000,000 but less than 13,000,000;

(10) 7,400 square feet if such population is 13,000,000 but less than 15,000,000;

(11) 7,800 square feet if such population is 15,000,000 but less than 17,000,000; or

(12) 8,200 square feet if such population is 17,000,000 or more.

247.3 (c) Maximum annual rental rate; maximum aggregate amount for acquisition of furniture, equipment, and other office furnishings 247.3

(1) The maximum annual rate that may be paid for the rental of an office secured for a Senator not in a post office or other Federal building shall not exceed the highest rate per square foot charged Federal agencies on the first day of the lease of such office by the Administrator of General Services, based upon a 100 percent building quality rating, for office space located in the place in which the Senator's office is located, multiplied by the number of square feet contained in that office used by the Senator and his employees to perform their duties.

(2) The aggregate amount that may be paid for the acquisition of furniture, equipment, and other office furnishings heretofore provided by the Administrator of General Services for one or more offices secured for the Senator is $40,000 if the aggregate square feet of office space is not in excess of 5,000 square feet. Such amount is increased by $1,000 for each authorized additional incremental increase in office space of 200 square feet. Effective beginning with the 106th Congress, the aggregate amount in effect under this paragraph for any Congress shall be increased by the inflation adjustment factor for the calendar year in which the Congress begins. For purposes of the preceding sentence, the inflation adjustment factor for any calendar year is a fraction the numerator of which is the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce for the preceding calendar year and the denominator of which is such deflator for the calendar year 1998.

247.4 (d) Senators subject to maximum amount of aggregate square feet and maximum annual rental rate 247.4

(1) Notwithstanding subsection (b) of this section, the aggregate square feet of office space secured for a Senator who is a Senator on July 1, 1974, shall not at any time exceed, as long as he continuously serves as a Senator, the greater of—

(A) the applicable square footage limitation of such subsection; or

(B) the total square footage of those offices that the Senator has on such date and which are continuously maintained in the same buildings in which such offices were located on such date.

(2) The provisions of subsection (c) of this section do not apply to any office that a Senator has on July 1, 1974, not in a post office or other Federal building, as long as—

(A) that Senator continuously serves as a Senator; and

(B) that office is maintained in the same building in which it was located on such date and contains not more than the same number of square feet it contained on such date.

247.5 (e) Omitted. 247.5

247.6 (f) Mobile office 247.6

(1) Subject to the provisions of paragraphs (2), (3), (4), and (5), a Senator may lease one mobile office for use only in the State he represents and the contingent fund of the Senate is available for the rental payments (including by way of reimbursement) made under such lease together with the actual nonpersonnel cost of operating such mobile office. The term of any such lease shall not exceed 3 years. A copy of each such lease shall be furnished to the Sergeant at Arms of the Senate.

(2) The maximum aggregate annual rental payments and operating costs (except furniture, equipment, and furnishings) that may be paid to a Senator under paragraph (1) shall not at any time exceed an amount determined by multiplying (A) the highest applicable rate per square foot charged Federal agencies by the Administrator of General Services in the State which that Senator represents, based upon a 100 percent building quality rating, by (B) the maximum aggregate square feet of office space to which that Senator is entitled under subsection (b) of this section reduced by the number of square feet contained in offices secured for that Senator under subsection (a) of this section and used by that Senator and his employees to perform their duties.

(3) No payment shall be made under paragraph (1) for rental payments and operating costs of a mobile office of a Senator unless the following provisions are included in its lease:

(A) Liability insurance in the amount of $1,000,000 shall be provided with respect to the operation and use of such mobile office.

(B) Either of the following inscriptions shall be clearly visible on three sides of such mobile office in letters not less than three inches high:

"UNITED STATED GOVERNMENT VEHICLE
"FOR OFFICIAL USE ONLY";

OR

"MOBILE OFFICE OF SENATOR————
"FOR OFFICIAL USE ONLY'

(4) No payment shall be made under paragraph (1) for rental payments and operating costs of a mobile office of a Senator which are attributable to or incurred during the 60-day period ending with the date of any primary or general election (whether regular, special, or runoff) in which that Senator is a candidate for public office, unless his candidacy in such election is uncontested.

(5) Payment under paragraph (1) shall be made on a monthly basis and shall be paid upon vouchers approved by the Sergeant at Arms of the Senate.

247.7 (g) Effective date 247.7

This section is effective on and after July 1, 1974. (Pub. L. 93–371, § 3, Aug. 13, 1974, 88 Stat. 428; Pub. L. 94–32, Title I, § 4, June 12, 1975, 89 Stat. 183; Pub. L. 94–59, Title I, §§ 106(a), 107, July 25, 1975, 89 Stat. 276; Pub. L. 95–26, Title I, § 105, May 4, 1977, 91 Stat.

83; Pub. L. 95–94, Title I, § 112(d), Aug. 5, 1977, 91 Stat. 664; Pub. L. 96–304, Title I, § 109, July 8, 1980, 94 Stat. 890; Pub. L. 99–88, Title I, § 194, Aug. 15, 1985, 99 Stat. 349; Pub. L. 102–27, Title II, Apr. 10, 1991, 105 Stat. 144; Pub. L. 102–90, Title I, § 7(b), Aug. 14, 1991, 105 Stat. 451; Pub. L. 104–197, Title I, § 3, Sept. 16, 1996, 110 Stat. 2397; Pub. L. 106–57, Title I, § 3, Sept. 29, 1999, 113 Stat. 411.)

247.8 § 59–1. Additional home State office space for Senators; declaration of disaster or emergency. 247.8

(a) Notwithstanding any other provision of law or regulation, with the approval of the Committee on Rules and Administration of the Senate, the Sergeant at Arms and Doorkeeper of the Senate is authorized to provide additional facilities, services, equipment, and office space for use by a Senator in that Senator's State in connection with a disaster or emergency declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C.A. § 5121 et seq.]. Expenses incurred by the Sergeant at Arms and Doorkeeper of the Senate under this section shall be paid from the appropriation account, within the contingent fund of the Senate, for expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate with the approval of the Committee on Rules and Administration of the Senate.

(b) This section is effective on and after June 12, 1997.

(Pub. L. 105–18, Title II, § 7002, June 12, 1997, 111 Stat. 192.)

248 § 59b. Purchase of office equipment or furnishings by Senators. 248

248.1 (a) Authorization; conditions 248.1

Notwithstanding any other provision of law, a United States Senator may purchase, upon leaving office or otherwise ceasing to be a Senator (except by expulsion), any item or items of office equipment or office furnishings provided by the General Services Administration and then currently located and in use in an office of such Senator in the State then represented by such Senator.

248.2 (b) Request by Senator and arrangement for purchase by Sergeant at Arms of Senate; regulations governing purchase; price 248.2

At the request of any United States Senator, the Sergeant at Arms of the Senate shall arrange for and make the purchase of equipment and furnishings under subsection (a) of this section on behalf of such Senator. Each such purchase shall be—

(1) in accordance with regulations which shall be prescribed by the Committee on Rules and Administration of the Senate, after consultation with the General Services Administration; and

(2) at a price equal to the acquisition cost to the Federal Government of the equipment or furnishings so purchased, less allowance for depreciation determined under such regulations, but in no instance less than the fair market value of such items.

248.3 (c) Remittance of amounts received to General Services Administration; disposition 248.3

Amounts received by the Federal Government from the sale of items of office equipment or office furnishings under this section shall be remitted to the General Services Administration and credited to the

appropriate account or accounts. (Oct. 20, 1974, Pub. L. 93–462, § 2, 88 Stat. 1388.)

248.6 § 59e. Official mail of persons entitled to use the congressional frank. 248.6

(a) Congressional committee regulations for expenditure of appropriations for official mail

Except as otherwise provided in this section, funds appropriated by this Act or any other Act for expenses of official mail of any person entitled to use the congressional frank may be expended only in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate or the Committee on House Oversight of the House of Representatives, as applicable. Such regulations shall require—

(1) individual accountability for use of official mail by each person entitled to use the congressional frank;

(2)(A) with respect to the House of Representatives, allocation of funds for official mail to be made to each such person with respect to each session of Congress (with no transfer to any other session or to any other such person); and

(B) with respect to the Senate, allocation of funds for official mail to be made to each such person with respect to each session of Congress (with no transfer to any other session, other than transfers from the first session of a Congress to the second session of that Congress, or to any other such person); and

(3) with respect to the House of Representatives, that in addition to any other report or information made available to the public (through the House Commission on Congressional Mailing Standards or otherwise) regarding the use of the frank, the Chief Administrative Officer of the House of Representatives shall include in the quarterly report of receipts and expenditures submitted to the House of Representatives a statement (based solely on data provided for that purpose by the Committee on House Oversight of the House of Representatives and the House Commission on Congressional Mailing Standards) of costs incurred for official mail by each person entitled to use the congressional frank.

(b) Postmaster General functions

The Postmaster General, in consultation with the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives—

(1) shall monitor use of official mail by each person entitled to use the congressional frank;

(2) at least monthly, shall notify any person with an allocation under subsection (a)(2)(A) of this section as to the amount that has been used and any person with an allocation under subsection (a)(2)(B) of this section as to the percentage of the allocation that has been used; and

(3) may not carry or deliver official mail the cost of which is in excess of an allocation under subsection (a)(2) of this section.

(c) Source of funds for expenses of official mail

Expenses of official mail of the Senate and the House of Representatives may be paid only from funds specifically appropriated for that purpose and funds so appropriated—

(1) may be supplemented by other appropriated funds only if such supplementation is provided for by law or by regulation under subsection (a) of this section; and

(2) may not be supplemented by funds from any other source, public or private.

(d) Maintenance or use of unofficial office accounts or defrayal of official expenses from certain funds prohibited

No Senator or Member of the House of Representatives may maintain or use, directly or indirectly, an unofficial office account or defray official expenses from—

(1) funds received from a political committee or derived from a contribution or expenditure (as such terms are defined in section 431 of this title);

(2) funds received as reimbursement for expenses incurred by the Senator or Member in connection with personal services provided by the Senator or Member to the person making the reimbursement; or

(3) any other funds that are not specifically appropriated for official expenses.

(e) Official Mail Allowance in House of Representatives

(1) The use of funds of the House of Representatives which are made available for official mail of Members, officers, and employees of the House of Representatives who are persons entitled to use the congressional frank shall be governed by regulations promulgated—

(A) by the Committee on House Oversight of the House of Representatives, with respect to allocation and expenditures relating to official mail (except as provided in subparagraph (B)); and

(B) by the House Commission on Congressional Mailing Standards, with respect to matters under section 3210(a)(6)(D) of title 39.

(2) Funds used for official mail—

(A) with respect to a Member of the House of Representatives, shall be available, in a session of Congress, in a total amount, as determined under paragraph (1)(A), of not more than the product of (i) 3 times the single-piece rate applicable to first class mail, and (ii) the number (as determined by the Postmaster General) of addresses (other than business possible delivery stops) in the congressional district, as such addresses are described in section 3210(d)(7)(B) of title 39;

(B) with respect to any other person entitled to use the congressional frank in the House of Representatives (including any Member of the House of Representatives who receives an allocation under subsection (a)(2) of this seciton with respect to duties as an elected officer of, or holder of another position in, the House of Representatives), shall be available, in a session of Congress, in a total amount determined under paragraph (1)(A); and

(f) Mass mailing, submission of samples or description of proposed mail matter, advisory opinion

A Member of the House of Representatives shall, before making any mass mailing, submit a sample or description of the mail matter involved to the House Commission on Congressional Mailing Standards for an

advisory opinion as to whether such proposed mailing is in compliance with applicable provisions of law, rule, or regulation.

(g) "Member of the House of Representatives" and "person entitled to use the congressional frank" defined

As used in subsections (a) through (f) of this section—

(1) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress; and

(2) the term "person entitled to use the congressional frank" means a Senator, Member of the House of Representatives, or other person authorized to use the frank under section 3210(b) of title 39.

(h) Omitted.

(i) Effective date

This section and the amendments made by this section shall apply with respect to sessions of Congress beginning with the first session of the One Hundred Second Congress, except that, with respect to the Senate, subsection (d) of this section shall apply beginning on May 1, 1992, and the funds referred to in paragraph (3) of such subsection shall not include personal funds of a Senator or member of the House of Representatives.

(Pub. L. 101–520, Title III, § 311, Nov. 5, 1990, 104 Stat. 2278; Pub. L. 102–229, Title II, § 211, Dec. 12, 1991, 105 Stat. 1718; Pub. L. 104–186, Title II, § 203(22), Aug. 20, 1996, 110 Stat. 1728; Pub. L. 105–275, Title I, § 104, Oct. 21, 1998, 112 Stat. 2439; Pub. L. 106–19, § 1(a), Apr. 8, 1999, 113 Stat. 29; Pub. L. 106–57, Title I, § 102, 103(a)(1)–(3), (4)(B), Sept. 29, 1999, 113 Stat. 415.)

248.7 § 59f. Mass mailings by Senate offices; quarterly statements; publication of summary tabulations. 248.7

Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant at Arms and Doorkeeper of the Senate shall send to each Senate office a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Senate office during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the State. A compilation of all such statements shall be sent to the Senate Committee on Rules and Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the semiannual report of the Secretary of the Senate. Such summary tabulation shall set forth for each Senate office the following information: the Senate office's name, the total number of pieces of mass mail mailed during the quarter, the total cost of such mail, and, in the case of Senators, the cost of such mail divided by the total population of the State from which the Senator was elected, and the total number of pieces of mass mail divided by the total population of the State from which the Senator was elected, and in the case of each Senator, the allocation made to such Senator from the appropriation for official mail expenses. (Pub. L. 101–520, Title

III, § 318, Nov. 5, 1990, 104 Stat. 2283; July 22, 1994, Pub. L. 103–283, § 3(b), 108 Stat. 1427.)

248.8 § 59g. Mass mailing of information under frank; quarterly registration of Senators with Secretary of Senate. 248.8

In fiscal year 1991 and thereafter, when a Senator disseminates information under the frank by a mass mailing (as defined in section 3210(a)(6)(E) of title 39), the Senator shall register quarterly with the Secretary of the Senate such mass mailings. Such registration shall be made by filing with the Secretary a copy of the matter mailed and providing, on a form supplied by the Secretary, a description of the group or groups of persons to whom the mass mailing was mailed and the number of pieces mailed. (Pub. L. 101–520, Title III, § 320, Nov. 5, 1990, 104 Stat. 2285.)

Chapter 4.—OFFICERS AND EMPLOYEES OF SENATE AND HOUSE OF REPRESENTATIVES

249 § 60–1. Authority of officers of the Congress over Congressional employees. 249

(a) Qualifications determinations; removal and discipline.

Each officer of the Congress having responsibility for the supervision of employees, including employees appointed upon recommendation of Members of Congress, shall have authority—

(1) to determine, before the appointment of any individual as an employee under the supervision of that officer of the Congress, whether that individual possesses the qualifications necessary for the satisfactory performance of the duties and responsibilities to be assigned to him; and

(2) to remove or otherwise discipline any employee under his supervision.

(b) "Officer of the Congress" defined.

As used in this section, the term "officer of the Congress" means—

(1) an elected officer of the Senate or House of Representatives who is not a Member of the Senate or House; and

(2) the Architect of the Capitol. (Oct. 26, 1970, Pub. L. 91–510, § 431, 84 Stat. 1190.)

249.1 § 60–2. Amendment to Senate conflict of interest rule.[1] 249.1

(a) Except as provided by subsection (b) of this section, 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) of this section 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

[1] See Standing Rule XXXVII.

with the Select Committee. (Pub. L. 101–194, Title IX, § 903, Nov. 30, 1989, 103 Stat. 1781.)

249.5 § 60a–1. Senate pay adjustments; action by President pro tempore of Senate. 249.5

(a) Each time the President adjusts the rates of pay of employees under section 5303 of title 5 the President pro tempore of the Senate shall, as he considers appropriate—

(1)(A) adjust the rate of personnel whose pay is disbursed by the Secretary of the Senate, and any minimum or maximum rate applicable to any such personnel; or

(B) in the case of such personnel whose rates of pay are fixed by or pursuant to law at specific rates, adjust such rates (including the adjustment of such specific rates to maximum pay rates) and, in the case of all other personnel whose pay is disbursed by the Secretary of the Senate, adjust only the minimum or maximum rates applicable to such other personnel; and

(2) adjust any limitation or allowance applicable to such personnel;

by percentages which are equal or equivalent, insofar as practicable and with such exceptions as may be necessary to provide for appropriate pay relationships between positions, to the percentages of the adjustments made by the President under such section 5303 for corresponding rates of pay for employees subject to the General Schedule contained in section 5332 of such title and adjust the rates of such personnel by such amounts as necessary to restore the same pay relationships that existed on December 31, 1986, between personnel and Senators and between positions. Such rates, limitations, and allowances adjusted by the President pro tempore shall become effective on the first day of the month in which any adjustment becomes effective under such section 5303 or section 3(c) of this Act.

(b) The adjustments made by the President pro tempore shall be made in such manner as he considers advisable and shall have the force and effect of law.

(c) Nothing in this section shall impair any authority pursuant to which rates of pay may be fixed by administrative action.

(d) No rate of pay shall be adjusted under the provisions of this section to an amount in excess of the rate of basic pay for level III of the Executive Schedule contained in section 5314 of title 5, except in cases in which it is necessary to restore and maintain the same pay relationships that existed on December 31, 1986, between personnel and Senators and between positions.

(e) For purposes of this section, the term "personnel" does not include any Senator. (Pub. L. 91–656, § 4, Jan. 8, 1971, 84 Stat. 1952, amended Pub. L. 92–298, § 3(a), May 17, 1972, 86 Stat. 146; Pub. L. 92–392, § 14(a), Aug. 19, 1972, 86 Stat. 575; Pub. L. 94–82; Title II, § 204(d), Aug. 9, 1975, 89 Stat. 422; Pub. L. 100–202, § 101(i) [Title III, § 311(a), (b)], Dec. 22, 1987, 101 Stat. 1329–310; Pub. L. 101–509, Title I, § 101(b)(4)(E), Nov. 5, 1990, 104 Stat. 1440.)

249.6 § 60a–1a. Rates of compensation paid by Secretary of Senate; applicability of Senate pay adjustments by President pro tempore of Senate. 249.6

No provision of this Act or of any Act enacted after October 1, 1976, which specifies a rate of compensation (including a maximum rate) for

any position or employee whose compensation is disbursed by the Secretary of the Senate shall, unless otherwise specifically provided therein, be construed to affect the applicability of section 60a–1 of this title to such rate. (Pub. L. 94–440, Title I, § 107, Oct. 1, 1976, 90 Stat. 1444.)

249.7 § 60a–1b. Senate pay adjustments; action by President pro tempore of Senate. 249.7

(a) Whenever, after November 5, 1990, there is an adjustment in rates of pay for Senators (other than an adjustment which occurs by virtue of an adjustment under section 5303 of title 5 in rates of pay under the General Schedule), the President pro tempore of the Senate may, notwithstanding any other provision of law, rule, or regulation, adjust the rate of pay (and any minimum or maximum rate, limitation, or allowance) applicable to personnel whose pay is disbursed by the Secretary of the Senate to the extent necessary to maintain the same pay relationships that existed on December 31, 1986, between personnel and Senators and between positions.

(b) Adjustments made by the President pro tempore under this section shall be made in such manner as he considers advisable and shall have the force and effect of law. (Pub. L. 101–520, Title III, § 315, Nov. 5, 1990, 104 Stat. 2283; Pub. L. 102–90, Title III, § 308, Aug. 14, 1991, 105 Stat. 466.)

250 § 60c–1. Vice President, Senators, officers, and employees paid by Secretary of Senate; payment of salary; advance payment. 250

The compensation of the Vice President, Senators, and officers and employees, whose compensation is disbursed by the Secretary of the Senate, shall be payable on the fifth day of the month following the month in which such compensation accrued, except that—

(1) [Repealed]

(2) when such fifth or twentieth day falls on Saturday, Sunday, or on a legal holiday (including any holiday on which the banks of the District of Columbia are closed pursuant to law), such compensation shall be payable on the next preceding workday; and

(3) any part of such compensation accrued for any month may, in the discretion of the Secretary of the Senate, be paid prior to the day specified in the preceding provisions of this section.

For purposes of the title 26 and for accounting and reporting purposes, disbursements made in accordance with this section on the fifth day of a month, or on the next preceding workday if such fifth day falls on Saturday, Sunday, or a legal holiday, shall be considered to have been made on the last day of the preceding month. (Apr. 20, 1960, P.L. 86–426, § 1, 74 Stat. 53; Oct. 11, 1971, Pub. L. 92–136, § 6, 85 Stat. 378; July 25, 1979, Pub. L. 96–38, § 108(a), 93 Stat. 113; Oct. 1, 1981, Pub. L. 97–51, §§ 111(a), 112(a), 95 Stat. 962; Sept. 10, 1982, Pub. L. 97–257, Title I, Ch. X, § 105(a), 96 Stat. 849; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

§ 60c–2. Salary deposit in financial organizations. Repealed. Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1068.

NOTE

The Secretary of the Senate is authorized and directed, if requested by an individual whose compensation is disbursed by the Secretary, to pay the compensa-

tion by sending a check to a financial organization designated by the individual. See § 3332 of Title 31, Money and Finance, Senate Manual § 489. 1.

250.7 § 60c–2a. Banking and financial transactions of Secretary of the Senate. 250.7

(a) Reimbursement of banks for costs of clearing items for Senate

The Secretary of the Senate is authorized to reimburse any bank which clears items for the United States Senate for the costs incurred therein. Such reimbursements shall be made from the contingent fund of the Senate.

(b) Check cashing regulations for Disbursing Office of Senate

The Secretary of the Senate is authorized to prescribe such regulations as he deems necessary to govern the cashing of personal checks by the Disbursing Office of the Senate.

(c) Amounts withheld from disbursements for employee indebtedness

Whenever an employee whose compensation is disbursed by the Secretary of the Senate becomes indebted to the Senate and such employee fails to pay such indebtedness, the Secretary of the Senate is authorized to withhold the amount of the indebtedness from any amount which is disbursed by him and which is due to, or on behalf of, such employee. Whenever an amount is withheld under this section, the appropriate account shall be credited in an amount equal to the amount so withheld. (Pub. L. 94–440, Title I, § 104, Oct. 1, 1976, 90 Stat. 1443.)

251 § 60c–3. Withholding and remittance of State income tax by Secretary of Senate. 251

(a) Agreement by Secretary with appropriate State official; covered individuals

Whenever—

(1) the law of any State provides for the collection of an income tax by imposing upon employers generally the duty of withholding sums from the compensation of employees and remitting such sums to the authorities of such State; and

(2) such duty to withhold is imposed generally with respect to the compensation of employees who are residents of such State;

then the Secretary of the Senate is authorized, in accordance with the provisions of this section, to enter into an agreement with the appropriate official of that State to provide for the withholding and remittance of sums for individuals—

(A) whose pay is disbursed by the Secretary; and

(B) who request the Secretary to make such withholdings for remittance to that State.

(b) Number of remittances authorized

Any agreement entered into under subsection (a) of this section shall not require the Secretary to remit such sums more often than once each calendar quarter.

(c) Requests by individuals of Secretary for withholding and remittance; amount of withholding; number and effective date of requests; change of designated State; revocation of request; rules and regulations

(1) An individual whose pay is disbursed by the Secretary may request the Secretary to withhold sums from his pay for remittance to the appropriate authorities of the State that he designates. Amounts of withholdings shall be made in accordance with those provisions of the law of that State which apply generally to withholding by employers.

(2) An individual may have in effect at any time only one request for withholdings, and he may not have more than two such requests in effect with respect to different States during any one calendar year. The request for withholdings is effective on the first day of the first month commencing after the day on which the request is received in the Disbursing Office of the Senate, except that—

(A) when the Secretary first enters into an agreement with a State, a request for withholdings shall be effective on such date as the Secretary may determine; and

(B) when an individual first receives an appointment, the request shall be effective on the day of appointment, if the individual makes the request at the time of appointment.

(3) An individual may change the State designated by him for the purposes of having withholdings made and request that the withholdings be remitted in accordance with such change, and he may also revoke his request for withholdings. Any change in the State designated or revocation is effective on the first day of the first month commencing after the day on which the request for change or the revocation is received in the Disbursing Office.

(4) The Secretary is authorized to issue rules and regulations he considers appropriate in carrying out this subsection.

(d) Time or times of agreements by Secretary

The Secretary may enter into agreements under subsection (a) of this section at such time or times as he considers appropriate.

(e) Provisions as not imposing duty, burden, requirement or penalty upon the United States, Senate, or any officer or employee of the United States; effect of filing paper, form, or document with Secretary

This section imposes no duty, burden, or requirement upon the United States, the Senate, or any officer or employee of the United States, except as specifically provided in this section. Nothing in this section shall be deemed to consent to the application of any provision of law which has the effect of subjecting the United States, the Senate, or any officer or employee of the United States to any penalty or liability by reason of the provisions of this section. Any paper, form, or document filed with the Secretary under this section is a paper of the Senate within the provisions of rule XI[1] of the Standing Rules of the Senate.

[1] Changed from "rule XXX" as a result of the adoption of S. Res. 274, Nov. 14, 1979, and S. Res. 389, Mar. 25, 1980, 96th Cong.

(f) Definitions

For the purposes of this section, "State" means any of the States of the United States and the District of Columbia. (Aug. 13, 1974, Pub. L. 93–371, § 2, 88 Stat. 427.)

251.1 § 60c–4. Withholding of charitable contributions from salaries paid by the Secretary of the Senate and from employees of the Architect of the Capitol. 251.1

(a) Definitions

For purposes of this section, the term—

(1) "Secretary" means the Secretary of the Senate; and

(2) "Architect" means the Architect of the Capitol.

(b) Notice; deduction and transmission

(1) The Secretary and the Architect shall notify individuals whose pay is disbursed by the Secretary or who are employees of the Architect, including employees of the Botanic Garden or the Senate Restaurants of the opportunity to have amounts withheld from their pay pursuant to this section for contribution to national voluntary health and welfare agencies designated by the Director of the Office of Personnel Management pursuant to Executive Order 12353, dated March 23, 1982.

(2) Upon request by such an individual specifying the amount to be withheld and one Combined Federal Campaign Center in the Washington metropolitan area to receive such amount, the Secretary, the Architect, or any other officer who disburses the pay of such individual, as the case may be shall—

(A) withhold such amount from the pay of such individual; and

(B) transmit (not less than once each calendar quarter) the amount so withheld to the Combined Federal Campaign Center as specified in such request.

(c) Time of withholding and transmission

The Secretary and the Architect shall, to the extent practicable, carry out subsection (b) of this section at or about the time of the Combined Federal Campaign and other fundraising in the executive branch of the Federal Government conducted pursuant to Executive Order 10927, dated March 18, 1961, and at such other time as each such officer deems appropriate.

(d) Amount

(1) No amount shall be withheld under subsection (b) of this section from the pay of any individual for any pay period if the amount of such pay for such period is less than the sum of—

(A) the amount specified to be withheld from such pay under subsection (b) of this section for such period; plus

(B) the amount of all other withholdings from such pay for such period.

(2) No amount may be specified by an individual to be withheld for any pay period under subsection (b) of this section which is less than—

(A) 50 cents, if the pay period of such individual is biweekly or semimonthly; or

(B) $1, if the pay period of such individual is monthly.

(e) Provisions as not imposing duty, burden, requirement or penalty upon the United States, Senate, or any officer or employee of the United States; effect of filing paper

This section imposes no duty, burden, or requirement upon the United States, the Senate, or any officer or employee of the United States, except as specifically provided in this section. Nothing in this section shall be deemed to consent to the application of any provision of law which has the effect of subjecting the United States, the Senate, or any officer or employee of the United States to any penalty or liability by reason of the provisions of this section. Any paper, form, document, or any other item filed with the Secretary under this section is a paper of the Senate within the provisions of rule XI[1] of the Standing Rules of the Senate.

(f) Rules and regulations

The Secretary and the Architect are authorized to issue rules and regulations they consider appropriate in carrying out their duties under this section. (Oct. 17, 1978, Pub. L. 95–470, 92 Stat. 1323.)

251.1–1 § 60j. Longevity compensation. **251.1–1**

(a) Eligible employees

This section shall apply to—

(1) each employee of the Senate whose compensation is paid from the appropriation for Salaries, Officers and Employees under the following headings:

(A) Office of the Secretary, including individuals employed under authority of section 74b of this title;

(B) Office of the Sergeant at Arms and Doorkeeper, except employees designated as "special employees"; and

(C) Offices of the Secretaries for the Majority and the Minority;

(2) each employee of the Senate authorized by Senate resolution to be appointed by the Secretary of the Senate or the Sergeant at Arms and Doorkeeper, except employees designated as "special employees"; and

(3) each employee of the Capitol Guide Service established under section 851 of title 40.

(b) Rate of compensation; limitation on increases; computation of service; effective date of payment

(1) Except as provided in paragraph (2), an employee to whom this section applies shall be paid, during any period of continuous creditable service, additional annual compensation (hereinafter referred to as "longevity compensation") at the rate of $482 for (A) each year of creditable service performed for the first five years and (B) each two years of creditable service performed during the twenty–year period following the first five years.

(2) The amount of longevity compensation which may be paid to an employee, when added to his regular annual compensation, shall not exceed the maximum annual compensation which may be paid to Senate employees generally as prescribed by law or orders of the President pro tempore issued under authority of section 60a–1 of this title.

[1] See footnote to § 251(e).

(3) For purposes of this section—

(A) creditable service includes (i) service performed as an employee described in subsection (a) of this section, (ii) service performed as a member of the Capitol Police or as an employee of the United States Capitol Telephone Exchange while compensation therefor is disbursed by the Clerk of the House of Representatives, and (iii) service which is creditable for purposes of this section as in effect on September 30, 1978;

(B) in computing length of continuous creditable service, only creditable service performed subsequent to August 31, 1957, shall be taken into account, except that, in the case of service as an employee employed under authority of section 74b of this title, only creditable service performed subsequent to January 2, 1971, shall be taken into account; and

(C) continuity of creditable service shall not be deemed to be broken by separations from service of not more than thirty days, by the performance of service as an employee (other than an employee subject to the provisions of this section) whose compensation is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives, or by the performance of active military service in the armed forces of the United States, but periods of such separations and service shall not be creditable service.

(4) Longevity compensation shall be payable on and after the first day of the first month following completion of each period of creditable service upon which such compensation is based. (Pub. L. 87–730, § 106 (a), (b), (d), Oct. 2, 1962, 76 Stat. 694, 695, amended Pub. L. 88–454, § 104(b), Aug. 20, 1964, 78 Stat. 550; Pub. L. 90–57, Title V, § 105(g), July 28, 1967, 81 Stat. 143; Pub. L. 90–206, Title II, §§ 214(n), 225(h), Dec. 16, 1967, 81 Stat. 637, 644; Pub. L. 91–656, § 4, Jan. 8, 1971, 84 Stat. 1952; Pub. L. 93–371, § 101, Aug. 13, 1974, 88 Stat. 436; Pub. L. 95–240, Title II, § 205, Mar. 7, 1978, 92 Stat. 117; Pub. L. 95–391, Title I, § 110(a), Sept. 30, 1978, 92 Stat. 774; July 8, 1980, Pub. L. 96–304, Title I, § 107(b), 94 Stat. 890.)

251.2 § 60j–1. Capitol Police longevity compensation. **251.2**

Any member of the Capitol Police who by reason of the provision repealed by subsection (b)[1] was receiving immediately prior to the effective date[2] of this section, longevity compensation provided by section 105 of the Legislative Branch Appropriation Act, 1959,[3] shall, on and after such effective date, receive in lieu thereof a longevity increase under section 60j(b) of this title, in addition to any other such increases (not to exceed three) to which he may otherwise be entitled under such section. In computing the length of service of such member for the purpose of such other increases, only service performed subsequent to the date on which he began receiving longevity compensation in accordance with such section 105 shall be counted. (Aug. 20, 1964, Pub. L. 88–454, § 104(c), 78 Stat. 550.)

[1] Refers to second sentence of section 106(d) of Legislative Branch Appropriation Act, 1963, repealed by section 104(b) of Legislative Branch Appropriation Act, 1965.

[2] Section became effective September 1, 1964.

[3] Section 105 of Legislative Branch Appropriation Act, 1959, repealed by section 106(d) of Legislative Branch Appropriation Act, 1963.

251.3 § 60j–2. Longevity compensation for telephone operators on United States telephone exchange and members of Capitol Police paid by Chief Administrative Officer of House. 251.3

The provisions of subsections (a) and (b) of section 60j of this title (as amended by section 110 of Pub. L. 95–391), shall apply to telephone operators (including the chief operator and assistant chief operators) on the United States Capitol telephone exchange and members of the Capitol Police whose compensation is disbursed by the Chief Administrative Officer of the House of Representatives in the same manner and to the same extent as such provisions apply to individuals whose compensation is disbursed by the Secretary of the Senate. For purposes of so applying such subsections, creditable service shall include service performed as an employee of the United States Capitol telephone exchange or a member of the Capitol Police whether compensation therefor is disbursed by the Chief Administrative Officer of the House of Representatives or the Secretary of the Senate. (Pub. L. 95–391, Title III, § 310, Sept. 30, 1978, 92 Stat. 790; Pub. L. 104–186, Title II, § 204(8), Aug. 20, 1996, 110 Stat. 1731.)

§ 60j–3. Repealed. (Pub. L. 97–276, § 101(e), Oct. 2, 1982, 96 Stat. 1189)

251.5 § 60j–4. Longevity compensation not applicable to individuals paid by Secretary of Senate; savings provision. 251.5

Section 60j of this title on or after October 1, 1983 shall not apply to any individual whose pay is disbursed by the Secretary of the Senate; except that, any individual who prior to such date was entitled to longevity compensation under such section on the basis of service performed prior to such date shall continue to be entitled to such compensation, but no individual shall accrue any longevity compensation on the basis of service performed on or after such date. (July 14, 1983, Pub. L. 98–51, § 107, 97 Stat. 267.)

252 § 61. Limit on rate of compensation of officers and employees. 252

No officer or employee of the Senate shall receive pay for any services performed by him at any rate higher than that provided for the office or employment to which he has been regularly appointed. (Aug. 5, 1882, ch. 390, § 1, 22 Stat. 270.)

252.1 § 61–1. Gross rate of compensation of employees paid by Secretary of Senate. 252.1

252.2 (a) Annual rate; certification 252.2

(1) Whenever the rate of compensation of any employee whose compensation is disbursed by the Secretary of the Senate is fixed or adjusted on or after October 1, 1980, such rate as so fixed or adjusted shall be at a single whole dollar per annum gross rate and may not include a fractional part of a dollar.[1]

(2) New or changed rates of compensation (other than changes in rates which are made by law) of any such employee (other than an employee who is an elected officer of the Senate) shall be certified in writing to the Disbursing Office of the Senate (and, for purposes of

[1] As modified by the Order of the President pro tempore of the Senate issued on October 5, 1981, effective October 1, 1981, under authority of section 4 of the Federal Pay Comparability Act of 1970.

this paragraph, a new rate of compensation refers to compensation in the case of an appointment, transfer from one Senate appointing authority to another, or promotion by an appointing authority to a position the compensation for which is fixed by law). In the case of an appointment or other new rate of compensation the certification must be received by such office on or before the day the rate of new compensation is to become effective. In any other case, the changed rate of compensation shall take effect on the first day of the month in which such certification is received (if such certification is received within the first ten days of such month), on the first day of the month after the month in which such certification is received (if the day on which such certification is received is after the twenty–fifth day of the month in which it is received), and on the sixteenth day of the month in which such certification is received (if such certification is received after the tenth day and before the twenty–sixth day of such month). Notwithstanding the preceding sentence, if the certification for a changed rate of compensation for an employee specifies an effective date of such change, such change shall become effective on the date so specified, but only if the date so specified is the first or sixteenth day of a month and is after the effective date prescribed in the preceding sentence; and, notwithstanding such sentence and the preceding provisions of this sentence, any changed rate of compensation for a new employee or an employee transferred from one appointing authority to another shall take effect on the date of such employee's appointment or transfer (as the case may be) if such date is later than the effective date for such changed rate of compensation as prescribed by such sentence. (Pub. L. 98–181, § 1203.)

252.3 (b) Conversion increase in computation **252.3**

NOTE.—This subsection has been executed.

252.4 (c) Reference in other provisions to basic rates and additional compensation **252.4**

In any case in which the rate of compensation of any employee or position, or class of employees or positions, the compensation for which is disbursed by the Secretary of the Senate, or any maximum or minimum rate with respect to any such employee, position, or class, is referred to in or provided by statute or Senate resolution, and the rate so referred to or provided is a basic rate with respect to which additional compensation is provided by law, such statutory provision or resolution shall be deemed to refer, in lieu of such basic rate, to the per annum gross rate which an employee receiving such basic rate immediately prior to August 1, 1967, would receive (without regard to such statutory provision or resolution) under subsection (b) of this section on and after such date.

252.5 (d) Compensation of employees in office of Senator **252.5**

NOTE

This subsection sets forth the maximum and minimum salaries which may be paid to employees in the office of a Senator. These figures are changed annually by Orders of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970. For the current figures consult the Senate Disbursing Office.

Each Member of the Senate is authorized by section 111(c) of the Legislative Branch Appropriation Act, 1978 (Pub. Law 95–94, 91 Stat. 662–663, Aug. 5, 1977),

to designate employees in his office to assist him in connection with his membership on committees of the Senate. With certain exceptions, an employee so designated is to be accorded all privileges of a professional staff member of the committee to which designated. The text of section 111(c) is as follows:

(c)(1) A Senator may designate employees in his office to assist him in connection with his membership on committees of the Senate. An employee may be designated with respect to only one committee.

(2) An employee designated by a Senator under this subsection shall be certified by him to the chairman and ranking minority member of the committee with respect to which such designation is made. Such employee shall be accorded all privileges of a professional staff member (whether permanent or investigatory) of such committee including access to all committee sessions and files, except that any such committee may restrict access to its sessions to one staff member per Senator at a time and require, if classified material is being handled or discussed, that any staff member possess the appropriate security clearance before being allowed access to such material or to discussion of it. Nothing contained in this paragraph shall be construed to prohibit a committee from adopting policies and practices with respect to the application of this subsection which are similar to the policies and practices adopted with respect to the application of section 705(c)(1) of Senate Resolution 4, 95th Congress, and section 106(c)(1) of the Supplemental Appropriations Act, 1977.

(3) A Senator shall notify the chairman and ranking minority member of a committee whenever a designation of an employee under this subsection with respect to such committee is terminated.

SEC. 111(a) provides for an amount to be added to each Senator's Official Personnel and Expense Account for compensation of committee–related employees authorized under subsection (c). This amount is subject to change annually by Orders of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970. For the current figure consult the Senate Disbursing Office.

SEC. 111(b) repealed, effective the first day of the 100th Congress. (Oct. 21, 1987, § 3, Pub. L. 100–137, 101 Stat. 819.)

252.6 (e) Compensation of committee staff members 252.6

NOTE

This subsection sets forth the maximum salaries which may be paid to committee employees. These figures are changed annually by Orders of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970. For the current figures consult the Senate Disbursing Office.

252.7 (f) General limitation 252.7

NOTE

This subsection sets forth the maximum and minimum salaries which may be paid to Senate employees (other than committee employees, employees in a Senator's office, and employees serving in a position the salary of which is prescribed by law). These figures are changed annually by Orders of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970. For the current figures consult the Senate Disbursing Office.

252.8 (Pub. L. 90–57, § 105 (a)–(f), (j), July 28, 1967, 81 Stat. 141–144, amended Pub. L. 90–206, Title II, § 214(j)–(l), Dec. 16, 1967, 81 Stat. 637; Pub. L. 91–145, § 101, Dec. 12, 1969, 83 Stat. 340; Pub. L. 91 510, Title III, § 305, Oct. 26, 1970, 84 Stat. 1181; Pub. L. 91–656, § 4, Jan. 8, 1971, 84 Stat. 1952; Pub. L. 92–184, Ch. IV, § 401, Dec. 15, 1971, 85 Stat. 633; Pub. L. 92–607, Ch. V, § 505, Oct. 31, 1972, 86 Stat. 1505; Pub. L. 93–145, § 101, Nov. 1, 1973, 87 Stat. 532; Pub. L. 93–245, Ch. VI, § 601, Jan. 3, 1974, 87 Stat. 1078; Pub. L. 93–255, § 1, Mar. 27, 1974, 88 Stat. 52; Pub. L. 93–371, § 101(6), Aug. 13, 1974, 88 Stat. 430; Pub. L. 94–59, Title I, § 102, July 25, 1975, **252.8**

89 Stat. 274; Pub. L. 94–440, Title I, § 101(a), Oct. 1, 1976, 90 Stat. 1443; Pub. L. 95–94, Title I, § 111(d), Aug. 5, 1977, 91 Stat. 63; Pub. L. 98–181, Title I, § 1203(a), Nov. 30, 1983, 97 Stat. 1289; Pub. L. 104–186, Title II, § 204(9), Aug. 20, 1996, 110 Stat. 1731; modified by Orders of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970; July 8, 1980, Pub. L. 96–304, Title I, § 107(a), 94 Stat. 890.)

252.9 § 61–1a. Availability of appropriated funds for payment to an individual of pay from more than one position; conditions. 252.9

Notwithstanding any other provision of law, appropriated funds are available for payment to an individual of pay from more than one position, each of which is either in the office of a Senator and the pay of which is disbursed by the Secretary of the Senate or is in another office and the pay of which is disbursed by the Secretary of the Senate out of an appropriation under the heading "SALARIES, OFFICERS AND EMPLOYEES", if the aggregate gross pay from those positions does not exceed the maximum rate specified in section 61–1(d)(2) of this title. (Pub. L. 95–94, Title I, § 114, Aug. 5, 1977, 91 Stat. 665; Pub. L. 95–240, Title II, § 207, Mar, 7, 1978, 92 Stat. 117; Pub. L. 100–202, § 9, Dec. 22, 1987, 101 Stat. 1329–295.)

252.10 § 61–1b. Availability of appropriations during first three months of any fiscal year for aggregate of payments of gross compensation made to employees from Senate appropriation account for "Salaries, Officers and Employees". 252.10

At no time during the first three months of any fiscal year (commencing with the fiscal year which begins October 1, 1984) shall the aggregate of payments of gross compensation made to employees out of any line item appropriation within the Senate appropriation account for "Salaries, Officers and Employees" (other than the line item appropriations, within such account for "Administrative, clerical, and legislative assistance to Senators" and for "Agency contributions") exceed twenty–five per centum of the total amount available for such line item appropriations for such fiscal year. (July 17, 1984, P.L. 98–367, Title I, § 4, 98 Stat. 475.)

252.11 § 61–1c. Aggregate gross compensation of employee of Senator of State with population under 5,000,000. 252.11

(a) Notwithstanding the provisions of section 61–1(d)(1) of this title, and except as otherwise provided in subparagraph (C) of section 61–1(d)(1) of this title, the aggregate of gross compensation paid employees in the office of a Senator shall not exceed during each fiscal year $1,012,083 if the population of his State is less than 5,000,000.

(b) Subsection (a) of this section shall take effect October 1, 1991. (Aug. 14, 1991, Pub. L. 102–90, Title I, § 5, 105 Stat. 450.)

253 § 61a. Compensation of Secretary of the Senate. 253

NOTE

Pursuant to Orders of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970, the Annual rate of compensation of the Secretary of the Senate is the same as level III of the Executive Schedule (5 U.S.C. § 5314), but may not be more than $1,000 less than the annual rate of compensation of a Senator.

254.8 § 61a–9. Advancement by Secretary of the Senate of travel funds to employees under his jurisdiction for Federal Election Campaign Act travel expenses. 254.8

The Secretary of the Senate is hereafter authorized to advance, in his discretion, to any designated employee under his jurisdiction, such sums as may be necessary, not exceeding $1,500, to defray official travel expenses in assisting the Secretary in carrying out his duties under the Federal Election Campaign Act of 1971. Any such employee shall, as soon as practicable, furnish to the Secretary a detailed voucher for such expenses incurred and make settlement with respect to any amount so advanced. (Oct. 31, 1972, Pub. L. 92–607, § 504, 86 Stat. 1505.)

254.9 § 61a–9a. Travel expenses of Secretary of Senate; advancement of travel funds to designated employees. 254.9

For the purpose of carrying out his duties, the Secretary of the Senate is authorized to incur official travel expenses. The Secretary of the Senate is authorized to advance, in his discretion, to any designated employee under his jurisdiction, such sums as may be necessary, not exceeding $1,000, to defray official travel expenses in assisting the Secretary in carrying out his duties. Any such employee shall, as soon as practicable, furnish to the Secretary a detailed voucher for such expenses incurred and make settlement with respect to any amount so advanced. Payments to carry out the provisions of this section shall be made from funds included in the appropriation "Miscellaneous Items" under the heading "Contingent Expenses of the Senate" upon vouchers approved by the Secretary of the Senate. (July 25, 1975, Pub. L. 94–59, § 101, 89 Stat. 273; Aug. 5, 1977, Pub. L. 95–94, Title I, § 106, 91 Stat. 661; Sept. 8, 1978, Pub. L. 95–355, Title I, § 101, 92 Stat. 533; June 5, 1981, Pub. L. 97–12, § 102, 95 Stat. 61; July 17, 1984, Pub. L. 98–367, § 1, 98 Stat. 474.)

255 § 61a–11. Abolition of statutory positions in the Office of the Secretary of the Senate; Secretary's authority to establish and fix compensation for positions. 255

Effective October 1, 1981, all statutory positions in the Office of the Secretary (other than the positions of the Secretary of the Senate, Assistant Secretary of the Senate, Parliamentarian, Financial Clerk, and Director of the Office of Classified National Security Information) are abolished, and in lieu of the positions hereby abolished the Secretary of the Senate is authorized to establish such number of positions as he deems appropriate and appoint and fix the compensation of employees to fill the positions so established; except that the annual rate of compensation payable to any employee appointed to fill any position established by the Secretary of the Senate shall not, for any period of time, be in excess of $1,000 less than the annual rate of compensation of the Secretary of the Senate for that period of time; and except that nothing in this section shall be construed to affect any position authorized by statute, if the compensation for such position is to be paid from the contingent fund of the Senate. (Oct. 1, 1981, Public Law 97–51, § 114, 95 Stat. 963.)

255.1 § 61b–1. Compensation of Parliamentarian of Senate. 255.1

The Parliamentarian may be paid at a maximum annual rate of compensation not to exceed $39,000. (Aug. 5, 1955, ch. 568 § 1, 69 Stat.

499; June 27, 1956, ch. 453, § 101, 70 Stat. 356; Aug. 13, 1974, Pub. L. 93–371, § 4, 88 Stat. 429; July 25, 1975, Pub. L. 94–59, Title I, § 105, 89 Stat. 275.)

255.3 § 61c–1. Adjustment of rate of compensation by Secretary of the Senate. 255.3

Any specific rate of compensation established by law, as such rate has been increased or may hereafter be increased by or pursuant to law, for any position under the jurisdiction of the Secretary shall be considered as the maximum rate of compensation for that position, and the Secretary is authorized to adjust the rate of compensation of an individual occupying any such position to a rate not exceeding such maximum rate. (Aug. 18, 1970, Pub. L. 91–382, § 101, 84 Stat. 808.)

256 § 61d. Compensation of the Chaplain of the Senate. 256

Effective with respect to pay periods beginning on or after December 22, 1987, the Chaplain of the Senate shall be compensated at a rate equal to the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5. (Dec. 22, 1987, Pub. L. 100–202, § 2(a), 101 Stat. 1329–294.)

256.1 § 61d–1. Compensation of employees of the Chaplain of the Senate. 256.1

The Chaplain of the Senate may appoint and fix the compensation of such employees as he deems appropriate, except that the amount which may be paid for any fiscal year as gross compensation for personnel in such Office for any fiscal year shall not exceed $147,000. (Pub. L. 91–145, Dec. 12, 1969, 83 Stat. 340; Pub. L. 93–371, § 101, Aug. 13, 1974, 88 Stat. 424; Pub. L. 96–38, Title I, § 103, July 25, 1979, 93 Stat. 112; Pub. L. 100–202, § 101(i) [Title I, § 2(b)], Dec. 22, 1987, 101 Stat. 1329–294; Pub. L. 101–163, Title I, § 10, Nov. 21, 1989, 103 Stat. 1046.)

256.5 § 61d–2. Postage allowance for Chaplain of the Senate. 256.5

The Secretary of the Senate is authorized and directed to procure and furnish each fiscal year (commencing with the fiscal year ending September 30, 1982) to the Chaplain of the Senate, upon the request of the Chaplain of the Senate, United States postage stamps in such amounts as may be necessary for the mailing of postal matters arising in connection with his official business. (June 1, 1976, Pub. L. 94–303, Title I, § 114, 90 Stat. 614; Oct. 1, 1981, Pub. L. 97–51, § 127, 95 Stat. 966.)

256.6 § 61d–3. Office of the Chaplain Expense Revolving Fund. 256.6

(a) There is established in the Treasury of the United States within the contingent fund of the senate a revolving fund, to be known as the "Office of the Chaplain Expense Revolving Fund" (hereafter referred to as the "fund"). The fund shall consist of all moneys collected or received with respect to the Office of the Chaplain of the Senate.

(b) The fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate, not to exceed $35,000 in any fiscal year, for the payment of official expenses incurred by the Chaplain of the Senate. In addition, moneys in the fund may be used to purchase food or food related items. The fund shall not be available for the payment of salaries.

(c) All moneys (including donated moneys) received or collected with respect to the Office of the Chaplain of the Senate shall be deposited in the fund and shall be available for purposes of this section.

(d) Disbursements from the fund shall be made on vouchers approved by the Chaplain of the Senate. (Nov. 19, 1995, Pub. L. 104–53, Title I, § 2, 109 Stat. 517; Oct. 21, 1998, Pub. L. 105–275, Title I, § 2(a), 112 Stat. 2433.)

257 § 61e. Compensation of Sergeant at Arms and Doorkeeper of the Senate. 257

NOTE

Pursuant to Orders of the President pro tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970, the annual rate of compensation of the Sergeant at Arms and Doorkeeper of the Senate is the same as level III of the Executive Schedule (5 U.S.C. § 5314), but may not be more than $1,000 less than the annual rate of compensation of a Senator.

257.5 § 61e–3. Deputy Sergeant at Arms and Doorkeeper to act on death, resignation, disability, or absence of Sergeant at Arms and Doorkeeper of the Senate. 257.5

In the event of the death, resignation, or disability of the Sergeant at Arms and Doorkeeper of the Senate, the Deputy Sergeant at Arms and Doorkeeper shall act as Sergeant at Arms and Doorkeeper of the Senate in carrying out the duties and responsibilities of that office in all matters until such time as a new Sergeant at Arms and Doorkeeper of the Senate shall have been elected and qualified or such disability shall have been ended. For purposes of this section, the Sergeant at Arms and Doorkeeper of the Senate shall be considered as disabled only during such period of time as the Majority and Minority Leaders and the President pro tempore of the Senate certify jointly to the Senate that the Sergeant at Arms and Doorkeeper of the Senate is unable to perform his duties. In the event that the Sergeant at Arms and Doorkeeper of the Senate is absent, the Deputy Sergeant at Arms and Doorkeeper shall act during such absence as the Sergeant at Arms and Doorkeeper of the Senate in carrying out the duties and responsibilities of the office in all matters. (Oct. 1, 1981, Pub. L. 97–51, § 128, 95 Stat. 966.)

257.6 § 61e–4. Designation by Sergeant at Arms and Doorkeeper of Senate of persons to approve vouchers for payment of moneys. 257.6

The Sergeant at Arms and Doorkeeper of the Senate (hereinafter in this section referred to as the "Sergeant at Arms") may designate one or more employees in the Office of the Sergeant at Arms and Doorkeeper of the Senate to approve, on his behalf, all vouchers, for payment of moneys, which the Sergeant at Arms is authorized to approve. Whenever the Sergeant at Arms makes a designation under the authority of the preceding sentence, he shall immediately notify the Committee on Rules and Administration in writing of the designation, and thereafter any approval of any voucher, for payment of moneys, by an employee so designated shall (until such designation is revoked and the Sergeant at Arms notifies the Committee on Rules and Administration in writing of the revocation) be deemed and held to be approved by the Sergeant at Arms for all intents and purposes. (Pub. L. 98–181, Title I, § 1201, Nov. 30, 1983, 97 Stat. 1289.)

258 § 61f–1a. Travel expenses of Sergeant at Arms and Doorkeeper of the Senate. 258

For the purpose of carrying out his duties, the Sergeant at Arms and Doorkeeper of the Senate is authorized to incur official travel expenses during each fiscal year not to exceed the sums made available for such purpose under appropriations Acts. With the approval of the Sergeant at Arms and Doorkeeper of the Senate and in accordance with such regulations as may be promulgated by the Senate Committee on Rules and Administration, the Secretary of the Senate is authorized to advance to the Sergeant at Arms or to any designated employee under the jurisdiction of the Sergeant at Arms and Doorkeeper, such sums as may be necessary to defray official travel expenses incurred in carrying out the duties of the Sergeant at Arms and Doorkeeper. The receipt of any such sum so advanced to the Sergeant at Arms and Doorkeeper or to any designated employee shall be taken and passed by the accounting officers of the Government as a full and sufficient voucher, but it shall be the duty of the traveler, as soon as practicable, to furnish to the Secretary of the Senate a detailed voucher of the expenses incurred for the travel with respect to which the sum was so advanced, and make settlement with respect to such sum. Payments under this section shall be made from funds included in the appropriations account, within the contingent fund of the Senate, for the Sergeant at Arms and Doorkeeper of the Senate, upon vouchers approved by the Sergeant at Arms and Doorkeeper. (June 1, 1976, Pub. L. 94–303, Title I, § 117, 90 Stat. 615; Sept. 30, 1978, Pub. L. 95–391, Title I, § 106, 92 Stat. 772; Oct. 12, 1979, Pub. L. 96–86; § 111(c), 93 Stat. 661; June 5, 1981, Pub. L. 97–12, § 108, 95 Stat. 62; Oct. 1, 1988, Pub. L. 100–458, § 6, 102 Stat. 2161, 2162; Pub. L. 100–458, § 6, Oct. 1, 1988, 102 Stat. 2161; Pub. L. 101–520, Title I, § 6, Nov. 5, 1990, 104 Stat. 2258.)

258.5 § 61f–7. Abolition of statutory positions in the Office of the Sergeant at Arms and Doorkeeper of the Senate; authority to establish and fix compensations for positions. 258.5

Effective October 1, 1981, all statutory positions in the Office of the Sergeant at Arms and Doorkeeper of the Senate (other than the positions of the Sergeant at Arms and Doorkeeper of the Senate, Deputy Sergeant at Arms and Doorkeeper, and Administrative Assistant) are abolished, and in lieu of the positions hereby abolished the Sergeant at Arms and Doorkeeper of the Senate is authorized to establish such number of positions as he deems appropriate and appoint and fix the compensation of employees to fill the positions so established; except that the annual rate of compensation payable to any employee appointed to fill any position established by the Sergeant at Arms and Doorkeeper of the Senate shall not, for any period of time, be in excess of $1,000 less than the annual rate of compensation of the Sergeant at Arms and Doorkeeper of the Senate for that period of time; and except that nothing in this section shall be construed to affect any position authorized by statute, if the compensation for such position is to be paid from the contingent fund of the Senate. (Oct. 1, 1981, Pub. L. 97–51, § 116, 95 Stat. 963.)

259 § 61f–8. Use by Sergeant at Arms and Doorkeeper of the Senate of individual consultants or organizations, and department and agency personnel. 259

For each fiscal year (beginning with the fiscal year which ends September 30, 1982), the Sergeant at Arms and Doorkeeper of the Senate is hereby authorized to expend from the account for the Sergeant at Arms and Doorkeeper of the Senate, within the contingent fund of the Senate, an amount not to exceed $300,000 for:

(1) the procurement of the services, on a temporary basis, of individual consultants, or organizations thereof, with the prior consent of the Committee on Rules and Administration; such services may be procured by contract with the providers acting as independent contractors, or in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent of the highest gross rate of annual compensation which may be paid to employees of a standing committee of the Senate; and any such contract shall not be subject to the provisions of section 5 of title 41 or any other provision of law requiring advertising; and

(2) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, use on a reimbursable basis (with reimbursement payable at the end of each calendar quarter for services rendered during such quarter) of the services of personnel of any such department or agency.

Payments made under this section shall be made upon vouchers approved by the Sergeant at Arms and Doorkeeper of the Senate. (Oct. 1, 1981, Pub. L. 97–51, § 117, 95 Stat. 964; Pub. L. 97–257, Title I, § 103, Sept. 10, 1982, 96 Stat. 849; Oct. 1, 1988, Pub. L. 100–458, § 7, 102 Stat. 2162.)

260 § 61g–6. Payment of expenses of Conference of the Majority and the Conference of the Minority from contingent fund of Senate. 260

For each fiscal year (beginning with the fiscal year which ends September 30, 1982) there is authorized to be expended from the contingent fund of the Senate an amount, not in excess of $75,000, for the Conference of the Majority and an equal amount for the Conference of the Minority. Payments under this section shall be made only for expenses actually incurred by such a Conference in carrying out its functions, and shall be made upon certification and documentation of the expenses involved, by the Chairman of the Conference claiming payment hereunder and upon vouchers approved by such Chairman and by the Committee on Rules and Administration, except that vouchers shall not be required for payment of long–distance telephone calls. (Oct. 1, 1981, Pub. L. 97–51, § 120, 95 Stat. 965; Pub. L. 97–276, Oct. 2, 1982, § 101(e), 96 Stat. 1189; Pub. L. 99–151, Title I, § 1, Nov. 13, 1985, 99 Stat. 794; Pub. L. 101–163, Title I, Nov. 21, 1989, 103 Stat. 1043; Pub. L. 101–520, Title I, Nov. 5, 1990, 104 Stat. 2256.)

260a § 61g–6a. Salaries and expenses for Senate Majority and Minority Policy Committees and Senate Majority and Minority Conference Committees 260a

(a)(1) The Chairman of the Majority or Minority Policy Committee of the Senate may, during any fiscal year, at his or her election transfer funds from the appropriation account for salaries for the Majority and

Minority Policy Committees of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable for such committees.

(2) The Chairman of the Majority or Minority Policy Committee of the Senate may, during any fiscal year, at his or her election transfer funds from the appropriation account for expenses, within the contingent fund of the Senate, for the Majority and Minority Policy Committees of the Senate, to the account from which salaries are payable for such committees.

(b)(1) The Chairman of the Majority or Minority Conference Committee of the Senate may, during any fiscal year, at his or her election transfer funds from the appropriation account for salaries for the Majority and Minority Conference Committees of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable for such committees.

(2) The Chairman of the Majority or Minority Conference Committee of the Senate may, during any fiscal year, at his or her election transfer funds from the appropriation account for expenses, within the contingent fund of the Senate, for the Majority and Minority Conference Committees of the Senate, to the account from which salaries are payable for such committees.

(c) Any funds transferred under this section shall be—

(1) available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account to which the funds were transferred; and

(2) made at such time or times as the Chairman shall specify in writing to the Senate Disbursing Office.

(d) The Chairman of a committee transferring funds under this section shall notify the Committee on Appropriations of the Senate of the transfer. (Nov. 5, 1990, Pub. L. 101–520, Title I, § 1, 104 Stat. 2257; Aug. 14, 1991, Pub. L. 102–90, Title I, 105 Stat. 450; Nov. 19, 1995, Pub. L. 104–53, Title I, § 7(a), 109 Stat. 518.)

260.1 § 61g–7. Services of consultants to Majority or Minority Conference Committee of the Senate. **260.1**

(a) Authorization of expenditure with approval of Committee on Rules and Administration

Funds authorized to be expended under section 61g–6 of this title may be used by the Majority or Minority Conference Committee of the Senate, with the approval of the Committee on Rules and Administration, to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, to make studies or advise the committee with respect to any matter within its jurisdiction or with respect to the administration of the affairs of the committee.

(b) Procurement by contractor or employment

Such services in the case of individuals or organizations may be procured by contract as independent contractors, or in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent of the highest gross rate of compensation which may be paid to a regular employee of such committee. Such contracts

shall not be subject to the provisions of section 5 of title 41 or any other provision of law requiring advertising.

(c) Selection of consultant or organization by Conference Committee chairman

Any such consultant or organization shall be selected for the Majority or Minority Conference Committee of the Senate by the chairman thereof. (Aug. 15, 1985, Pub. L. 99–88, Title I, § 195, 99 Stat. 349; Pub. L. 104–197, Title I, § 1, Sept. 1, 1996, 110 Stat. 2396.)

260.1a § 61g–8. Utilization of funds for specialized training of professional staff for Majority and Minority Conference Committee of the Senate. 260.1a

Funds appropriated to the Conference of the Majority and funds appropriated to the Conference of the Minority for any fiscal year (commencing with the fiscal year ending September 30, 1991), may be utilized in such amounts as the Chairman of each Conference deems appropriate for the specialized training of professional staff, subject to such limitations, insofar as they are applicable, as are imposed by the Committee on Rules and Administration with respect to such training when provided to professional staff of standing committees of the Senate. (Pub. L. 101–520, Title I, § 2, Nov. 5, 1990, 104 Stat. 2257.)

260.2 § 61h–4. Appointment of employees by Majority and Minority Leaders of Senate; compensation. 260.2

Effective April 1, 1977, the Majority Leader and the Minority Leader are each authorized to appoint and fix the compensation of such employees as they deem appropriate: *Provided,* That the gross compensation paid to such employees shall not exceed $191,700 each fiscal year for each Leader. (May 4, 1977, Pub. L. 95–26, Title I, § 100, 91 Stat. 80.)

NOTE

S. Res. 89, 100–1, Jan. 28, 1987, established within the offices of Majority and Minority Leaders the positions of chief of staff for the Majority Leader and chief of staff for the Minority Leader. Rate of compensation shall be fixed by the appropriate leader, not to exceed the maximum annual rate of gross compensation of the Assistant Secretary of the Senate.

260.3 § 61h–5. Assistants to Senate Majority and Minority Leaders for Floor Operations; establishment of positions; appointment; compensation. 260.3

Effective October 1, 1983, there is established within the Offices of the Majority and Minority Leaders the positions of Assistant to the Majority Leader for Floor Operations and Assistant to the Minority Leader for Floor Operations, respectively. Individuals appointed to such positions by the Majority Leader and Minority Leader, respectively, shall receive compensation at a rate fixed by the appropriate Leader not to exceed the maximum annual rate of gross compensation of the Assistant Secretary of the Senate. (July 14, 1983, Pub. L. 98–51, Title I, § 101(a), 97 Stat. 265.)

260.4 § 61h–6. Appointment of consultants by Majority Leader, Minority Leader, Secretary of the Senate, and Legislative Counsel of the Senate; compensation. 260.4

(a) The Majority Leader and the Minority Leader, are each authorized to appoint and fix the compensation of not more than four individual consultants, on a temporary or intermittent basis, at a daily rate of compensation not in excess of the per diem equivalent of the highest gross rate of annual compensation which may be paid to employees of a standing committee of the Senate. The President pro tempore of the Senate is authorized to appoint and fix the compensation of one consultant, on a temporary or intermittent basis, at a daily rate of compensation not in excess of that specified in the first sentence of this subsection. The Secretary of the Senate is authorized to appoint and fix the compensation of not more than two individual consultants, on a temporary or intermittent basis, at a daily rate of compensation not in excess of the per diem equivalent of the highest gross rate of annual compensation which may be paid to employees of a standing committee of the Senate. The Legislative Counsel of the Senate (subject to the approval of the President pro tempore) is authorized to appoint and fix the compensation of not more than two consultants, on a temporary or intermittent basis, at a daily rate of compensation not in excess of that specified in the first sentence of this section. The provisions of section 8344 and 8468 of title 5 shall not apply to any individual serving in a position under this authority. Expenditures under this authority shall be paid from the contingent fund of the Senate upon vouchers approved by the President pro tempore, Majority Leader, Minority Leader, Secretary of the Senate, or Legislative Counsel of the Senate, as the case may be.

(b) Any or all appointments under this section may be at an annual rate of compensation rather than at a daily rate of compensation, but such annual rate shall not be in excess of the highest gross rate of annual compensation which may be paid to employees of a standing committee of the Senate. (As amended Pub. L. 105–275, Title I, §§ 4(a), (b), Oct. 21, 1998, 112 Stat. 2433.)

260.4a § 61h–7. Chiefs of Staff of the Senate Majority and Minority Leaders; appointment; compensation. 260.4a

(a) There is established within the Offices of the Majority and Minority Leader the positions of Chief of Staff for the Majority Leader and Chief of Staff for the Minority Leader, respectively. Individuals appointed to such positions by the Majority Leader and Minority Leader, respectively, shall receive compensation at a rate fixed by the appropriate Leader not to exceed the maximum annual rate of gross compensation of the Assistant Secretary of the Senate.

(b) Gross compensation for employees filling positions established by subsection (a) of this section for the fiscal year ending September 30, 1987, shall be paid out of any funds available in the Senate appropriation for such year under the item "Salaries, Officers and Employees". (Pub. L. 101–163, Title I, § 9, Nov. 21, 1989, 103 Stat. 1046.)

260.5 § 61j–2. Compensation and appointment of employees by Majority and Minority Whips of Senate. 260.5

Effective April 1, 1977, the Majority Whip and the Minority Whip are each authorized to appoint and fix the compensation of such employ-

ees as they deem appropriate: *Provided*, That the gross compensation paid to such employees shall not exceed $111,100 each fiscal year for each Whip. (May 4, 1977, Pub. L. 95–26, Title I, § 100, 91 Stat. 80.)

260.6 § 61k. Appointment and compensation of employees by President pro tempore of Senate. 260.6

Effective October 1, 1979, the President pro tempore is authorized to appoint and fix the compensation of such employees as he deems appropriate: *Provided*, That the gross compensation paid to such employees shall not exceed $123,000 each fiscal year. (July 25, 1979, Pub. L. 96–38, Title I, § 101, 93 Stat. 111.)

260.7 § 61*l*. Appointment and compensation of Administrative Assistant, Legislative Assistant, and Executive Secretary for Deputy President pro tempore of Senate. 260.7

Effective April 1, 1977, the Deputy President pro tempore is authorized to appoint and fix the compensation of an Administrative Assistant at not to exceed $47,595 per annum; a Legislative Assistant at not to exceed $40,080 per annum, and an Executive Secretary at not to exceed $23,380 per annum. (May 4, 1977, Pub. L. 95–26, Title I, § 100, 91 Stat. 80.)

261 § 62. Limitation on compensation of Sergeant at Arms and Doorkeeper of Senate. 261

The Sergeant at Arms and Doorkeeper of the Senate shall receive, directly or indirectly, no fees or other compensation or emolument whatever for performing the duties of the office, or in connection therewith, other than the salary prescribed by law. (June 20, 1874, ch. 328, 18 Stat. 85; Mar. 3, 1875, ch. 129, 18 Stat. 344.)

262 § 63. Repealed. (Pub. L. 104–186, Title II, § 204(21), Aug. 20, 1996, 110 Stat. 1733) 262

263 § 64. Omitted. 263

263.1 § 64–1. Employees of Senate Disbursing Office; designation by Secretary of the Senate to administer oaths and affirmations. 263.1

The Secretary of the Senate is, on and after November 1, 1973, authorized to designate, in writing, employees of the Disbursing Office of the Senate to administer oaths and affirmations, with respect to matters relating to that Office, authorized or required by law or rules or orders of the Senate (including the oath of office required by section 3331 of title 5, United States Code). During any period in which he is so designated, any such employee may administer such oaths and affirmations. (Nov. 1, 1973, Pub. L. 93–145, § 101, 87 Stat. 532.)

263.2 § 64–2. Transfers of funds by Secretary of Senate; approval of Committee on Appropriations. 263.2

Hereafter, the Secretary of the Senate is authorized to make such transfers between appropriations of funds available for disbursement by him for a fiscal year as may be approved by a resolution of the Senate (reported by the Committee on Appropriations of the Senate), and, to the extent necessary, to reimburse, out of funds thereafter made available for disbursement by him for such fiscal year, any appropriation or fund for any amount so transferred from it. (May 4, 1977, Pub. L. 95–26, Title I, § 108, 91 Stat. 85.)

NOTE

Section 113 of Pub. L. 97–51 provided "Hereafter, the Secretary of the Senate as Disbursing Officer of the Senate is authorized to make such transfers between appropriations of funds available for disbursement by him for fiscal year 1982, as he deems appropriate, subject to the customary reprogramming procedures of the Committee on Appropriations of the Senate."

NOTE

During any fiscal year (commencing with the fiscal year beginning October 1, 1982) the Secretary of the Senate is authorized to make such transfers between appropriations of funds available for disbursement by him during such year, subject to the approval of the Committee on Appropriations of the Senate. (Pub. L. 97–276, § 101(e), Oct. 2, 1982, 96 Stat. 1189.)

263.3 § 64–3. Reimbursement for United States Capitol Police salaries paid by Senate for service at Federal Law Enforcement Training Center. 263.3

Notwithstanding any other provision of law, the Secretary of the Senate is authorized to receive moneys from the Department of the Treasury as reimbursements for salaries paid by the United States Senate in connection with certain officers and members of the United States Capitol Police serving as instructors at the Federal Law Enforcement Training Center. Moneys so received shall be deposited in the Treasury of the United States as miscellaneous receipts. (May 4, 1977, Pub. L. 95–26, Title I, § 111, 91 Stat. 87.)

264 § 64a. Death, resignation, or disability of Secretary and Assistant Secretary of Senate; Financial Clerk deemed successor as disbursing officer. 264

For any period during which both the Secretary and the Assistant Secretary of the Senate are unable (because of death, resignation, or disability) to discharge such Secretary's duties as disbursing officer of the Senate, the Financial Clerk of the Senate shall be deemed to be the successor of such Secretary as disbursing officer. (Mar. 3, 1926, ch. 44, § 1, 44 Stat. 162; Oct. 31, 1969, Pub. L. 91–105, § 2, 83 Stat. 169; Aug. 18, 1970, Pub. L. 91–382, § 101, 84 Stat. 810; June 6, 1972, Pub. L. 92–310, § 220(g), 86 Stat. 204; July 17, 1984, Pub. L. 98–367, § 2, 98 Stat. 474.)

265 § 64b. Death, resignation, or disability of Secretary of Senate; Assistant Secretary of the Senate to act as Secretary; written designation of absent status. 265

In the event of the death, resignation, or disability of the Secretary of the Senate, the Assistant Secretary of the Senate shall act as Secretary in carrying out the duties and responsibilities of that office in all matters until such time as a new Secretary shall have been elected and qualified or such disability shall have been ended. For purposes of this section and section 64a of this title, the Secretary of the Senate shall be considered as disabled only during such period of time as the Majority and Minority Leaders and the President pro tempore of the Senate certify jointly to the Senate that the Secretary is unable to perform his duties. In the event that the Secretary of the Senate is absent or is to be absent for reasons other than disability (as provided in this paragraph), and makes a written designation that he is or will be so absent, the Assistant Secretary shall act during such absence

as the Secretary in carrying out the duties and responsibilities of the office in all matters. The designation may be revoked in writing at any time by the Secretary, and is revoked whenever the Secretary making the designation dies, resigns, or is considered disabled in accordance with this paragraph. (Dec. 15, 1971, Pub. L. 92–184, § 401, 85 Stat. 635; amended Aug. 13, 1974, Pub. L. 93–371, § 101(1), 88 Stat. 427; July 17, 1984, Pub. L. 98–367, § 2, 98 Stat. 474.)

266 § 65a. Insurance of office funds of Secretary of the Senate and Sergeant at Arms; payment of premiums. 266

The Secretary of the Senate and the Sergeant at Arms on and after June 27, 1956, are authorized and directed to protect the funds of their respective offices by purchasing insurance in an amount necessary to protect said funds against loss. Premiums on such insurance shall be paid out of the contingent fund of the Senate, upon vouchers approved by the chairman of the Committee on Rules and Administration. (June 27, 1956, ch. 453, 70 Stat. 360.)

267 § 65b. Advances to Sergeant at Arms of the Senate for extraordinary expenses. 267

The Secretary of the Senate is on and after July 31, 1958, authorized, in his discretion, to advance to the Sergeant at Arms of the Senate such sums as may be necessary, not exceeding $4,000, to meet any extraordinary expenses of the Senate. (July 31, 1958, Pub. L. 85–570, 72 Stat. 442; Oct. 1, 1976, Pub. L. 94–440, § 108, 90 Stat. 1445; May 4, 1977, Pub. L. 95–26, § 104, 91 Stat. 82.)

267.1 § 65c. Expense allowance for the Secretary of the Senate, Sergeant at Arms and Doorkeeper of the Senate, and Secretaries for Senate Majority and Minority. 267.1

(a) Notwithstanding any other provision of law, there is hereby established an account, within the Senate, to be known as the "Expense Allowance for the Secretary of the Senate, Sergeant at Arms and Doorkeeper of the Senate and Secretaries for the Majority and for the Minority of the Senate" (hereinafter in this section referred to as the "Expense Allowance"). For each fiscal year (commencing with the fiscal year ending September 30, 1981) there shall be available for the Expense Allowance an expense allotment not to exceed $3,000 for each of the above specified officers. Amounts paid from the expense allotment of any such officer shall be paid to him only as reimbursement for actual expenses incurred by him and upon certification and documentation by him of such expenses. Amounts paid to any such officer pursuant to this section shall not be reported as income and shall not be allowed as a deduction under title 26.

(b) For the fiscal year ending September 30, 1981, and the succeeding fiscal year, the Secretary of the Senate shall transfer, for each such year, $8,000 to the Expense Allowance from "Miscellaneous Items" in the contingent fund of the Senate. For the fiscal year ending September 30, 1983, and for each fiscal year thereafter, there are authorized to be appropriated to the Expense Allowance such funds as may be necessary to carry out the provisions of subsection (a) of this section. (Pub. L. 97–51, § 119, Oct. 1, 1981, 95 Stat. 964; amended Pub. L. 98–63, July 30, 1983, 97 Stat. 334; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

267.2 § 65d. Funds advanced by the Secretary of the Senate to Sergeant at Arms and Doorkeeper of Senate to defray office expenses; accountability; maximum amount; vouchers. 267.2

From funds available for any fiscal year (commencing with the fiscal year ending September 30, 1984), the Secretary of the Senate shall advance to the Sergeant at Arms and Doorkeeper of the Senate for the purpose of defraying office expenses such sums (for which the Sergeant at Arms and Doorkeeper shall be accountable) not in excess of $1,000 at any one time, as such Sergeant at Arms shall from time to time request; except that the aggregate of the sums so advanced during the fiscal year shall not exceed $10,000.

In accordance with the provisions of this section, a detailed voucher shall be submitted to the Secretary of the Senate by such Sergeant at Arms whenever necessary, in order to replenish funds expended. (Pub. L. 98–51, § 104, July 14, 1983, 97 Stat. 266.)

267.3 § 65f. Funds for Secretary of the Senate to assist in proper discharge within United States of responsibilities to foreign parliamentary groups or other foreign officials. 267.3

(a) On and after July 11, 1987, the Secretary of the Senate is authorized to use any available funds (but not in excess of $50,000 for any fiscal year), out of the appropriation account (within the Contingent Fund of the Senate) for the Secretary of the Senate, to assist him in the proper discharge, within the United States, of his appropriate responsibilities to members of foreign parliamentary groups or other foreign officials.

(b) The provisions of subsection (a) shall be effective in the case of expenditures for fiscal years ending after September 30, 1986.

(c) Upon the written request of the Secretary of the Senate, with the approval of the Committee on Appropriations of the Senate, there shall be transferred any amount of funds available under subsection (a) of this section specified in the request, but not to exceed $10,000 in any fiscal year, from the appropriation account (within the contingent fund of the Senate) for expenses of the Office of the Secretary of the Senate to the appropriation account for the expense allowance of the Secretary of the Senate. Any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account to which the funds are transferred. (July 11, 1987, Pub. L. 100–71, § 2, Title I, 101 Stat. 423; Pub. L. 102–90, § 4, Aug. 14, 1991, 105 Stat. 450; Pub. L. 105–18, Title II, § 7003(a), June 12, 1997, 111 Stat. 192.)

268 § 66a. Restriction on payment of dual compensation by Secretary of the Senate. 268

Unless otherwise specifically authorized by law, no part of any appropriation disbursed by the Secretary of the Senate shall be available for payment of compensation to any person holding any position, for any period for which such person received compensation for holding any other position, the compensation for which is disbursed by the Secretary of the Senate. (June 27, 1956, ch. 453, 70 Stat. 360.)

CROSS REFERENCE

See section 5533(c) of title 5, United States Code (Senate Manual section 433.3).

269 § 67. Clerks to Senators-elect. 269

A Senator entitled to receive his own salary may appoint the usual clerical assistants allowed Senators. (June 19, 1934, ch. 648, § 1, 48 Stat. 1022.)

270 § 68. Payments from Senate contingent fund. 270

No payment shall be made from the contingent fund of the Senate unless sanctioned by the Committee to Audit and Control the Contingent Expenses [Committee on Rules and Administration] of the Senate. Payments made upon vouchers or abstracts of disbursements of salaries approved by said Committee on Rules and Administration of the Senate, shall be deemed, held, and taken, and are declared to be conclusive upon all the departments and officers of the Government: *Provided*, That no payment shall be made from said contingent fund as additional salary or compensation to any officer or employee of the Senate. (Oct. 2, 1888, ch. 1069, § 1, 25 Stat. 546; Dec. 27, 1974, Pub. L. 93–554, Title I, Ch. III, 88 Stat. 1776; Aug. 20, 1996, Pub. L. 104–186, Title I, § 105(c)(2)(A), 110 Stat. 1722.)

270.1 § 68–1. Committee on Rules and Administration; designation of Committee employees to approve vouchers on behalf of Committee. 270.1

The Committee on Rules and Administration may authorize its chairman to designate any employee or employees of such Committee to approve in his behalf, all vouchers making payments from the contingent fund of the Senate, such approval to be deemed and held to be approval by the Committee on Rules and Administration for all intents and purposes. (Nov. 1, 1973, Pub. L. 93–145, § 101, 87 Stat. 529; Oct. 1, 1981, Pub. L. 97–51, 95 Stat. 965; Oct 12, 1984, Pub. L. 98–473, § 123A(c), 98 Stat. 1970.)

270.2 § 68–2. Appropriations for contingent expenses of Senate; restriction. 270.2

Appropriations made for contingent expenses of the Senate shall not be used for the payment of personal services except upon the express and specific authorization of the Senate in whose behalf such services are rendered. Nor shall such appropriations be used for any expenses not intimately and directly connected with the routine legislative business of the Senate, and the General Accounting Office shall apply the provisions of this section in the settlement of the accounts of expenditures from said appropriations incurred for services or materials. (Feb. 14, 1902, ch. 17, § 1, 32 Stat. 26; June 10, 1921, ch. 18, Title III, § 304, 42 Stat. 24; Aug. 20, 1996, Pub. L. 104–186, Title II, § 204 (45), 110 Stat. 1737.)

270.3 § 68–3. Separate accounts for "Secretary of the Senate" and for "Sergeant at Arms and Doorkeeper of the Senate"; establishment within Senate contingent fund; inclusion of funds in existing accounts. 270.3

(a) Effective October 1, 1983—

(1) there shall be, within the contingent fund of the Senate, a separate account for the "Secretary of the Senate", and a separate account for the "Sergeant at Arms and Doorkeeper of the Senate";

(2) the account for "Automobiles and Maintenance", within the contingent fund of the Senate, is abolished, and funds for the purchase, lease, exchange, maintenance, and operation of vehicles for the Senate shall be included in the separate account, established by paragraph (1), for the "Sergeant at Arms and Doorkeeper of the Senate"; and

(3) the account for "Postage Stamps", within the contingent fund of the Senate, is abolished; and funds for special delivery postage of the Office of the Secretary of the Senate shall be included in the separate account, established by paragraph (1) for the "Secretary of the Senate"; funds for special delivery postage of the Sergeant at Arms and Doorkeeper of the Senate shall be included in the separate account, established by paragraph (1), for the "Sergeant at Arms and Doorkeeper of the Senate"; and postage stamps for the Secretaries for the Majority and the Minority and other offices and officers of the Senate, as authorized by law, shall be included in the account for "Miscellaneous Items", within the contingent fund of the Senate.

(b) Any provision of law which was enacted, or any Senate resolution which was agreed to, prior to October 1, 1983, and which authorizes moneys in the contingent fund of the Senate to be expended by or for the use of the Secretary of the Senate, or his office (whether generally or from a specified account within such fund) may on and after October 1, 1983, be construed to authorize such moneys to be expended from the separate account, within such fund, established by subsection (a)(1) for the "Secretary of the Senate"; and any provision of law which was enacted prior to October 1, 1983, and which authorizes moneys in the contingent fund of the Senate to be expended by or for the use of the Sergeant at Arms and Doorkeeper of the Senate, or his office (whether generally or from a specified account within such fund) may on and after October 1, 1983, be construed to authorize such moneys to be expended from the separate account, within such fund, established by subsection (a)(1) for the "Sergeant at Arms and Doorkeeper of the Senate". (July 14, 1983, Pub. L. 98–51, § 103, 97 Stat. 266.)

270.4 § 68–5. Purchase, lease, exchange, maintenance, and operation of vehicles out of account for Sergeant at Arms and Doorkeeper of the Senate within contingent fund of Senate; authorization of appropriations. 270.4

For each fiscal year (commencing with the fiscal year ending September 30, 1985) there is authorized to be appropriated to the account, within the contingent fund of the Senate, for the Sergeant at Arms and Doorkeeper of the Senate, such funds (which shall be in addition to funds authorized to be so appropriated for other purposes) as may be necessary for the purchase, lease, exchange, maintenance, and operation of vehicles as follows: one for the Vice President, one for the President pro tempore of the Senate, one for the Majority Leader of the Senate, one for the Minority Leader of the Senate, one for Majority Whip of the Senate, one for the Minority Whip of the Senate, one for the attending physician, one as authorized by Senate Resolution 90 of the 100th Congress, such number as is needed for carrying mails, and for official use of the offices of the Secretary of the Senate, the Sergeant at Arms and Doorkeeper of the Senate, the Secretary for the Majority, and the Secretary for the Minority, and such additional num-

ber as is otherwise specifically authorized by law. (Aug. 15, 1985, Pub. L. 99–88, Title I, § 192, 99 Stat. 349; Dec. 22, 1987, Pub. L. 100–202, § 3(a), 101 Stat. 1329–294.)

270.5 § 68–6. Transfers from appropriations accounts for expenses of the Office of the Secretary of the Senate and Office of the Sergeant at Arms and Doorkeeper of the Senate. 270.5

(a) The Secretary of the Senate is authorized, with the approval of the Senate Committee on Appropriations, to transfer, during any fiscal year (1) from the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Secretary of the Senate, such sums as he shall specify to the Senate appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Secretary" and (2) from the Senate appropriations account, appropriated under the headings, "Salaries, Officers and Employees" and "Office of the Secretary" to the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Secretary of the Senate, such sums as he shall specify; and any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account to which the funds are transferred.

(b) The Sergeant at Arms and Doorkeeper of the Senate is authorized, with the approval of the Senate Committee on Appropriations, to transfer, during any fiscal year, from the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, such sums as he shall specify to the appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Sergeant at Arms and Doorkeeper"; and any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account to which the funds are transferred. (Dec. 22, 1987, Pub. L. 100–202, § 101(i) [Title I, § 8], 101 Stat. 1329–295; Pub. L. 100–458, Title I, § 3, Oct. 1, 1988, 102 Stat. 2161, amended Pub. L. 101–302, Title II, § 317, May 25, 1990, 104 Stat. 247.)

HISTORICAL AND STATUTORY NOTES

1990 Amendment. Subsec. (a). Pub. L. 101–302 inserted reference to the transfer of sums from the Senate appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Secretary" to the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Secretary of the Senate.

Similar Provisions. Similar provisions were contained in the following prior appropriations Acts: Pub. L. 100–202, § 101(i) [Title I, § 8], Dec. 22, 1987, 101 Stat. 1329–295.

270.6 § 68–6a. Transfers from appropriations account for expenses of Office of Sergeant at Arms and Doorkeeper of Senate. 270.6

The Sergeant at Arms and Doorkeeper of the Senate is authorized, with the approval of the Senate Committee on Appropriations, to transfer, during any fiscal year, from the appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Sergeant at Arms and Doorkeeper" such sums as he shall specify to the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate; and any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account

to which the funds are transferred. (Pub. L. 101–520, Title I, § 5, Nov. 5, 1990, 104 Stat. 2258.)

270.7 § 68–7. Senate Office of Public Records Revolving Fund. **270.7**

(a) Establishment

There is established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the "Senate Office of Public Records Revolving Fund" (hereafter in this section referred to as the "revolving fund").

(b) Source of moneys for deposit in Fund; availability of moneys in Fund

All moneys received on and after October 1, 1989, by the Senate Office of Public Records from fees and other charges for services shall be deposited to the credit of the revolving fund. Moneys in the revolving fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate for use in connection with the operation of the Senate Office of Public Records including supplies, equipment, and other expenses.

(c) Vouchers

Disbursements from the revolving fund shall be made upon vouchers approved by the Secretary of the Senate.

(d) Regulations

The Secretary of the Senate is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

(e) Transfer of moneys into Fund

To provide capital for the revolving fund, the Secretary of the Senate is authorized to transfer, from moneys appropriated for fiscal year 1990 to the account, "Miscellaneous Items" in the contingent fund of the Senate, to the revolving fund such sum as he may determine necessary, not to exceed $30,000. (Pub. L. 101–163, Title I, § 13, Nov. 21, 1989, 103 Stat. 1047.)

271 § 68a. Materials, supplies, and fuel payments from Senate contingent fund. **271**

Payments from the contingent fund of the Senate for materials and supplies (including fuel) hereafter purchased through the Administrator of General Services shall be made by check upon vouchers approved by the Committee on Rules and Administration of the Senate. (July 8, 1935, ch. 374, § 1, 49 Stat. 463; Aug. 2, 1946, ch. 753, § 102, 60 Stat. 814; June 30, 1949, ch. 288, § 102, 63 Stat. 380.)

272 § 68b. Per diem and subsistence expenses from Senate contingent fund.[1] **272**

No part of the appropriations made under the heading "Contingent Expenses of the Senate" hereafter may be expended for per diem and subsistence expenses (as defined in section 5701 of title 5) at rates in excess of the rates prescribed by the Committee on Rules and Admin-

[1] Pursuant to the authority granted by section 68b the Committee on Rules and Administration issues "United States Senate Travel Regulations." Copies of the regulations currently in effect may be obtained from the Committee.

istration; except that (1) higher rates may be established by the Committee on Rules and Administration for travel beyond the limits of the continental United States, and (2) in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate, reimbursement for such expenses may be made on an actual expense basis of not to exceed the daily rate prescribed by the Committee on Rules and Administration in the case of travel within the continental limits of the United States. This paragraph shall not apply with respect to per diem or actual travel expenses incurred by Senators and employees in the office of a Senator which are reimbursed under section 58 of this title. (2 U.S.C. 58). (June 27, 1956, ch. 453, 70 Stat. 360; Aug. 14, 1961, Pub. L. 87–139, § 7, 75 Stat. 340; Nov. 10, 1969, Pub. L. 91–114, § 3, 83 Stat. 190; May 19, 1975, Pub. L. 94–22, § 8, 89 Stat. 86; Aug. 5, 1977, Pub. L. 95–94, Title I, § 112(e), 91 Stat. 664; Sept. 8, 1978, Pub. L. 95–355, Title I, § 103, 92 Stat. 533; July 8, 1980, Pub. L. 96–304, Title I, § 102(b), 94 Stat. 889.)

273 § 68c. Computation of compensation for stenographic assistance of committees payable from Senate contingent fund. 273

Compensation for stenographic assistance of committees paid out of the items under "Contingent Expenses of the Senate" hereafter shall be computed at such rates[2] and in accordance with such regulations as may be prescribed by the Committee on Rules and Administration, notwithstanding, and without regard to any other provision of law. (June 27, 1956, ch. 453, 70 Stat. 360.)

273.2 § 68e. Advance payments by Secretary of Senate. 273.2

(a) For fiscal year 1998, and each fiscal year thereafter, the Secretary of the Senate is authorized to make advance payments under a contract or other agreement to provide a service or deliver an article for the United States Government without regard to the provisions of section 3324 of title 31.

(b) An advance payment authorized by subsection (a) shall be made in accordance with regulations issued by the Committee on Rules and Administration of the Senate.

(c) The authority granted by subsection (a) shall not take effect until regulations are issued pursuant to subsection (b).

(Pub. L. 105–55, Title I, § 1, Oct. 7, 1997, 111 Stat. 1179.)

274 § 69. Expenses of committees payable from Senate contingent fund. 274

When any duty is imposed upon a committee involving expenses that are ordered to be paid out of the contingent fund of the Senate, upon vouchers to be approved by the chairman of the committee charged with such duty, the receipt of such chairman for any sum advanced to him or his order out of said contingent fund by the Secretary of the Senate for committee expenses not involving personal services shall be taken and passed by the accounting officers of the Government as a full and sufficient voucher; but it shall be the duty of such chairman, as soon as practicable, to furnish to the Secretary of the Senate vouchers

[2] Pursuant to the authority granted by section 68c the Committee on Rules and Administration issues "Regulations Governing Rates Payable to Commercial Reporting Firms for Reporting Committee Hearings in the Senate." Copies of the regulations currently in effect may be obtained from the Committee.

in detail for the expenses so incurred. (June 22, 1949, ch. 235, § 101, 63 Stat. 218.)

CROSS REFERENCE

Payments from contingent fund of Senate not to be made unless sanctioned, the vouchers of which are declared conclusive upon all departments of Government, see section 68 of this title (Senate Manual section 270).

274.4 § 69–1. Availability of funds for franked mail expenses. 274.4

Funds in the account, within the contingent fund of the Senate, available for the expenses of inquiries and investigations shall be available for franked mail expenses incurred by committees of the Senate the other expenses of which are paid from that account.
(Pub. L. 105–55, Title I, § 6(b), Oct. 7, 1997, 111 Stat. 1181.)

274.5 § 69a. Orientation seminars, etc. 274.5

Effective July 1, 1979, there is authorized an expense allowance for the Office of the Secretary of the Senate and the Office of Sergeant at Arms and Doorkeeper of the Senate which shall not exceed $10,000 each fiscal year for each such office. Payments made under this section shall be reimbursements only for actual expenses (including meals and food-related expenses) incurred in the course of conducting orientation seminars for Senators, Senate officials, or members of the staffs of Senators or Senate officials, and other similar meetings, in the Capitol Building or the Senate Office Buildings. Such payments shall be made upon certification and documentation of such expenses by the Secretary and Sergeant at Arms, respectively, and shall be made out of the contingent fund of the Senate upon vouchers signed by the Secretary and the Sergeant at Arms, respectively. Amounts received as reimbursement of such expenses shall not be reported as income, and the expenses so reimbursed shall not be allowed as a deduction, under title 26. (July 25, 1979, Pub. L. 96–38, Title I, § 107(a), 93 Stat. 112; Aug. 15, 1985, Pub. L. 99–88, § 193, 99 Stat. 349; Dec. 22, 1987, Pub. L. 100–202, § 6, 101 Stat. 1329–294; Pub. L. 102–392, Title I, § 3, Oct. 6, 1992, 106 Stat. 1706.)

274.6 § 69b. Senate Leader's Lecture Series. 274.6

(a) There is established the Senate Leader's Lecture Series (hereinafter referred to as the "lecture series"). Expenses incurred in connection with the lecture series shall be paid from the appropriations account "Secretary of the Senate" within the contingent fund of the Senate and shall not exceed $30,000 in any fiscal year.

(b) Payments for expenses in connection with the lecture series may cover expenses incurred by speakers, including travel, subsistence, and per diem, and the cost of receptions, including food, food related items, and hospitality.

(c) Payments for expenses of the lecture series shall be made on vouchers approved by the Secretary of the Senate.

(d) This section is effective on and after October 1, 1997.
(Pub. L. 105–275, Title I, § 5, Oct. 21, 1998, 112 Stat. 2433.)

275 § 72a. Committee staffs— 275

(a) Appointment of professional members; number, qualifications; termination of employment

(Made inapplicable by sec. 2 of S. Res. 274, 96th Congress.)

(b) Professional members for Committee on Appropriations; examinations of executive agencies' operations

(Made inapplicable with respect to the Senate by sec. 2 of S. Res. 274, 96th Congress.)

(c) Clerical employees; appointment; number, duties; termination of employment

(Made inapplicable by sec. 2 of S. Res. 274, 96th Congress.)

(d) Recordation of committee hearings, data, etc.; access to records

(Made inapplicable by sec. 2 of S. Res. 274, 96th Congress. For rule on same, see Senate Manual section **26.10a**.)

(e) Repealed

(f) Limitations on appointment of professional members

(Made inapplicable with respect to the Senate by sec. 2 of S. Res. 274, 96th Congress. For rule on same, see Senate Manual section **27.4**.)

(g) Appointments when no vacancy exists; payment from contingent fund of the Senate

(Made inapplicable by sec. 2 of S. Res. 274, 96th Congress.)

(h) Salary rates, assignments of facilities and accessibility of committee records for minority staff appointees

(Made inapplicable by sec. 2 of S. Res. 274, 96th Congress. For rule on same, see Senate Manual section **27.1**.)

275.9 (i) Consultants for Senate and House standing committees; procurement of temporary or intermittent services; contracts; advertisement requirements inapplicable; selection method; qualifications report to congressional committees 275.9

(1) Each standing committee of the Senate or House of Representatives is authorized, with the approval of the Committee on Rules and Administration in the case of standing committees of the Senate, or the Committee on House Oversight in the case of standing committees of the House of Representatives, within the limits of funds made available from the contingent fund of the Senate or the applicable accounts of the House of Representatives pursuant to resolutions, which, in the case of the Senate, shall specify the maximum amounts which may be used for such purpose, approved by the appropriate House, to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, to make studies or advise the committee with respect to any matter within its jurisdiction or with respect to the administration of the affairs of the committee.

(2) Such services in the case of individuals or organizations may be procured by contract as independent contractors, or in the case of individuals by employment at daily rates of compensation not in excess of the per diem equivalent of the highest gross rate of compensation

which may be paid to a regular employee of the committee. Such contracts shall not be subject to the provisions of section 5 of title 41 or any other provision of law requiring advertising.

(3) With respect to the standing committees of the Senate, any such consultant or organization shall be selected by the chairman and ranking minority member of the committee, acting jointly. With respect to the standing committees of the House of Representatives, the standing committee concerned shall select any such consultant or organization. The committee shall submit to the Committee on Rules and Administration in the case of standing committees of the Senate, and the Committee on House Oversight in the case of standing committees of the House of Representatives, information bearing on the qualifications of each consultant whose services are procured pursuant to this subsection, including organizations, and such information shall be retained by that committee and shall be made available for public inspection upon request.

275.10 (j) Specialized training for professional staffs of Senate and House standing committees, Senate Appropriations Committee, Senate Majority and Minority Policy Committees, and joint committees whose funding is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House; assistance: pay, tuition, etc. while training; continued employment agreement; service credit: retirement, life insurance and health insurance 275.10

(1) Each standing committee of the Senate or House of Representatives is authorized, with the approval of the Committee on Rules and Administration in the case of standing committees of the Senate, and the committee involved in the case of standing committees of the House of Representatives, and within the limits of funds made available from the contingent fund of the Senate or the applicable accounts of the House of Representatives pursuant to resolutions, which, in the case of the Senate, shall specify the maximum amounts which may be used for such purpose, approved by the appropriate House, to provide assistance for members of its professional staff in obtaining specialized training, whenever that committee determines that such training will aid the committee in the discharge of its responsibilities. Any joint committee of the Congress whose expenses are paid out of funds disbursed by the Secretary of the Senate or by the Chief Administrative Officer of the House, the Committee on Appropriations of the Senate, and the Majority Policy Committee and Minority Policy Committee of the Senate are each authorized to expend, for the purpose of providing assistance in accordance with paragraphs (2), (3), and (4) of this subsection for members of its staff in obtaining such training, any part of amounts appropriated to that committee.

(2) Such assistance may be in the form of continuance of pay during periods of training or grants of funds to pay tuition, fees, or such other expenses of training, or both, as may be approved by the Committee on Rules and Administration or the Committee on House Administration, as the case may be.

(3) A committee providing assistance under this subsection shall obtain from any employee receiving such assistance such agreement with respect to continued employment with the committee as the committee

may deem necessary to assure that it will receive the benefits of such employee's services upon completion of his training.

(4) During any period for which an employee is separated from employment with a committee for the purpose of undergoing training under this subsection, such employee shall be considered to have performed service (in a nonpay status) as an employee of the committee at the rate of compensation received immediately prior to commencing such training (including any increases in compensation provided by law during the period of training) for the purposes of—

(A) subchapter III (relating to civil service retirement) of chapter 83 of title 5,

(B) chapter 87 (relating to Federal employees group life insurance) of title 5, and

(C) chapter 89 (relating to Federal employees group health insurance) of title 5. (Aug. 2, 1946, ch. 753, § 202, 60 Stat. 834; July 30, 1947, ch. 361, § 101, 61 Stat. 611; Feb. 24, 1949, ch. 8, 63 Stat. 6; Aug. 5, 1955, ch. 568, § 12, 69 Stat. 509; June 20, 1958, Pub. L. 85–462, § 4(o), 72 Stat. 209; Oct. 26, 1970, Pub. L. 91–510, §§ 301, 303–304, 84 Stat. 1175; Oct. 11, 1971, Pub. L. 92–136, § 5, 85 Stat. 378; Oct. 1, 1988, Pub. L. 100–458, § 312, 102 Stat. 2184 Pub. L. 104–186, Title II, § 204(10–11), Aug. 20, 1996, 110 Stat. 1731; Pub. L. 105–55, Title I, § 105(a), Oct. 7, 1997, 111 Stat. 1184.)

277 § 72a–1e. Assistance to Senators with committee memberships by employees in office of Senator. 277

(1) A Senator may designate employees in his office to assist him in connection with his membership on committees of the Senate. An employee may be designated with respect to only one committee.

(2) An employee designated by a Senator under this section shall be certified by him to the chairman and ranking minority member of the committee with respect to which such designation is made. Such employee shall be accorded all privileges of a professional staff member (whether permanent or investigatory) of such committee including access to all committee sessions and files, except that any such committee may restrict access to its sessions to one staff member per Senator at a time and require, if classified material is being handled or discussed, that any staff member possess the appropriate security clearance before being allowed access to such material or to discussion of it. Nothing contained in this paragraph shall be construed to prohibit a committee from adopting policies and practices with respect to the application of this section which are similar to the policies and practices adopted with respect to the application of section 705(c)(1) of Senate Resolution 4, 95th Congress, and section 72a–1d(c)(1) of this title.

(3) A Senator shall notify the chairman and ranking minority member of a committee whenever a designation of an employee under this section with respect to such committee is terminated. (Pub. L. 95–94, Title I, § 111(c), Aug. 5, 1977, 91 Stat. 662.)

278 § 72a–1g. Referral of ethics violations by the Senate Ethics Committee to the General Accounting Office for investigation. 278

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. (Pub. L. 101–194, Title V, § 501, Nov. 30, 1989, 103 Stat. 1753.)

278.1 § 72d. Committee on Appropriations; discretionary powers. 278.1

(a) The Committee on Appropriations is authorized in its discretion—

(1) to hold hearings, report such hearings, and make investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate;

(2) to make expenditures from the contingent fund of the Senate;

(3) to employ personnel;

(4) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration to use, on a reimbursable or nonreimbursable basis, the services of personnel of any such department or agency;

(5) to procure the services of individual consultants, or organizations thereof (as authorized by section 72a(i) of this title and Senate Resolution 140, agreed to May 14, 1975); and

(6) to provide for the training of the professional staff of such committee (under procedures specified by section 72a(j) of this title).

(b) Senate Resolution 54, agreed to February 13, 1997, is amended by striking section 4.

(c) This section shall be effective on and after October 1, 1998, or the date of enactment of this Act (October 21, 1998), whichever is later. (Pub. L. 105–275, Title I, § 10, Oct. 21, 1998, 112 Stat. 2435.)

278.2 § 72d–1. Transfer of funds from the appropriation accounts for salaries or expenses for the Appropriations Committee of the Senate. 278.2

(a)(1) The Chairman of the Appropriations Committee of the Senate may, during any fiscal year, at his or her election transfer funds from the appropriation account for salaries for the Appropriations Committee of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable for such committee.

(2) The Chairman of the Appropriations Committee of the Senate may, during any fiscal year, at his or her election transfer funds from the appropriation account for expenses, within the contingent fund of the Senate, for the Appropriations Committee of the Senate, to the account from which salaries are payable for such committee.

(b) Any funds transferred under this section shall be—

(1) available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account to which the funds were transferred; and

(2) made at such time or times as the Chairman shall specify in writing to the Senate Disbursing Office.

(c) This section shall take effect on October 1, 1998, and shall be effective with respect to fiscal years beginning on or after that date. (Pub. L. 105–275, Title I, § 11, Oct. 21, 1998, 112 Stat. 2435.)

280 § 74b. Employment of additional administrative assistants. 280

The Secretary of the Senate is authorized to employ such administrative assistants as may be necessary in order to carry out the provisions of this Act under the jurisdiction of the Secretary. (Aug. 2, 1946, ch. 753, § 244, 60 Stat. 839; Aug. 20, 1996, Pub. L. 104–186, Title II, § 204(18), 110 Stat. 1732.)

281 § 88a. Education of Congressional and Supreme Court pages; appropriations; attendance at private or parochial schools. Repealed. (Pub. L. 104–186, Title II, § 204(34)(A), Aug. 20, 1996, 110 Stat. 1734.) 281

282 § 88b. Education of other minors who are Senate employees. 282

The facilities provided for the education of Congressional and Supreme Court pages shall be available from and after January 2, 1947, also for the education of such other minors who are Senate employees as may be certified by the Secretary of the Senate to receive such education. (Mar. 22, 1947, ch. 20, Title I, 61 Stat. 16; Pub. L. 98–367, Title I, § 103, July 17, 1984, 98 Stat. 479; Pub. L. 104–186, Title II, § 204(35), Aug. 20, 1996, 110 Stat. 1735.)

283 § 88b–1. Congressional pages. 283

(a) Appointment conditions

A person shall not be appointed as a page of the Senate or House of Representatives—

(1) unless he agrees that, in the absence of unforeseen circumstances preventing his service as a page after his appointment, he will continue to serve as a page for a period specified in writing at the time of the appointment; and

(2) until complete information in writing is transmitted to his parent or parents, his legal guardian, or other appropriate person or persons acting as his parent or parents, with respect to the nature of the work of pages, their pay, their working conditions (including hours and scheduling of work), and the housing accommodations available to pages.

(b) Qualifications

A person shall not serve as a page—

(1) of the Senate before he has attained the age of fourteen years; or

(2) of the House of Representatives before he has attained the age of sixteen years.

(Pub. L. 91–510, Title IV, § 491(a)–(d), Oct. 26, 1970, 84 Stat. 1198; Pub. L. 97–51, § 101(c), 123, Oct. 1, 1981, 95 Stat. 959, 965; Pub. L. 104–186, Title II, § 204(36), Aug. 20, 1996, 110 Stat. 1735.)

CODIFICATION

Repeal of subsecs. (c) and (d) of this section is based on section 304(a) of H.R. 4120, as reported July 9, 1981, which was enacted into permanent law by section 101(c) of Pub. L. 97–51 and amended by section 123 of Pub. L. 97–51.)

284 § 88b–7. Daniel Webster Senate Page Residence Revolving Fund 284

(a) Establishment.

There is established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the Daniel Webster Senate Page Residence Revolving Fund (hereafter referred to in this section as the "fund"). The fund shall consist of all rental payments and other moneys collected or received by the Sergeant at Arms with regard to the Daniel Webster Senate Page Residence. All moneys in the fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate in connection with operation and maintenance of the Daniel Webster Senate Page Residence not normally performed by the Architect of the Capitol. In addition, such moneys may be used by the Sergeant at Arms to purchase food and food related items and fund activities for the pages.

(b) Deposit of moneys

All moneys received from rental payments and other moneys (including donated moneys) collected or received by the Sergeant at Arms with regard to the Daniel Webster Senate Page Residence shall be deposited in the fund and shall be available for purposes of this section.

(c) Vouchers

Disbursements from the fund shall be made upon vouchers approved by the Sergeant at Arms, or the designee of the Sergeant at Arms.

(d) Regulations

The Sergeant at Arms is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section and to provide for the operations of the Daniel Webster Senate Page Residence. (Pub. L. 103–283, Title I, § 4, July 22, 1994, 108 Stat. 1427; Pub. L. 104–53, Title I, § 6, Nov. 19, 1995, 109 Stat. 518.)

285 § 101. Subletting duties of employees of Senate or House of Representatives. 285

No employee of Congress, either in the Senate or House, shall sublet to, or hire, another to do or perform any part of the duties or work attached to the position to which he was appointed. (Mar. 2, 1895, ch. 177, § 1, 28 Stat. 771.)

287 § 102a. Withdrawal of unexpended balances of appropriations. 287

Notwithstanding the provisions of any other law, the unexpended balances of appropriations for the fiscal year 1955 and succeeding fiscal years which are subject to disbursement by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives shall be withdrawn as of June 30 of the second fiscal year following the year for which provided, except that the unexpended balances of such appropriations for the period commencing on July 1, 1976, and ending on September 30, 1976, and for each fiscal year beginning on or after October 1, 1976, shall be withdrawn as of September 30 of the second fiscal year following the period or year for which provided. Unpaid obligations chargeable to any of the balances so withdrawn or appropriations for prior years shall be liquidated from any appropriations for the same general purpose, which, at the time of payment, are available for disbursement. (June 21, 1957, Pub. L. 85–58, 71 Stat.

190; June 1, 1976, Pub. L. 94–303, § 118, 90 Stat. 615; Pub. L. 104–186, Title II, § 204 (53), Aug. 20, 1996, 110 Stat. 1737.)

288 § 104a. Semiannual statements of expenditures by Secretary of Senate and Chief Administrative Officer of House. 288

(1) Commencing with the semiannual period beginning on July 1, 1964, and ending on December 31, 1964, and for each semiannual period thereafter, the Secretary of the Senate and the Chief Administrative Officer of the House of Representatives shall compile, and, not later than sixty days following the close of the semiannual period, submit to the Senate and House of Representatives, respectively, and make available to the public, in lieu of the reports and information required by sections 102, 103, and 104 of this title, and S. Res. 139, Eighty-sixth Congress, a report containing a detailed statement, by items, of the manner in which appropriations and other funds available for disbursement by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives, as the case may be, have been expended during the semiannual period covered by the report, including (1) the name of every person to whom any part of such appropriation has been paid, (2) if for anything furnished, the quantity and price thereof, (3) if for services rendered, the nature of the services, the time employed, and the name, title, and specific amount paid to each person, and (4) a complete statement of all amounts appropriated, received, or expended, and any unexpended balances. Such reports shall include the information contained in statements of accountability and supporting vouchers submitted to the General Accounting Office pursuant to the provisions of section 3523(a) of title 31. Notwithstanding the foregoing provisions of this section, in any case in which the voucher or vouchers covering payment to any person for attendance as a witness before any committee of the Senate or House of Representatives, or any subcommittee thereof, during any semiannual period, indicate that all appearances of such person covered by such voucher or vouchers were as a witness in executive session of the committee or subcommittee, information regarding such payment, except for date of payment, voucher number, and amount paid, shall not be included in the report compiled pursuant to this subsection for such semiannual period. Any information excluded from a report for any semiannual period by reason of the foregoing sentence shall be included in the report compiled pursuant to this subsection for the succeeding semiannual period. Reports required to be submitted to the Senate and the House of Representatives under this section shall be printed as Senate and House documents, respectively.

(2) The report by the Secretary of the Senate under paragraph (1) for the semiannual period beginning on January 1, 1976, shall include the period beginning on July 1, 1976, and ending on September 30, 1976, and such semiannual period shall be treated as closing on September 30, 1976. Thereafter, the report by the Secretary of the Senate under paragraph (1) shall be for the semiannual periods beginning on October 1, and ending on March 31 and beginning on April 1 and ending on September 30 of each year.

(3) The report requirement relating to quantity, as contained in subparagraph (2) of paragraph (1), does not apply with respect to the Senate.

(4) Each report by the Secretary of the Senate required by paragraph (1) shall contain a separate summary of Senate accounts statement for each office of the Senate authorized to obligate appropriated funds, including each Senator's office, each officer of the Senate, and each committee of the Senate. The summary of Senate accounts statement shall include—

(A) the total amount of appropriations made available or allocated to the office;

(B) any supplemental appropriation, transfer of funds, or rescission and the effect of such action on the appropriation or allocation to the office;

(C) total expenses incurred for salary and office expenses; and

(D) the unexpended balance. (Pub. L. 88–454, § 105(a), Aug. 20, 1964, 78 Stat. 550; Pub. L. 88–656, Oct. 13, 1964, 78 Stat. 1088; Pub. L. 94–303, Title I, § 118(b)(1), June 1, 1976, 90 Stat. 615; Pub. L. 102–392, Title I, § 6, Oct. 6, 1992, 106 Stat. 1707; Pub. L. 103–283, Title I, § 3(a), July 22, 1994, 108 Stat. 1426; Pub. L. 104–186, Title II, § 204(54), Aug. 20, 1996, 110 Stat. 1738.)

290 § 105. Preparation and contents of statement of appropriations. 290

The statement of all appropriations made during each session of Congress shall be prepared under the direction of the Committees on Appropriations of the Senate and House of Representatives, and said statement shall contain a chronological history of the regular appropriation bills passed during the session for which it is prepared. The statement shall indicate the amount of contracts authorized by the appropriation Acts in addition to appropriations made therein, and shall also contain specific reference to all indefinite appropriations made each session and shall contain such additional information concerning estimates and appropriations as the committees may deem necessary. (Oct. 19, 1888, ch. 1210, § 1, 25 Stat. 587; July 19, 1897, ch. 9, § 1, 30 Stat. 136; June 7, 1924, ch. 303, § 1, 43 Stat. 586.)

291 § 106. Stationery for Senate; advertisements for. 291

The Secretary of the Senate shall annually advertise, once a week for at least four weeks, in one or more of the principal papers published in the District of Columbia, for sealed proposals for supplying the Senate during the next session of Congress with the necessary stationery. The advertisement must describe the kind of stationery required, and must require the proposals to be accompanied with sufficient security for their performance. (R.S. § 65, 66; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 316; Pub. L. 104–186, Title II, § 204(55), Aug. 20, 1996, 110 Stat. 1738.)

292 § 107. Opening bids for Senate and House stationery; awarding contracts. 292

All such proposals shall be kept sealed until the day specified in such advertisement for opening the same, when the same shall be opened in the presence of at least two persons, and the contract shall be given to the lowest bidder, provided he shall give satisfactory security to perform the same, under a forfeiture not exceeding double the contract price in case of failure; and in case the lowest bidder shall fail to enter into such contract and give such security, within a time to be fixed in such advertisement, then the contract shall be given to the next lowest bidder, who shall enter into such contract, and give such

security. And in case of failure by the person entering into such contract to perform the same, he and his sureties shall be liable for the forfeiture specified in such contract, as liquidated damages, to be sued for in the name of the United States. (R.S. § 67; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 316.)

293 § 108. Contracts for separate parts of stationery. 293

Sections 106 and 107 of this title shall not prevent the Secretary from contracting for separate parts of the supplies of stationery required to be furnished. (R.S. § 68, Pub. L. 104–186, Title II, Sec. 204(56), Aug. 20, 1996, 110 Stat. 1738.)

CROSS REFERENCE

See note under section 106 of this title (Senate Manual section **291**).

294 § 109. American goods to be preferred in purchases for Senate and House of Representatives. 294

The Secretary of the Senate and the Chief Administrative Officer of the House of Representatives shall, in disbursing the public moneys for the use of the two Houses, respectively, purchase only articles the growth and manufacture of the United States, provided the articles required can be procured of such growth and manufacture upon as good terms as to quality and price as are demanded for like articles of foreign growth and manufacture. (R.S. § 69; Aug. 20, 1996, Pub. L. 104–186, Title II, § 204(57), 110 Stat. 1738.)

295 § 110. Purchase of paper, envelopes, etc., for stationery rooms of Senate and House of Representatives. 295

Paper, envelopes, and blank books required by the stationery rooms of the Senate and House of Representatives for sale to Senators and Members for official use may be purchased from the Public Printer at actual cost thereof and payment therefor shall be made before delivery. (June 5, 1920, ch. 253, § 1, 41 Stat. 1036.)

296 § 111. Purchase of supplies for Senate and House of Representatives. 296

Supplies for use of the Senate and the House of Representatives may be purchased in accordance with the schedule of contract articles and prices of the Administrator of General Services. (June 5, 1920, ch. 253, § 1, 41 Stat. 1036; June 10, 1933, Ex. Ord. No. 6166, § 1; June 30, 1949, ch. 288, § 102, 63 Stat. 380.)

296.1 § 111a. Receipts from sales of items by Sergeant at Arms and Doorkeeper of Senate, to Senators, etc., to be credited to appropriation from which purchased. 296.1

In any case in which appropriated funds are used by a Senator or a committee or office of the Senate to purchase from the Sergeant at Arms and Doorkeeper of the Senate items which were purchased by him from the appropriation for "miscellaneous items" under "Contingent Expenses of the Senate" in any appropriation Act, the amounts received by the Sergeant at Arms and Doorkeeper shall be deposited in the Treasury of the United States for credit to such appropriation. This section does not apply to amounts received from the sale of used or

surplus furniture and equipment. (Pub. L. 96–214, Mar. 24, 1980, 94 Stat. 122.)

297 § 112. Purchases of stationery and materials for folding. **297**

Purchases of stationery and materials for folding shall be made in accordance with sections 106–109 of this title.

All contracts and bonds for purchases made under the authority of this section shall be filed with the Committee on Rules and Administration of the Senate. (Mar. 3, 1887, ch. 392, § 1, 24 Stat. 596; Aug. 2, 1946, ch. 753, §§ 102, 121, 60 Stat. 814, 822; Aug. 20, 1996, Pub. L. 104–186, Title II, § 204(58), 110 Stat. 1738.)

298 § 113. Detailed reports of receipts and expenditures by Secretary of Senate and Chief Administrative Officer of House of Representatives.[1] **298**

The Secretary of the Senate and the Chief Administrative Officer of the House of Representatives, respectively, shall report to Congress on the first day of each regular session, and at the expiration of their terms of service, a full and complete statement of all their receipts and expenditures as such officers, showing in detail the items of expense, classifying them under the proper appropriations, and also showing the aggregate thereof, and exhibiting in a clear and concise manner the exact condition of all public moneys by them received, paid out, and remaining in their possession as such officers. (R.S. § 70; Aug. 20, 1996, Pub. L. 104–186, Title II § 204(60), 110 Stat. 1738.)

299 § 114. Fees for copies from Senate journals. **299**

The Secretary of the Senate is entitled, for transcribing and certifying extracts from the Journal of the Senate or the executive Journal of the Senate when the injunction of secrecy has been removed, except when such transcripts are required by an officer of the United States in a matter relating to the duties of his office, to receive from the persons for whom such transcripts are prepared the sum of 10 cents for each sheet containing one hundred words. (R.S. § 71; Pub. L. 104–186, Title II, § 204(61), Aug. 20, 1996, 110 Stat. 1738.)

300 § 117. Sale of waste paper and condemned furniture. **300**

It shall be the duty of the Secretary and Sergeant at Arms of the Senate to cause to be sold all waste paper and useless documents and condemned furniture that may accumulate, in their respective departments or offices, under the direction of the Committee on Rules and Administration of the Senate and cover the proceeds thereof into the Treasury. (Aug. 7, 1882, ch. 433, § 1, 22 Stat. 337; May 29, 1928, ch. 901, § 1(122), 45 Stat. 995; Pub. L. 104–186, Title II, § 204(62), Aug. 20, 1996, 110 Stat. 1739.)

117b. Disposal of used or surplus furniture and equipment.

Effective October 1, 1981, the Sergeant at Arms and Doorkeeper of the Senate is authorized to dispose of used or surplus furniture and equipment by trade-in or by sale directly or through the General Services Administration. Receipts from the sale of such furniture and equipment shall be deposited in the United States Treasury for credit to the appro-

[1] Superseded by section 105(a) of Pub. L. 88–454, Aug. 20, 1964, 78 Stat. 550, as amended. See Senate Manual section **288**.

priation for "Miscellaneous Items" under the heading "Contingent Expenses of the Senate". (Oct. 1, 1981, Pub. L. 97–51, § 118, 95 Stat. 964.)

§ 117b–1. Receipts from sale of used or surplus furniture and furnishings of Senate.

On and after October 1, 1982, receipts from the sale of used or surplus furniture and finishings shall be deposited in the United States Treasury for credit to the appropriation for "Senate Office Buildings" under the heading "Architect of the Capitol." (Oct. 2, 1982, Pub. L. 97–276, § 101(e), 96 Stat. 1189.)

300.1 § 117b–2. Transfer of excess or surplus educationally useful equipment to public schools. 300.1

(a) Authorization

The Sergeant at Arms and Doorkeeper of the Senate may directly, or through the General Services Administration, transfer title to excess or surplus educationally useful equipment to a public school. Any such transfer shall be completed at the lowest possible cost to the public school and the Senate.

(b) Regulations

The Committee on Rules and Administration of the Senate shall prescribe regulations to carry out the provisions of this section.

(c) Deposit of receipts

Receipts from reimbursements for the costs of transfer of excess or surplus educationally useful equipment under this section, shall be deposited in the United States Treasury for credit to the account for the "Sergeant at Arms and Doorkeeper of the Senate" within the contingent fund of the Senate.

(d) Definitions

For the purposes of this section:

(1) The term "public school" means a public elementary or secondary school as such terms are defined in section 8801 of title 20.

(2) The term "educationally useful equipment" means computers and related peripheral tools, including printers, modems, routers, servers, computer keyboards, scanners, and other telecommunications and research equipment, that are appropriate for use in public school education.

(e) Effective date

This section shall take effect beginning with fiscal year 1997 and shall be effective each fiscal year thereafter. (Pub. L. 104–197, Title I, § 5, Sept. 16, 1996, 110 Stat. 2397.)

301 § 118. Actions against officers for official acts.[1] 301

In any action brought against any person for or on account of anything done by him while an officer of either House of Congress in the discharge of his official duty, in executing any order of such House, the United

[1] Rule 69(b) of Federal Rules of Civil Procedure provides as to judgments against public officers.

States attorney for the district within which the action is brought, on being thereto requested by the officer sued, shall enter an appearance in behalf of such officer; and all provisions of the eighth section of the Act of July 28, 1866, entitled "An Act to protect the revenue, and for other purposes", and also all provisions of the sections of former Acts therein referred to, so far as the same relate to the removal of suits, the withholding of executions, and the paying of judgments against revenue or other officers of the United States, shall become applicable to such action and to all proceedings and matters whatsoever connected therewith, and the defense of such action shall thenceforth be conducted under the supervision and direction of the Attorney General. (Mar. 3, 1875, ch. 130, § 8, 18 Stat. 401; June 25, 1948, ch. 646, § 1, 62 Stat. 909.)

301.5 § 118a. Officers of Senate. **301.5**

Section 118 of this title shall not apply to officers of the Senate. (Pub. L. 95–521, Title VII, § 714(d), Oct. 26, 1978, 92 Stat. 1884.)

302 § 119. Stationery rooms of House and Senate; specifications of classes of articles purchasable. **302**

The Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate, respectively, shall make and issue regulations specifying the classes of articles which may be purchased by or through the stationery rooms of the House and Senate. (May 13, 1926, ch. 294, § 2, 44 Stat. 552; Aug. 2, 1946, ch. 753, §§ 102, 121, 60 Stat. 814, 822; Aug. 20, 1996, Pub. L. 104–186, Title II, § 204(65), 110 Stat. 1739.)

304 § 121. Senate restaurant for deficit fund; deposits of proceeds from surcharge on orders. **304**

The Committee on Rules and Administration of the United States Senate is authorized and directed hereafter to add a minimum of 10 per centum to each order in excess of 10 cents served in the Senate restaurants and 20 per centum to all orders served outside of said restaurants, and the proceeds accruing therefrom shall be placed in a fund to be used in the payment of any deficit incurred in the management of such kitchens and restaurants. (May 18, 1937, ch. 223, § 1, 50 Stat. 173; Aug. 2, 1946, ch. 753, § 102, 60 Stat. 814.)

CROSS REFERENCE

For jurisdiction over, and management of, Senate restaurants, see section 174j–1 of title 40, United States Code (Senate Manual section **518**).

304.5 § 12lb–1. Senate Hair Care Services; personnel; revolving fund. **304.5**

(a) The Sergeant at Arms and Doorkeeper of the Senate is authorized to appoint and fix the compensation of such employees as may be necessary to operate Senate Hair Care Services.

(b) There is established in the Treasury of the United States within the contingent fund of the Senate a revolving fund to be known as the Senate Hair Care Services Revolving Fund (hereafter in this section referred to as the "revolving fund").

(c)(1) All moneys received by Senate Hair Care Services from fees for services or from any other source shall be deposited in the revolving fund.

(2) Moneys in the revolving fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate—

(A) for the payment of salaries and agency contributions of employees of Senate Hair Care Services; and

(B) for necessary supplies, equipment, and other expenses of Senate Hair Care Services.

(3) The provisions of section 193(d) of title 40, except for the provisions relating to solicitation, shall not apply to any activity carried out pursuant to this section, subject to approval of such activities by the Committee on Rules and Administration.

(d) Disbursements from the revolving fund shall be made upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate, except that vouchers shall not be required for the disbursement of salaries paid at an annual rate.

(e) At the direction of the Committee on Rules and Administration, the Secretary of the Senate shall withdraw from the revolving fund and deposit in the Treasury of the United States as miscellaneous receipts all moneys in the revolving fund that the Committee may determine are in excess of the current and reasonably foreseeable needs of Senate Hair Care Services.

(f) The Sergeant at Arms and Doorkeeper of the Senate are authorized to prescribe such regulations as may be necessary to carry out the provisions of this section, subject to the approval of the Committee on Rules and Administration.

(g) There is transferred to the revolving fund established by this section any unobligated balance in the fund established by section 121a of this title on the effective date of this section.

(h) Omitted.

(i) This section shall be effective on and after October 1, 1998, or 30 days after the enactment of this Act (October 21, 1998), whichever is later.

(Pub. L. 105–275, Title I, § 6, Oct. 21, 1998, 112 Stat. 2434; Pub. L. 106–57, Title I, § 4, Sept. 29, 1999, 113 Stat. 412.)

304.7 § 121c. Office of Senate Health Promotion. 304.7

(a) Establishment

The Sergeant at Arms and Doorkeeper of the Senate is authorized to establish an Office of Senate Health Promotion.

(b) Fees, assessments, and charges

(1) In carrying out this section, the Sergeant at Arms and Doorkeeper of the Senate is authorized to establish, or provide for the establishment of, exercise classes and other health services and activities on a continuing and regular basis. In providing for such classes, services, and activities, the Sergeant at Arms and Doorkeeper of the Senate is authorized to impose and collect fees, assessments, and other charges to defray the costs involved in promoting the health of Members, officers, and employees of the Senate. For purposes of this section, the term "employees of the Senate" shall have such meaning as the Sergeant at Arms, by regulation, may prescribe.

(2) All fees, assessments, and charges imposed and collected by the Sergeant at Arms pursuant to paragraph (1) shall be deposited in the

revolving fund established pursuant to subsection (c) of this section and shall be available for purposes of this section.

(c) Senate Health Promotion Revolving Fund

There is established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the Senate Health Promotion Revolving Fund (hereinafter referred to in this section as the "fund"). The fund shall consist of all amounts collected or received by the Sergeant at Arms and Doorkeeper of the Senate as fees, assessments, and other charges for activities and services to carry out the provisions of this section. All moneys in the fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate for promoting the health of Members, officers, and employees of the Senate. On or before December 31 of each year, the Secretary of the Senate shall withdraw from the fund and deposit in the Treasury of the United States as miscellaneous receipts all moneys in excess of $5,000 in the fund at the close of the preceding fiscal year.

(d) Vouchers

Disbursements from the revolving fund shall be made upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate.

(e) Inapplicability of provisions prohibiting sales, advertisements, or solicitations in Capitol grounds

The provisions of section 193d of title 40 shall not be applicable to any class, service, or other activity carried out pursuant to the provisions of this section.

(f) Regulations

The provisions of this section shall be carried out in accordance with regulations which shall be promulgated by the Sergeant at Arms and Doorkeeper of the Senate and subject to approval at the beginning of each Congress by the Committee on Rules and Administration of the Senate. (Pub. L. 101–163, Title I, § 4, Nov. 21, 1989, 103 Stat. 1044; Pub. L. 102–90, § 2, Aug. 14, 1991, 105 Stat. 450.)

304.8 § 121d. Senate Gift Shop. **304.8**

(a) Establishment

The Secretary of the Senate is authorized to establish a Senate Gift Shop for the purpose of providing for the sale of gift items to Members of the Senate, staff, and the general public.

(b) Deposit of receipts

All moneys received from sales and other services by the Senate Gift Shop shall be deposited in the revolving fund established by subsection (c) of this section and shall be available for purposes of this section.

(c) Revolving fund

There is established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the Senate Gift Shop Revolving Fund (hereafter referred to in this section as the "fund"). The fund shall consist of all amounts collected or received by the Secretary of the Senate from sales and services by the Senate Gift Shop. All moneys in the fund shall be available without fiscal

year limitation for disbursement by the Secretary of the Senate in connection with the operation of the Senate Gift Shop, including supplies, equipment, and other expenses. In addition, such moneys may be used by the Secretary of the Senate to reimburse the Senate appropriations account, appropriated under the heading "SALARIES, OFFICERS AND EMPLOYEES" and "OFFICE OF THE SECRETARY", for amounts used from such account to pay the salaries of employees of the Senate Gift Shop.

(d) Exception to prohibition of sale or solicitation on Capitol Grounds

The provisions of section 193d of title 40 shall not be applicable to any activity carried out pursuant to this section.

(e) Transfer of moneys from Stationery Revolving Fund

To provide capital for the fund, the Secretary of the Senate is authorized to transfer, from moneys in the Stationery Revolving Fund in the contingent fund of the Senate, to the fund such sum as he may determine necessary, not to exceed $300,000.

(f) Authorization to expend from appropriations account for initial expenses

For the purpose of acquiring supplies, equipment, and meeting other initial expenses in implementing subsection (a) of this section, the Secretary of the Senate is authorized, upon October 6, 1992, to expend, from moneys appropriated to the appropriations account, within the contingent fund of the Senate, for expenses of the Secretary of the Senate, by the Legislative Branch Appropriations Act, 1991, such amounts as may be necessary to carry out this section.

(g) Disbursement on approved voucher

Disbursements from the fund shall be made upon vouchers approved by the Secretary of the Senate, or his designee.

(h) Regulations

The Secretary of the Senate is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section. (Pub. L. 102–392, Title I, § 2, Oct. 6, 1992, 106 Stat. 1706.)

304.9 § 121e. Payment of fees for services of Attending Physician and for use of Senate health and fitness facilities. 304.9

(a) Regulations

The Senate Committee on Rules and Administration shall promulgate regulations—

(1) pertaining to the services provided by the Attending Physician and the operation and use of the Senate health and fitness facilities; and

(2) requiring the payment of fees for services received from the Attending Physician and for the use of the Senate health and fitness facilities pursuant to such regulations.

(b) Withholding of fees from salary

The Secretary of the Senate is authorized to withhold fees from the salary of an individual authorized by such regulations to receive such services from the Attending Physician and to use the Senate health and fitness facilities.

(c) Deposit in General Fund

The Secretary of the Senate shall remit all fees required by subsection (a)(2) of this section that are collected pursuant to subsection (b) of this section or by direct payment to the General Fund of the Treasury as miscellaneous receipts unless otherwise provided by law.

(d) Effective date

The provision of this section shall take effect on April 9, 1992. (Pub. L. 102–392, Title III, § 314, Oct. 6, 1992, 106 Stat. 1723.)

305 § 123b. House Recording Studio; Senate Recording Studio and Senate Photographic Studio. 305

(a) Establishment

There is established the House Recording Studio, the Senate Recording Studio, and the Senate Photographic Studio.

(b) Assistance in making disk, film, and tape recordings; exclusiveness of use

The House Recording Studio shall assist Members of the House of Representatives in making disk, film, and tape recordings, and in performing such other functions and duties in connection with the making of such recordings as may be necessary. The Senate Recording Studio and the Senate Photographic Studio shall assist Members of the Senate and committees of the Senate in making disk, film, and tape recordings, and in performing such other functions and duties in connection with the making of such recordings as may be necessary. The House Recording Studio shall be for the exclusive use of Members of the House of Representatives (including the Delegates and the Resident Commissioner from Puerto Rico); the Senate Recording Studio and the Senate Photographic Studio shall be for the exclusive use of Members of the Senate, the Vice President, committees of the Senate, the Secretary of the Senate, and the Sergeant at Arms of the Senate.

(c) Operation of studios

The House Recording Studio shall be operated by the Chief Administrative Officer of the House of Representatives under the direction and control of a committee which is created (hereinafter referred to as the committee) composed of three Members of the House. Two members of the committee shall be from the majority party and one member shall be from the minority party, to be appointed by the Speaker. The committee is authorized to issue such rules and regulations relating to operation of the House Recording Studio as it may deem necessary.

The Senate Recording Studio and the Senate Photographic Studio shall be operated by the Sergeant at Arms of the Senate under the direction and control of the Committee on Rules and Administration of the Senate. The Committee on Rules and Administration is authorized to issue such rules and regulations relating to operation of the Senate Recording Studio and the Senate Photographic Studio as it may deem necessary.

(d) Prices of disk, film, and tape recordings; collection of moneys

The Chief Administrative Officer of the House of Representatives shall, subject to the approval of the committee, set the price of making disk, film, and tape recordings, and collect all moneys owed the House Recording Studio. The Committee on Rules and Administration of the Senate

shall set the price of making disk, film, and tape recordings and all moneys owed the Senate Recording Studio and the Senate Photographic Studio shall be collected by the Sergeant at Arms of the Senate.

(e) Restrictions on expenditures

No moneys shall be expended or obligated for the House Recording Studio except as shall be pursuant to such regulations as the committee may approve. No moneys shall be expended or obligated by the Director of the Senate Recording Studio or the Director of the Senate Photographic Studio until approval therefor has been obtained from the Sergeant at Arms of the Senate.

(f) Appointment of Director and other employees of House Recording Studio

The Chief Administrative Officer of the House of Representatives is authorized, subject to the approval of the committee, to appoint a Director of the House Recording Studio and such other employees as are deemed necessary to the operation of the House Recording Studio.

(g) Revolving funds

There is established in the Treasury of the United States, a revolving fund for the House Recording Studio for the purposes of administering the duties of that studio. There is also established in the Treasury of the United States a revolving fund, within the contingent fund of the Senate, which shall be known as the "Senate Photographic Studio Revolving Fund", for the purpose of administering the duties of the Senate Photographic Studio; and there is established in the Treasury of the United States, a revolving fund, within the contingent fund of the Senate, which shall be known as the "Senate Recording Studio Revolving Fund", for the purpose of administering the duties of the Senate Recording Studio.

(h) Deposits in funds; availability of funds

All moneys received by the House Recording Studio from Members of the House of Representatives for disk, film, or tape recordings, or from any other source, shall be deposited by the Chief Administrative Officer of the House of Representatives in the revolving fund established for the House Recording Studio by subsection (g) of this section; moneys in such fund shall be available for disbursement therefrom by the Chief Administrative Officer of the House of Representatives for the care, maintenance, operation, and other expenses of the studio upon vouchers signed and approved in such manner as the committee shall prescribe. All moneys received by the Senate Recording Studio shall be deposited in the Senate Recording Studio Revolving Fund established by subsection (g) of this section and all funds received by the Senate Photographic Studio shall be deposited in the Senate Photographic Studio Revolving Fund established by such subsection; moneys in the Senate Recording Studio Revolving Fund shall be available for disbursement therefrom upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate for the care, maintenance, operation, and other expenses of the Senate Recording Studio, and moneys in the Senate Photographic Studio Revolving Fund shall be available for disbursement therefrom upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate for the care, maintenance, operation, and other expenses of the Senate Photographic Studio.

(i) Distribution of equity of Joint Senate and House Recording Facility Revolving Fund; assignment of existing studio facilities, equipment, materials and supplies; transfer of accounts; reserve fund; distribution of balance

(1) As soon as practicable after June 27, 1956, but no later than September 30, 1956, the equity of the Joint Senate and House Recording Facility Revolving Fund shall be distributed equally to the Senate and House of Representatives on the basis of an audit to be made by the General Accounting Office.

(2) The Sergeant at Arms of the Senate and the Clerk of the House of Representatives shall, subject to the approval of the committees mentioned in subsection (c) of this section, determine the assignment of existing studio facilities to the Senate and the House of Representatives, and also the existing equipment, materials and supplies to be transferred to the respective studios. The evaluation of equipment, materials and supplies transferred to each studio shall be on the basis of market value. Any other equipment, materials and supplies determined to be obsolete or not needed for the operation of the respective studio shall be disposed of to the best interest of the Government and the proceeds thereof deposited in the Joint Senate and House Recording Facility Revolving Fund.

(3) Accounts receivable, which on the effective date of liquidation, are due from Members and committees of the Senate shall be transferred to the Senate Studio, and those due from Members and committees of the House of Representatives shall be transferred to the House Studio.

(4) A sufficient reserve shall be set aside from the Joint Senate and House Recording Facility Revolving Fund to liquidate any outstanding accounts payable.

(5) After appropriate adjustments for the value of assets assigned or transferred to the Senate and House of Representatives, respectively, the balance in the Joint Senate and House Recording Facility Revolving Fund shall be distributed equally to the Senate and House of Representatives for deposit to the respective revolving funds authorized by this section.

(j) Availability of existing services and facilities

Pending acquisition of the stock, supplies, materials, and equipment necessary to properly equip both studios, the present services and facilities shall be made available to both studios in order that each studio may carry out its duty.

(k) Restrictions on employment

No person shall be an officer or employee of the House Recording Studio, Senate Recording Studio, or Senate Photographic Studio while he is engaged in any other business, profession, occupation, or employment which involves the performance of duties which are similar to those which would be performed by him as such an officer or employee of such studio unless approved in writing by the committee in the case of the House Recording Studio and the Senate Committee on Rules and Administration in the case of the Senate Recording Studio and the Senate Photographic Studio.

(l) Abolition of Joint Recording Facility positions and salaries

The Joint Recording Facility positions and salaries established pursuant to the Legislative Branch Appropriation Act, 1948, and all subsequent Acts are abolished.

(m) Repeals

Effective with the completion of the transfer provided for by subsection (i) of this section the joint resolution entitled "Joint resolution establishing in the Treasury of the United States a revolving fund within the contingent fund of the House of Representatives", approved August 7, 1953, is repealed.

(n) Repealed. Pub. L. 92–310, Title II, § 220(j), June 6, 1972, 86 Stat. 205

(o) Authorization of appropriations.

Such sums as may be necessary to carry out the provisions of this section are authorized to be appropriated. (June 27, 1956, ch. 453, § 105, 70 Stat. 370; Pub. L. 88–652, § 16(a), Oct. 13, 1964, 78 Stat. 1084; Pub. L. 92–310, Title II, § 220(j), June 6, 1972, 86 Stat. 205; Pub. L. 96–304, Title I, § 108(a), July 8, 1980, 94 Stat. 890; Pub. L. 97–257, Title I, § 102, Sept. 10, 1982, 96 Stat. 849; Pub. L. 101–520, Title I, § 7(a), (c), (d), Nov. 5, 1990, 104 Stat. 2258, 2259; Pub. L. 104–186, Title II, § 204(68), Aug. 20, 1996, 110 Stat. 1740.)

305.17 § 123b–1. Senate Recording Studio Senate and Photographic Studio as successors to Senate Recording and Photographic Studios; rules, regulations, and fees for photographs and photographic services. 305.17

(a) The entity, in the Senate, known (prior to Apr. 1, 1991) as the 'Senate Recording and Photographic Studios' is abolished, and there is established in its stead the following two entities: the 'Senate Recording Studio', and the 'Senate Photographic Studio'; and there are transferred, from the entity known (prior to Apr. 1, 1991) as the 'Senate Recording and Photographic Studios' to the 'Senate Recording Studio' all personnel, equipment, supplies, and funds which are available for, relate to, or are utilized in connection with, recording, and to the 'Senate Photographic Studio' all personnel, equipment, supplies, and funds which are available for, relate to, or are utilized in connection with photography.

(b)(1) The Sergeant at Arms and Doorkeeper of the Senate shall, subject to the approval of the majority and minority leaders, promulgate rules and regulations, and establish fees, for provision of photographs and photographic services to be furnished by the Photographic Studio.

(2) Omitted. (July 8, 1980, Pub. L. 96–304, Title I, § 108, 94 Stat. 890; Pub. L. 101–520, Title I, § 7(d), Nov. 5, 1990, 104 Stat. 2259.)

305.20 § 123c. Data processing equipment, software, & services. 305.20

Notwithstanding any other provision of law, the Sergeant at Arms, subject to the approval of the Committee on Rules and Administration, is hereafter authorized to enter into multi-year contracts for data processing equipment, software, and services. (June 12, 1975, Pub. L. 94–32, Title I, § 101, 89 Stat. 182; May 4, 1977, Pub. L. 95–26, Title I, § 103, 91 Stat. 82.)

305.20–1 § 123c–1. Computer programming services, advance payments. 305.20–1

Notwithstanding any other provision of law, the Sergeant at Arms and Doorkeeper of the Senate, subject to the approval of the Committee on Rules and Administration, is on and after July 6, 1981, authorized to enter into contracts which provide for the making of advance payments for computer programming services. (Pub. L. 97–20, July 6, 1981, 95 Stat. 104.)

305.21 § 123d. Senate Computer Center. 305.21

(a) Senate Computer Center Revolving Fund

(1) There is hereby established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the Senate Computer Center Revolving Fund (hereafter in this section referred to as the "revolving fund").

(2) The revolving fund shall be available only for paying the salaries of personnel employed under subsection (c) of this section, and agency contributions attributable thereto, and for paying refunds under contracts entered into under subsection (b) of this section.

(3) Within 90 days after the end of each fiscal year, the Secretary of the Senate shall withdraw all amounts in the revolving fund in excess of $100,000, other than amounts required to make refunds under subsection (b)(2)(B) of this section, and shall deposit the amounts withdrawn in the Treasury of the United States as miscellaneous receipts.

(b) Contracts for use of Senate computer; approval; terms

(1) Subject to the provisions of paragraph (2), the Sergeant at Arms and Doorkeeper of the Senate is authorized to enter into contracts with any agency or instrumentality of the legislative branch for the use of any available time on the Senate computer.

(2) No contract may be entered into under paragraph (1) unless it has been approved by the Committee on Rules and Administration of the Senate, and no such contract may extend beyond the end of the fiscal year in which it is entered into. Each contract entered into under paragraph (1) shall contain—

(A) a provision requiring full advance payment for the amount of time contracted for, and

(B) a provision requiring reftmd of a proportionate amount of such advance payment if the total amount of time contracted for is not used.

Notwithstanding any other provision of law, any agency or instrumentality of the legislative branch is authorized to make advance payments under a contract entered into under paragraph (1).

(c) Additional personnel

To the extent that the personnel of the Senate Computer Center are unable to carry out the contracts entered into under subsection (b) of this section according to their terms and conditions, the Sergeant at Arms and Doorkeeper of the Senate is authorized to employ such additional personnel for the Senate Computer Center as may be necessary to carry out such contracts, and to pay the salaries of such additional personnel, and agency contributions attributable thereto, from the revolving fund. Such additional personnel may temporarily be assigned

to perform the regular functions of the Senate Computer Center when their services are not needed to carry out such contracts.

(d) Disbursements

Disbursements from the revolving fimd under subsections (b) and (c) of this section shall be made upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate. (June 1, 1976, Pub. L. 94–303, Title I, § 116, 90 Stat. 614.)

305.22 § 123e. Senate legislative information system. **305.22**

(a) Development and implementation by Secretary of Senate

The Secretary of the Senate, with the oversight and approval of the Committee on Rules and Administration of the Senate, shall oversee the development and implementation of a comprehensive Senate legislative information system.

(b) Cooperative effort

In carrying out this section, the Secretary of the Senate shall consult and work with officers and employees of the House of Representatives. Legislative branch agencies and departments and agencies of the executive branch shall provide cooperation, consultation, and assistance as requested by the Secretary of the Senate to carry out this section.

(c) Funding

Any funds that were appropriated under the heading "Secretary of the Senate" for expenses of the Office of the Secretary of the Senate by the Legislative Branch Appropriations Act, 1995, to remain available until September 30, 1998, and that the Secretary determines are not needed for development of a financial management system for the Senate may, with the approval of the Committee on Appropriations of the Senate, be used to carry out the provisions of this section, and such funds shall be available through September 30, 2000.

(d) Regulations

The Committee on Rules and Administration of the Senate may prescribe such regulations as may be necessary to carry out the provisions of this section.

(e) Effective date

This section shall be effective for fiscal years beginning on or after October 1, 1996. (Pub. L. 104–197, Title I, § 8, Sept. 16, 1996, 110 Stat. 2398.)

306 § 125a. Death gratuity payments as gifts. **306**

Any death gratuity payment at any time specifically appropriated by any Act of Congress or at any time made out of the applicable accounts of the House of Representatives or the contingent fund of the Senate shall be held to have been a gift. (June 5, 1952, ch. 369, Ch. I, 66 Stat. 101; Pub. L. 104–186, Title II, § 203(6), Aug. 20, 1996, 110 Stat. 1725.)

307.1 § 126–2. Designation of reporters. 307.1

The reporters of debates in the office of the Secretary of the Senate are hereby designated the official reporters of debates of the Senate. (Pub. L. 89–545, § 101, Aug. 27, 1966, 80 Stat. 354.)

307.2 § 126b. Substitute reporters of debates and expert transcribers; temporary reporters of debates and expert transcribers; payments from Senate contingent fund. 307.2

The Secretary of the Senate is on and after June 5, 1981, authorized to employ, by contract or otherwise, substitute reporters of debates and expert transcribers at daily rates of compensation, or temporary reporters of debates and expert transcribers at annual rates of compensation; no temporary reporters of debates or expert transcribers may be employed under authority of this provision for more than ninety days in any fiscal year; and payments made under authority of this section shall be made from the contingent fund of the Senate upon vouchers approved by the Secretary of the Senate. (Pub. L. 89–90, § 101, July 27, 1965, 79 Stat. 266; June 5, 1981, Pub. L. 97–12, § 105, 95 Stat. 61.)

310 § 130a. Nonpay status for Congressional employees studying under Congressional staff fellowships. 310

(a) With respect to each employee of the Senate or House of Representatives

(1) whose compensation is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives, and

(2) who, on or after January 1, 1963 shall have been separated from employment with the Senate or House of Representatives in order to pursue certain studies under a congressional staff fellowship awarded by the American Political Science Association,

the period of time covered by such fellowship shall be held and considered to be service (in a nonpay status) in employment with the Senate or House of Representatives, as the case may be, at the rate of compensation received immediately prior to separation (including any increases in compensation provided by law during the period covered by such fellowship) for the purposes of the provisions of law specified in subsection (b) of this section, if the award of such fellowship to such employee is certified to the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives, as appropriate, by the appointing authority concerned or, in the event of the death or disability of such appointing authority, is established to the satisfaction of the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives by records or other evidence.

(b) The provisions of law referred to in subsection (a) of this section are—

(1) subchapter III (relating to civil service retirement) of chapter 83 of title 5;

(2) chapter 87 (relating to Federal employees group life insurance) of title 5; and

(3) chapter 89 (relating to Federal employees group health insurance) of title 5. (Pub. L. 89–379, Mar. 30, 1966, 80 Stat. 94; Pub. L. 104–186, Title II, § 204(73), Aug. 20, 1996, 110 Stat. 1741.)

311 § 130b. Jury and witness service by employees of the Senate and the House. 311

(a) For purposes of this section—

(1) "employee" means any individual whose pay is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives; and

(2) "court of the United States" has the meaning given it by section 451 of title 28, and includes the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands.

(b) The pay of an employee shall not be reduced during a period of absence with respect to which the employee is summoned (and permitted to respond to such summons by the appropriate authority of the House of the Congress disbursing his pay), in connection with a judicial proceeding by a court or authority responsible for the conduct of that proceeding, to serve—

(1) as a juror; or

(2) other than as provided in subsection (c) of this section, as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party;

in the District of Columbia, a State, territory, or possession of the United States including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. For purposes of this subsection, "judicial proceeding" means any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

(c) An employee is performing official duty during the period with respect to which he is summoned (and is authorized to respond to such summons by the House of the Congress disbursing his pay), or is assigned by such House, to—

(1) testify or produce official records on behalf of the United States or the District of Columbia; or

(2) testify in his official capacity or produce official records on behalf of a party other than the United States or the District of Columbia.

(d)(1) An employee may not receive fees for service—

(A) as juror in a court of the United States or the District of Columbia; or

(B) as a witness on behalf of the United States or the District of Columbia.

(2) If an employee receives an amount (other than travel expenses) for service as a juror or witness during a period in which his pay may not be reduced under subsection (b) of this section, or for which he is performing official duty under subsection (c) of this section, the employee shall remit such amount to the officer who disburses the pay of the employee, which amount shall be covered into the general fund of the Treasury as miscellaneous receipts.

(e)(1) An employee summoned (and authorized to respond to such summons by the House of the Congress disbursing his pay), or assigned by such House, to testify or produce official records on behalf of the United States is entitled to travel expenses. If the case involves an

activity in connection with which he is employed, the travel expenses shall be paid from funds otherwise available for the payment of travel expenses of such House in accordance with travel regulations of that House. If the case does not involve such an activity, the department, agency, or independent establishment of the United States on whose behalf he is so testifying or producing records shall pay to the employee his travel expenses out of appropriations otherwise available, and in accordance with regulation applicable, to that department, agency, or independent establishment for the payment of travel expenses.

(2) An employee summoned (and permitted to respond to such summons by the House of the Congress disbursing his pay), or assigned by such House, to testify in his official capacity or produce official records on behalf of a party other than the United States, is entitled to travel expenses, unless any travel expenses are paid to the employee for his appearance by the court, authority, or party which caused him to be summoned.

(f) The Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives are authorized to prescribe, for employees of their respective Houses, such rules and regulations as may be necessary to carry out the provisions of this section.

(g) No provision of this section shall be construed to confer the consent of either House of the Congress to the production of official records of that House or to testimony by an employee of the House concerning activities related to his employment. (Dec. 19, 1970, Pub. L. 91–563, § 6, 84 Stat. 1478; June 15, 1976, Pub. L. 94–310, § 2, 90 Stat. 687; Pub. L. 104–186, Title II, § 204(74), (75), Aug. 20, 1996, 110 Stat. 1741.)

312 § 130c. Waiver by Secretary of the Senate of claims of United States arising out of erroneous payments to Vice President, Senator, or Senate employee paid by the Secretary of the Senate. 312

(a) Waiver of claim for erroneous payment of pay or allowances

A claim of the United States against a person arising out of an erroneous payment of any pay or allowances, other than travel and transportation expenses and allowances, on or after July 25, 1974, to the Vice President, a Senator, or to an officer or employee whose pay is disbursed by the Secretary of the Senate, the collection of which would be against equity and good conscience and not in the best interests of the United States, may be waived in whole or in part by the Secretary of the Senate. An application for waiver shall be investigated by the Financial Clerk of the Senate who shall submit a written report of his investigation to the Secretary of the Senate. An application for waiver of a claim in an amount aggregating more than $1,500 may also be investigated by the Comptroller General of the United States who shall submit a written report of his investigation to the Secretary of the Senate.

(b) Prohibition of waiver

The Secretary of the Senate may not exercise his authority under this section to waive any claim—

(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the Vice President, the Senator, the officer or em-

ployee, or any other person having an interest in obtaining a waiver of the claim; or

(2) if the application for waiver is received in his office after the expiration of 3 years immediately following the date on which the erroneous payment of pay or allowances was discovered.

(c) Credit for waiver

In the audit and settlement of accounts of any accountable officer or official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

(d) Effect of waiver

An erroneous payment, the collection of which is waived under this section, is deemed a valid payment for all purposes.

(e) Construction with other laws

This section does not affect any authority under any other law to litigate, settle, compromise, or waive any claim of the United States.

(f) Rules and regulations

The Secretary of the Senate shall promulgate rules and regulations to carry out the provisions of this section. (Pub. L. 93–359, § 2, July 25, 1974, 88 Stat. 394; Pub. L. 103–69, Title III, § 315, Aug. 11, 1993, 107 Stat. 713; Pub. L. 104–316, Title I, § 102(b), Oct. 19, 1996, 110 Stat. 3828.)

313 § 130e. Special Services Office. 313

There is established, as a joint office of Congress, the Special Services Office, which (under the supervision and control of a board, to be known as the Special Services Board, comprised of the Sergeant at Arms of the House of Representatives, the Sergeant at Arms and Doorkeeper of the Senate, and the Architect of the Capitol) shall provide special services to Members of Congress, and to officers, employees, and guests of Congress. (Pub. L. 101–163, Title III, § 310, Nov. 21, 1989, 103 Stat. 1065; Pub. L. 104–53, § 112, November 19, 1995, 109 Stat. 525.)

Chapter 5.—LIBRARY OF CONGRESS

315 § 131. Collections composing Library; location. 315

The Library of Congress, composed of the books, maps, and other publications which on December 1, 1873, remained in existence, from the collections theretofore united under authority of law and those added from time to time by purchase, exchange, donation, reservation from publications ordered by Congress, acquisition of material under the copyright law, and otherwise, shall be preserved in the Library Building. (R.S. § 80; Feb. 19, 1897, ch. 265, § 1, 29 Stat. 545, 546; Oct. 19, 1976, Pub. L. 94–553, § 105(g), 90 Stat. 2599; Dec. 22, 1987, Pub. L. 100–202, § 101(i) [Title III], § 310, 101 Stat. 1329–310.)

316 § 132. Departments of Library. 316

The Library of Congress shall be arranged in two departments, a general library and a law library. (R.S. § 81.)

317 § 132a. Appropriations for increase of general library. 317

The unexpended balance of any sums appropriated by Congress for the increase of the general library, together with such sums as may

hereafter be appropriated to the same purpose, shall be laid out under the direction of the Joint Committee of Congress on the Library. (R.S. § 82; Feb. 7, 1902, No. 5, 32 Stat. 735; Aug. 2, 1946, ch. 753, § 223, 60 Stat. 838.)

CROSS REFERENCE

Librarian of Congress to make rules and regulations for government of library, see section 136 of this title (Senate Manual section **320**).

318 § 132b. Joint Committee on the Library. **318**

The Joint Committee of Congress on the Library shall, on and after January 3, 1947, consist of the chairman and four members of the Committee on Rules and Administration of the Senate and the chairman and four members of the Committee on House Oversight of the House of Representatives. (Aug. 2, 1946, ch. 753, § 223, 60 Stat. 838; Aug. 20, 1996, Pub. L. 104–186, Title II, § 205, 110 Stat. 1742.)

319 § 133. Joint Committee during recess of Congress. **319**

The portion of the Joint Committee of Congress on the Library on the part of the Senate remaining in office as Senators shall during the recess of Congress exercise the powers and discharge the duties conferred by law upon the Joint Committee of Congress on the Library. (Mar. 3, 1883, ch. 141, § 2, 22 Stat. 592; Aug. 2, 1946, ch. 753, § 223, 60 Stat. 838.)

320 § 136. Librarian of Congress; appointment; rules and regulations. **320**

The Librarian of Congress shall be appointed by the President, by and with the advice and consent of the Senate. He shall make rules and regulations for the government of the Library. (Feb. 19, 1897, ch. 265, § 1, 29 Stat. 544, 546; June 6, 1972, Pub. L. 92–310, § 220(f), 86 Stat. 204.)

320.1 § 136a–2. Librarian of Congress and Deputy Librarian of Congress; compensation **320.1**

Notwithstanding any other provision of law—

(1) the Librarian of Congress shall be compensated at an annual rate which is equal to the annual rate of basic pay payable for positions at level II of the Executive Schedule under section 5313 of title 5, and

(2) the Deputy Librarian of Congress shall be compensated at an annual rate of pay which is equal to the annual rate of basic pay payable for positions at level III of the Executive Schedule under section 5314 of title 5. (Pub. L. 98–63, Title I, § 904(a), July 30, 1983, 97 Stat. 336; Pub. L. 106–57, Title II, § 209(a), Sept. 29, 1999, 113 Stat. 424.)

[1] So in original. Probably should be section "129(a)".
[2] So in original. Probably should be section "129(b)".

322 § 138. Law library open, when. **322**

The law library shall be kept open every day so long as either House of Congress is in session. (July 11, 1888, ch. 615, § 1, 25 Stat. 262.)

323 § 139. Report of Librarian of Congress. **323**

The Librarian of Congress shall make to Congress not later than April 1, a report for the preceding fiscal year, as to the affairs of the

Library of Congress, including the copyright business, and said report shall also include a detailed statement of all receipts and expenditures on account of the Library and said copyright business. (Feb. 19, 1897, ch. 265, § 1, 29 Stat. 546; April 21, 1976, Pub. L. 94–273, § 30, 90 Stat. 380.)

323.5 § 142j. John C. Stennis Center for Public Service Training and Development. 323.5

From and after October 1, 1988, the Library of Congress is authorized to—

(1) disburse funds appropriated for the John C. Stennis Center for Public Service Training and Development;

(2) compute and disburse the basic pay for all personnel of the John C. Stennis Center for Public Service Training and Development;

(3) provide financial management services and support to the John C. Stennis Center for Public Service Training and Development, in the same manner as provided with respect to the Office of Technology Assessment under section 142f of this title; and

(4) collect from the funds appropriated for the John C. Stennis Center for Public Service Training and Development the full costs of providing the services specified in (1), (2), and (3) above, as provided under an agreement for services ordered under sections 1535 and 1536 of title 31. (Pub. L. 101–163, Title II, § 205, Nov. 21, 1989, 103 Stat. 1060.)

CROSS REFERENCE

Establishment, purposes, and authority, see Sections 1101 through 1110 of Title 2, United States Code (Senate Manual sections **399.50** through **399.59**).

324 § 145. Copies of Journals and Documents. 324

Two copies of the Journals and Documents, and of each book printed by either House of Congress, bound as provided in sections 501 and 1123 of title 44, shall be deposited in the Library. (R.S. § 97.)

CROSS REFERENCES

Copies of House and Senate documents to be deposited with Library of Congress, see section 701 of title 44, United States Code (Senate Manual section **613** and footnote thereto).

Distribution of printed copies of Journals of Senate and House of Representatives, see section 713 of title 44, United States Code (Senate Manual section **623**).

325 § 145a. Periodical binding of printed hearings of committee testimony. 325

The Librarian of the Library of Congress is authorized and directed to have bound at the end of each session of Congress the printed hearings of testimony taken by each committee of the Congress at the preceding session. (Aug. 2, 1946, ch. 753, § 141, 60 Stat. 834.)

326 § 146. Deposit of Journals of Senate and House. 326

Twenty-five copies of the public Journals of the Senate, and of the House of Representatives, shall be deposited in the Library of the United States, at the seat of government, to be delivered to Members of Congress during any session, and to all other persons authorized by law

to use the books in the Library, upon their application to the Librarian, and giving their responsible receipts for the same, in like manner as for other books. (R.S. § 98.)

327 § 154. Library of Congress Trust Fund Board; members; quorum; seal; rules and regulations. 327

A board is created and established, to be known as the "Library of Congress Trust Fund Board" (hereinafter referred to as the board), which shall consist of the Secretary of the Treasury (or an Assistant Secretary designated in writing by the Secretary of the Treasury), the chairman of the Joint Committee on the Library, the Librarian of Congress, two persons appointed by the President for a term of five years each (the first appointments being for three and five years, respectively), four persons appointed by the Speaker of the House of Representatives (in consultation with the minority leader of the House of Representatives) for a term of five years each (the first appointments being for two, three, four, and five years, respectively), and four persons appointed by the majority leader of the Senate (in consultation with the minority leader of the Senate) for a term of five years each (the first appointments being for two, three, four, and five years, respectively). Nine members of the board shall constitute a quorum for the transaction of business, and the board shall have an official seal, which shall be judicially noticed. The board may adopt rules and regulations in regard to its procedure and the conduct of its business. (Mar. 3, 1925, ch. 423, § 1, 43 Stat. 1107; May 12, 1978, Pub. L. 95–277, 92 Stat. 236; Feb. 18, 1992, Pub. L. 102–246, § § 1, 2, 106 Stat. 31.)

328 § 156. Gifts, etc., to Library of Congress Trust Fund Board. 328

The board is authorized to accept, receive, hold, and administer such gifts, bequests, or devices of property for the benefit of, or in connection with, the Library, its collections, or its service, as may be approved by the board and by the Joint Committee on the Library. (Apr. 13, 1936, ch. 213, 49 Stat. 1205.)

329 § 157. Funds of Library of Congress Trust Fund Board; management of. 329

The moneys or securities composing the trust funds given or bequeathed to the board shall be receipted for by the Secretary of the Treasury, who shall invest, reinvest, or retain investments as the board may from time to time determine. The income as and when collected shall be deposited with the Treasurer of the United States, who shall enter it in a special account to the credit of the Library of Congress and subject to disbursement by the librarian for the purposes in each case specified; and the Treasurer of the United States is authorized to honor the requisitions of the librarian made in such manner and in accordance with such regulations as the Treasurer may from time to time prescribe: *Provided,* however, That the board is not authorized to engage in any business nor to exercise any voting privilege which may be incidental to securities in its hands, nor shall the board make any investments that could not lawfully be made by a trust company in the District of Columbia, except that it may make any investments directly authorized by the instrument of gift, and may retain any investments accepted by it. (Mar. 3, 1925, ch. 423, § 2, 43 Stat. 1107; Apr. 13, 1936, ch. 213, 49 Stat. 1205.)

330 § 158. Deposits by Library of Congress Trust Fund Board with Treasurer of United States. 330

In the absence of any specification to the contrary, the board may deposit the principal sum, in cash, with the Treasurer of the United States as a permanent loan to the United States Treasury, and the Treasurer shall thereafter credit such deposit with interest at a rate which is the higher of the rate of 4 percentum per annum or a rate which is 0.25 percentage points less than a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding long-term marketable obligations of the United States, adjusted to the nearest one-eighth of 1 percentum, payable semiannually, such interest, as income, being subject to disbursement by the Librarian of Congress for the purposes specified: *Provided, however,* That the total of such principal sums at any time so held by the Treasurer under this authorization shall not exceed the sum of $10,000,000. (Mar. 3, 1925, ch. 423, § 2, 43 Stat. 1107; Apr. 13, 1936, ch. 213, 49 Stat. 1205; June 23, 1936, ch. 734, 49 Stat. 1894; July 3, 1962, Pub. L. 87–522, 76 Stat. 135; May 22, 1976, Pub. L. 94–289, 90 Stat. 521.)

330.1 § 158a. Temporary possession of gifts of money or securities to Library of Congress; investment. 330.1

In the case of a gift of money or securities offered to the Library of Congress, if, because of conditions attached by the donor or similar considerations, expedited action is necessary, the Librarian of Congress may take temporary possession of the gift, subject to approval under section 156 of this title. The gift shall be receipted for and invested, reinvested, or retained as provided in section 157 of this title, except that—

(1) a gift of securities may not be invested or reinvested; and

(2) any investment or reinvestment of a gift of money shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States.

If the gift is not so approved within the 12-month period after the Librarian so takes possession, the principal of the gift shall be returned to the donor and any income earned during that period shall be available for use with respect to the Library of Congress as provided by law. (Mar. 3, 1925, ch. 423, § 2(par.), as added Feb. 18, 1992, Pub. L. 102–246, § 3, 106 Stat. 31.)

331 § 159. Perpetual succession and suits by or against Library of Congress Trust Fund Board. 331

The board shall have perpetual succession, with all the usual powers and obligations of a trustee, including the power to sell, except as herein limited, in respect of all property, moneys, or securities which shall be conveyed, transferred, assigned, bequeathed, delivered, or paid over to it for the purposes above specified. The board may be sued in the United States District Court for the District of Columbia, which is given jurisdiction of such suits, for the purpose of enforcing the provisions of any trust accepted by it. (Mar. 3, 1925, ch. 423, § 3, 43 Stat. 1108; Jan. 27, 1926, ch. 6, § 1, 44 Stat. 2; June 25, 1936, ch. 804, 49 Stat. 1921; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

332 § 160. Disbursement of gifts, etc., to Library. 332

Nothing in sections 154 to 162 and 163 of this title shall be construed as prohibiting or restricting the Librarian of Congress from accepting in the name of the United States gifts or bequests of money for immediate disbursement in the interest of the Library, its collections, or its service. Such gifts or bequests, after acceptance by the librarian, shall be paid by the donor or his representative to the Treasurer of the United States, whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Library of Congress and subject to disbursement by the Librarian for the purposes in each case specified.

Upon agreement by the Librarian of Congress and the Board, a gift or bequest accepted by the Librarian under the first paragraph of this section may be invested or reinvested in the same manner as provided for trust funds under section 157 of this title.

(As amended Oct. 7, 1997, Pub. L. 105–55, Title II, § 208, 111 Stat. 1194.)

333 § 161. Tax exemption of gifts, etc., to Library of Congress. 333

Gifts or bequests or devises to or for the benefit of the Library of Congress, including those to the board, and the income therefrom, shall be exempt from all Federal taxes, including all taxes levied by the District of Columbia. (Oct. 2, 1942, ch. 576, 56 Stat. 765.)

334 § 166. Congressional Research Service. 334

334.1 (a) The Legislative Reference Service in the Library of Congress is hereby continued as a separate department in the Library of Congress and is redesignated the "Congressional Research Service". 334.1

334.2 (b) It is the policy of Congress that— 334.2

(1) the Librarian of Congress shall, in every possible way, encourage, assist, and promote the Congressional Research Service in—

(A) rendering to Congress the most effective and efficient service,

(B) responding most expeditiously, effectively, and efficiently to the special needs of Congress, and

(C) discharging its responsibilities to Congress;

and

(2) the Librarian of Congress shall grant and accord to the Congressional Research Service complete research independence and the maximum practicable administrative independence consistent with these objectives.

334.3 (c)(1) After consultation with the Joint Committee on the Library, the Librarian of Congress shall appoint the Director of the Congressional Research Service. The basic pay of the Director, shall be at perannum rate equal to the rate of basic pay provided for level III of the Executive Schedule under section 5314 of title 5. 334.3

(2) The Librarian of Congress upon the recommendation of the Director, shall appoint a Deputy Director of the Congressional Research Service and all other necessary personnel thereof. The basic pay of the Deputy Director shall be fixed in accordance with chapter 51 (relating to classification) and subchapter III (relating to General Schedule pay rates) of chapter 53 of title 5, but without regard to section 5108(a) of such title. The basic pay of all other necessary personnel of the

Congressional Research Service shall be fixed in accordance with chapter 51 (relating to classification) and subchapter III (relating to General Schedule pay rates) of chapter 53 of title 5, except that—

(A) the grade of Senior Specialist in each field within the purview of subsection (e) of this section shall not be less than the highest grade in the executive branch of the Government to which research analysts and consultants, without supervisory responsibility, are currently assigned; and

(B) the positions of Specialist and Senior Specialist in the Congressional Research Service may be placed in GS–16, 17, and 18 of the General Schedule of section 5332 of title 5, without regard to section 5108(a) of such title, subject to the prior approval of the Joint Committee on the Library, of the placement of each such position in any of such grades.

(3) Each appointment made under paragraphs (1) and (2) of this subsection and subsection (e) of this section shall be without regard to the civil service laws, without regard to political affiliation, and solely on the basis of fitness to perform the duties of the position.

334.4 (d) It shall be the duty of the Congressional Research Service, without partisan bias— **334.4**

(1) upon request, to advise and assist any committee of the Senate or House of Representatives and any joint committee of Congress in the analysis, appraisal, and evaluation of legislative proposals within that committee's jurisdiction, or of recommendations submitted to Congress, by the President or any executive agency, so as to assist the committee in—

(A) determining the advisability of enacting such proposals;

(B) estimating the probable results of such proposals and alternatives thereto; and

(C) evaluating alternative methods for accomplishing those results;

and, by providing such other research and analytical services as the committee considers appropriate for these purposes, otherwise to assist in furnishing a basis for the proper evaluation and determination of legislative proposals and recommendations generally; and in the performance of this duty the Service shall have authority, when so authorized by a committee and acting as the agent of that committee, to request of any department or agency of the United States the production of such books, records, correspondence, memoranda, papers, and documents as the Service considers necessary, and such department or agency of the United States shall comply with such request; and, further, in the performance of this and any other relevant duty, the Service shall maintain continuous liaison with all committees;

(2) to make available to each committee of the Senate and House of Representatives and each joint committee of the two Houses, at the opening of a new Congress, a list of programs and activities being carried out under existing law scheduled to terminate during the current Congress, which are within the jurisdiction of the committee;

(3) to make available to each committee of the Senate and House of Representatives and each joint committee of the two Houses, at the opening of a new Congress, a list of subjects and policy areas which the committee might profitably analyze in depth;

(4) upon request, or upon its own initiative in anticipation of requests, to collect, classify, and analyze in the form of studies, reports, compilations, digests, bulletins, indexes, translations, and otherwise, data having a bearing on legislation, and to make such data available and serviceable to committees and Members of the Senate and House of Representatives and joint committees of Congress;

(5) upon request, or upon its own initiative in anticipation of requests, to prepare and provide information, research, and reference materials and services to committees and Members of the Senate and House of Representatives and joint committees of Congress to assist them in their legislative and representative functions;

(6) to prepare summaries and digests of bills and resolutions of a public general nature introduced in the Senate or House of Representatives;

(7) upon request made by any committee or Member of the Congress, to prepare and transmit to such committee or Member a concise memorandum with respect to one or more legislative measures upon which hearings by any committee of the Congress have been announced, which memorandum shall contain a statement of the purpose and effect of each such measure, a description of other relevant measures of similar purpose or effect previously introduced in the Congress, and a recitation of all action taken theretofore by or within the Congress with respect to each such other measure; and

(8) to develop and maintain an information and research capability, to include Senior Specialists, Specialists, other employees, and consultants, as necessary, to perform the functions provided for in this subsection.

334.5 (e) The Librarian of Congress is authorized to appoint in the Congressional Research Service, upon the recommendation of the Director, Specialists and Senior Specialists in the following broad fields: **334.5**

(1) agriculture;
(2) American government and public administration;
(3) American public law;
(4) conservation;
(5) education;
(6) engineering and public works;
(7) housing;
(8) industrial organization and corporation finance;
(9) international affairs;
(10) international trade and economic geography;
(11) labor and employment;
(12) mineral economics;
(13) money and banking;
(14) national defense;
(15) price economics;
(16) science;
(17) social welfare;
(18) taxation and fiscal policy;
(19) technology;
(20) transportation and communications;
(21) urban affairs;
(22) veterans' affairs; and

(23) such other broad fields as the Director may consider appropriate.

Such Specialists and Senior Specialists, together with such other employees of the Congressional Research Service as may be necessary, shall be available for special work with the committees and Members of the Senate and House of Representatives and the joint committees of Congress for any of the purposes of subsection (d) of this section.

334.6 (f) The Director is authorized— **334.6**

(1) to classify, organize, arrange, group, and divide, from time to time, as he considers advisable, the requests for advice, assistance, and other services submitted to the Congressional Research Service by committees and Members of the Senate and House of Representatives and joint committees of Congress, into such classes and categories as he considers necessary to—

(A) expedite and facilitate the handling of the individual requests submitted by Members of the Senate and House of Representatives,

(B) promote efficiency in the performance of services for committees of the Senate and House of Representatives and joint committees of Congress, and

(C) provide a basis for the efficient performance by the Congressional Research Service of its legislative research and related functions generally,

and

(2) to establish and change, from time to time, as he considers advisable, within the Congressional Research Service, such research and reference divisions or other organizational units, or both, as he considers necessary to accomplish the purposes of this section.

334.7 (g) The Director of the Congressional Research Service will submit to the Librarian of Congress for review, consideration, evaluation, and approval, the budget estimates of the Congressional Research Service for inclusion in the Budget of the United States Government. **334.7**

334.8 (h)(l) The Director of the Congressional Research Service may procure the temporary or intermittent assistance of individual experts or consultants (including stenographic reporters) and of persons learned in particular or specialized fields of knowledge— **334.8**

(A) by nonpersonal service contract, without regard to any provision of law requiring advertising for contract bids, with the individual expert, consultant, or other person concerned, as an independent contractor, for the furnishing by him to the Congressional Research Service of a written study, treatise, theme, discourse, dissertation, thesis, summary, advisory opinion, or other end product; or

(B) by employment (for a period of not more than one year) in the Congressional Research Service of the individual expert, consultant, or other person concerned, by personal service contract or otherwise, without regard to the position classification laws, at a rate of pay not in excess of the per diem equivalent of the highest rate of basic pay then currently in effect for the General Schedule of section 5332 of title 5, including payment of such rate for necessary travel time.

(2) The Director of the Congressional Research Service may procure by contract, without regard to any provision of law requiring advertising for contract bids, the temporary (for respective periods not in excess of one year) or intermittent assistance of educational, research, or other organizations of experts and consultants (including stenographic reporters) and of educational, research, and other organizations of persons learned in particular or specialized fields of knowledge.

334.9 (i) The Director of the Congressional Research Service shall prepare and file with the Joint Committee on the Library at the beginning of each regular session of Congress a separate and special report covering, in summary and in detail, all phases of activity of the Congressional Research Service for the immediately preceding fiscal year. 334.9

334.10 (j) There are hereby authorized to be appropriated to the Congressional Research Service each fiscal year such sums as may be necessary to carry on the work of the Service. (Aug. 2, 1946, ch. 753, § 203(a)(b), 60 Stat. 836; Oct. 28, 1949, ch. 782, § 1106(a), 63 Stat. 972; Oct. 26, 1970, Pub. L. 91–510, § 321, 84 Stat. 1181; as amended Nov. 14, 1985, Pub. L. 99–151, § 104, 99 Stat. 802; Dec. 19, 1985, Pub. L. 99–190, § 133, 99 Stat. 1322, Pub. L. 106–57, Title II, § 209(b), Sept. 29, 1999, 113 Stat. 424.) 334.10

NOTE

The provision under the heading "Library of Congress" and the subheadings "Congressional Research Service" and "Salaries and Expenses" contained in the Joint Resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1988, and for other purposes", approved December 22, 1987 (101 Stat. 1329–303), provided, in part, that:

". . . Notwithstanding any other provision of law, the compensation for the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code."

Chapter 6.—CONGRESSIONAL AND COMMITTEE PROCEDURE: INVESTIGATIONS

348 § 191. Oaths to witnesses. 348

The President of the Senate, the Speaker of the House of Representatives, or a chairman of any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or of a committee of the whole, or of any committee of either House of Congress, is empowered to administer oaths to witnesses in any case under their examination.

Any Member of either House of Congress may administer oaths to witnesses in any matter depending in either House of Congress of which he is a Member, or any committee thereof. (June 26, 1884, ch. 123, 23 Stat. 60; June 22, 1938, ch. 594, 52 Stat. 942, 943.)

349 § 192. Refusal of witness to testify. 349

Every person who having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee of either House of Congress willfully makes default, or who, having appeared, refuses to answer any question

pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than $1,000 nor less than $100 and imprisonment in a common jail for not less than one month nor more than twelve months. (June 22, 1938, ch. 594, 52 Stat. 942.)

350 § 193. Privilege of witnesses. 350

No witness is privileged to refuse to testify to any fact, or to produce any paper, respecting which he shall be examined by either House of Congress, or by any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or by any committee of either House, upon the ground that his testimony to such fact or his production of such paper may tend to disgrace him or otherwise render him infamous. (June 22, 1938, ch. 594, 52 Stat. 942.)

351 § 194. Witnesses failing to testify or produce records. 351

Whenever a witness summoned as mentioned in section 192 of this title fails to appear to testify or fails to produce any books, papers, records, or documents, as required, or whenever any witness so summoned refuses to answer any question pertinent to the subject under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee or subcommittee of either House of Congress, and the fact of such failure or failures is reported to either House while Congress is in session, or when Congress is not in session, a statement of fact constituting such failure is reported to and filed with the President of the Senate or the Speaker of the House, it shall be the duty of the said President of the Senate or Speaker of the House, as the case may be, to certify, and he shall so certify, the statement of facts aforesaid under the seal of the Senate or House, as the case may be, to the appropriate United States attorney, whose duty it shall be to bring the matter before the grand jury for its action. (June 22, 1938, ch. 594, 52 Stat. 942.)

351.5 § 194a. Request by congressional committees to Presidential appointees to Federal departments, agencies, etc., concerned with foreign countries or multilateral organizations for expression of views and opinions. 351.5

Upon the request of a committee of either House of Congress, a joint committee of Congress, or a member of such committee, any officer or employee of the Department of State, the Agency for International Development, or any other department, agency, or independent establishment of the United States Government primarily concerned with matters relating to foreign countries or multilateral organizations, may express his views and opinions, and make recommendations he considers appropriate, if the request of the committee or member of the committee relates to a subject which is within the jurisdiction of that committee. (July 13, 1972, Pub. L. 92–352, § 502, 86 Stat. 496; Oct. 18, 1973, Pub. L. 93–126, § 17, 87 Stat. 455, Pub. L. 105–277, div G, subdiv. A, Title XII, § 1225(g), Title XIII, § 1335(n), Oct. 21, 1998, 112 Stat. 2681–775, 2681–789.)

351.6 § 194b. Omitted. 351.6

352 § 195a. Restriction on payment of witness fees or travel and subsistence expenses to persons subpenaed by Congressional committees. 352

No part of any appropriation disbursed by the Secretary of the Senate shall be available on or after July 12, 1960, hereafter for the payment to any person, at the time of the service upon him of a subpena requiring his attendance at any inquiry or hearing conducted by any committee of the Congress or of the Senate or any subcommittee of any such committee, of any witness fee or any sum of money as an advance payment of any travel or subsistence expense which may be incurred by such person in responding to that subpena. (July 12, 1960, Pub. L. 86–628, 74 Stat. 449.)

352.5 § 195b. Fees for witnesses requested to appear before Majority Policy Committee or Minority Policy Committee. 352.5

Any witness requested to appear before the Majority Policy Committee or the Minority Policy Committee shall be entitled to a witness fee for each full day spent in traveling to and from the place at which he is to appear, and reimbursement of actual and necessary transportation expenses incurred in traveling to and from that place, at rates not to exceed those rates paid witnesses appearing before committees of the Senate. (Aug. 13, 1974, Pub. L. 93–371, § 101(7), 88 Stat. 431.)

353 § 196. Senate resolutions for investigations; limit of cost. 353

Senate resolutions providing for inquiries and investigations shall contain a limit of cost of such investigation, which limit shall not be exceeded except by vote of the Senate authorizing additional amounts. (Mar. 3, 1926, ch. 44, § 1, 44 Stat. 162.)

354 § 198. Adjournment. 354

(a) Unless otherwise provided by the Congress the two Houses shall—

(1) adjourn sine die not later than July 31 of each year; or

(2) in the case of an odd-numbered year, provide, not later than July 31 of such year, by concurrent resolution adopted in each House by rollcall vote, for the adjournment of the two Houses from that Friday in August which occurs at least thirty days before the first Monday in September (Labor Day) of such year to the second day after Labor Day.

(b) This section shall not be applicable in any year if on July 31 of such year a state of war exists pursuant to a declaration of war by the Congress. (Aug. 2, 1946, ch. 753, § 132, 60 Stat. 831; Oct. 26, 1970, Pub. L. 91–510, § 461, 84 Stat. 1193.)

373 §§ 261–270 Repealed. 373

For provisions relating to disclosure of lobbying activities to influence Federal Government, see section 1601 et seq. of Title 2, United States Code.

Chapter 9.—OFFICE OF LEGISLATIVE COUNSEL

390 § 271. Establishment. 390

There shall be in the Senate an office to be known as the Office of the Legislative Counsel, and to be under the direction of the Legisla-

tive Counsel of the Senate. (Feb. 24, 1919, ch. 18, § 1303(a), (d), 40 Stat. 1141; June 2, 1924, ch. 234, § 1101, 43 Stat. 353.)

391 § 272. Legislative Counsel. 391

The Legislative Counsel shall be appointed by the President pro tempore of the Senate, without reference to political affiliations and solely on the ground of fitness to perform the duties of the office. (Feb. 24, 1919, ch. 18, § 1303(a), (d), 40 Stat. 1141; June 2, 1924, ch. 234, § 1101, 43 Stat. 353; Sept. 20, 1941, ch. 412, Title VI, § 602, 55 Stat. 726.)

392 § 273. Compensation. 392

The Legislative Counsel of the Senate shall be paid at an annual rate of compensation of $40,000. (Feb. 24, 1919, ch. 18, § 1303(d), as added June 2, 1924, ch. 234, § 1101, 43 Stat. 353, and amended June 18, 1940, ch. 396, § 1, 54 Stat. 472; Sept. 20, 1941, ch. 412, Title VI, § 602, 55 Stat. 726; Oct. 15, 1949, ch. 695, § 6(c), 63 Stat. 881; Aug. 5, 1955, ch. 568, §§ 9, 101, 69 Stat. 509, 514; July 1, 1957, Pub. L. 85–75, § 101, 71 Stat. 250; Aug. 14, 1964, Pub. L. 88–426, Title II, § 203(g), 78 Stat. 415; Aug. 13, 1974, Pub. L. 93–371, § 101(4), 88 Stat. 429; July 25, 1975, Pub. L. 94–59, Title I, § 105, 89 Stat. 275.)

393 § 274. Staff, office equipment and supplies. 393

The Legislative Counsel shall, subject to the approval of the President pro tempore of the Senate, employ and fix the compensation of such Assistant Counsel, clerks, and other employees, and purchase such furniture, office equipment, books, stationery, and other supplies, as may be necessary for the proper performance of the duties of the Office and as may be appropriated for by Congress. (Feb. 24, 1919, ch. 18, § 1303(a), (d), 40 Stat. 1141; June 2, 1924, ch. 234, § 1101, 43 Stat. 353; Sept. 20, 1941, ch. 412, Title VI, § 602, 55 Stat. 726.)

394 § 275. Functions. 394

The Office of the Legislative Counsel shall aid in drafting public bills and resolutions or amendments thereto on the request of any committee of the Senate, but the Committee on Rules and Administration of the Senate, may determine the preference, if any, to be given to such requests of the committees of the Senate. The Legislative Counsel shall, from time to time, prescribe rules and regulations for the conduct of the work of the Office for the committees of the Senate, subject to the approval of such Committee on Rules and Administration. (Feb. 24, 1919, ch. 18, § 1303(b), (d), 40 Stat. 1141; June 2, 1924, ch. 234, § 1101, 43 Stat. 353; Aug. 2, 1946, ch. 753, Title I, §§ 102, 121, 60 Stat. 814, 822.)

395 § 276. Disbursement of appropriations. 395

All appropriations for the Office of the Legislative Counsel shall be disbursed by the Secretary of the Senate. (Feb. 24, 1919, ch. 18, § 1303(c), (d), 40 Stat. 1141; June 2, 1924, ch. 234, § 1101, 43 Stat. 353.)

395.1 § 276a. Expenditures. 395.1

With the approval of the President pro tempore of the Senate, the Legislative Counsel of the Senate may make such expenditures as may be necessary or appropriate for the functioning of the Office of the

Legislative Counsel of the Senate. (July 14, 1983, Pub. L. 98–51, § 106, 97 Stat. 267.)

395.2 § 276b. Travel and related expenses. 395.2

Funds expended by the Legislative Counsel of the Senate for travel and related expenses shall be subject to the same regulations and limitations (insofar as they are applicable) as those which the Senate Committee on Rules and Administration prescribes for application to travel and related expenses for which payment is authorized to be made from the contingent fund of the Senate. (July 14, 1983, Pub. L. 98–51, § 106, 97 Stat. 267.)

Chapter 9D.—OFFICE OF SENATE LEGAL COUNSEL

396 § 288. Office of Senate Legal Counsel. 396

396.1 (a) Establishment; appointment of Counsel and Deputy Counsel; Senate approval; reappointment; compensation 396.1

(1) There is established, as an office of the Senate, the Office of Senate Legal Counsel (hereinafter referred to as the "Office"), which shall be headed by a Senate Legal Counsel (hereinafter referred to as the "Counsel"); and there shall be a Deputy Senate Legal Counsel (hereinafter referred to as the "Deputy Counsel") who shall perform such duties as may be assigned to him by the Counsel and who, during any absence, disability, or vacancy in the position of the Counsel, shall serve as Acting Senate Legal Counsel.

(2) The Counsel and the Deputy Counsel each shall be appointed by the President pro tempore of the Senate from among recommendations submitted by the majority and minority leaders of the Senate. Any appointment made under this paragraph shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. Any person appointed as Counsel or Deputy Counsel shall be learned in the law, a member of the bar of a State or the District of Columbia, and shall not engage in any other business, vocation, or employment during the term of such appointment.

(3)(A) Any appointment made under paragraph (2) shall become effective upon approval by resolution of the Senate. The Counsel and the Deputy Counsel shall each be appointed for a term of service which shall expire at the end of the Congress following the Congress during which the Counsel or Deputy Counsel, respectively, is appointed except that the Senate may, by resolution, remove either the Counsel or the Deputy Counsel prior to the termination of any term of service. The Counsel and the Deputy Counsel may be reappointed at the termination of any term of service.

(B) The first Counsel and the first Deputy Counsel shall be appointed, approved, and begin service within ninety days after January 3, 1979, and thereafter the Counsel and Deputy Counsel shall be appointed, approved, and begin service within thirty days after the beginning of the session of the Congress immediately following the termination of a Counsel's or Deputy Counsel's term of service or within sixty days after a vacancy occurs in either position.

(4) The Counsel shall receive compensation at a rate equal to the annual rate of basic pay for level III of the Executive Schedule under section 5314 of title 5. The Deputy Counsel shall receive compensation

at a rate equal to the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5.

396.2 (b) Assistant counsels and other personnel; compensation; appointment; removal 396.2

(1) The Counsel shall select and fix the compensation of such Assistant Senate Legal Counsels (hereinafter referred to as "Assistant Counsels") and of such other personnel, within the limits of available funds, as may be necessary to carry out the provisions of this chapter and may prescribe the duties and responsibilities of such personnel. The compensation fixed for each Assistant Counsel shall not be in excess of a rate equal to the annual rate of basic pay for level V of the Executive Schedule under section 5316 of title 5. Any selection made under this paragraph shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. Any individual selected as an Assistant Counsel shall be learned in the law, a member of the bar of a State or the District of Columbia, and shall not engage in any other business, vocation, or employment during his term of service. The Counsel may remove any individual appointed under this paragraph.

(2) For purposes of pay (other than the rate of pay of the Counsel and Deputy Counsel) and employment benefits, right, and privileges, all personnel of the Office shall be treated as employees of the Senate.

396.3 (c) Consultants 396.3

In carrying out the functions of the Office, the Counsel may procure the temporary (not to exceed one year) or intermittent services of individual consultants (including outside counsel), or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 72a(i) of this title.

396.4 (d) Policies and procedures 396.4

The Counsel may establish such policies and procedures as may be necessary to carry out the provisions of this chapter.

396.5 (e) Delegation of duties 396.5

The Counsel may delegate authority for the performance of any function imposed by this chapter except any function imposed upon the Counsel under section 288e(b) of this title.

396.6 (f) Attorney-client relationship 396.6

The Counsel and other employees of the Office shall maintain the attorney-client relationship with respect to all communications between them and any Member, officer, or employee of the Senate. (Oct. 26, 1978, Pub. L. 95–521, Title VII, § 701, 92 Stat. 1875.)

396.7 § 288a. Senate Joint Leadership Group. 396.7

396.7–1 (a) Accountability of office 396.7–1

The Office shall be directly accountable to the Joint Leadership Group in the performance of the duties of the Office.

396.7–2 (b) Membership 396.7–2

For purposes of this chapter, the Joint Leadership Group shall consist of the following Members:

(1) The President pro tempore (or if he so designates, the Deputy President pro tempore) of the Senate.

(2) The majority and minority leaders of the Senate.

(3) The chairman and ranking minority member of the Committee on the Judiciary of the Senate.

(4) The chairman and ranking minority member of the committee of the Senate which has jurisdiction over the contingent fund of the Senate.

396.7–3 (c) Assistance of Secretary of Senate 396.7–3

(c) The Joint Leadership Group shall be assisted in the performance of its duties by the Secretary of the Senate. (Oct. 26, 1978, Pub. L. 95–521, Title VII, § 702, 92 Stat. 1877.)

396.8 § 288b. Requirements for authorizing representation activity. 396.8

396.8–1 (a) Direction of Joint Leadership Group or Senate resolution 396.8–1

The Counsel shall defend the Senate or a committee, subcommittee, Member, officer, or employee of the Senate under section 288c of this title only when directed to do so by two-thirds of the Members of the Joint Leadership Group or by the adoption of a resolution by the Senate.

396.8–2 (b) Civil action to enforce subpena 396.8–2

The Counsel shall bring a civil action to enforce a subpena of the Senate or a committee or subcommittee of the Senate under section 288d of this title only when directed to do so by the adoption of a resolution by the Senate.

396.8–3 (c) Intervention or appearance 396.8–3

The Counsel shall intervene or appear as amicus curiae under section 288e of this title only when directed to do so by a resolution adopted by the Senate when such intervention or appearance is to be made in the name of the Senate or in the name of an officer, committee, subcommittee, or chairman of a committee or subcommittee of the Senate.

396.8–4 (d) Immunity proceedings 396.8–4

The Counsel shall serve as the duly authorized representative in obtaining an order granting immunity under section 288f of this title of—

(1) the Senate when directed to do so by an affirmative vote of a majority of the Members present of the Senate; or

(2) a committee or subcommittee of the Senate when directed to do so by an affirmative vote of two-thirds of the members of the full committee.

396.8–5 (e) Resolution recommendations 396.8–5

(e) The Office shall make no recommendation with respect to the consideration of a resolution under this section. (Oct. 26, 1978, Pub. L. 95–521, Title VII, § 703, 92 Stat. 1877.)

396.9 § 288c. Defending the Senate, committee, subcommittee, member, officer, or employee of the Senate. 396.9

(a) Except as otherwise provided in subsection (b) of this section, when directed to do so pursuant to section 288b(a) of this title, the Counsel shall—

(1) defend the Senate, a committee, subcommittee, Member, officer, or employee of the Senate in any civil action pending in any court of the United States or of a State or political subdivision thereof, in which the Senate, such committee, subcommittee, Member, officer, or employee is made a party defendant and in which there is placed in issue the validity of any proceeding of, or action, including issuance of any subpena or order, taken by the Senate, or such committee, subcommittee, Member, officer, or employee in its or his official or representative capacity; or

(2) defend the Senate or a committee, subcommittee, Member, officer, or employee of the Senate in any proceeding with respect to any subpena or order directed to the Senate or such committee, subcommittee, Member, officer, or employee in its or his official or representative capacity.

(b) Representation of a Member, officer, or employee under subsection (a) of this section shall be undertaken by the Counsel only upon the consent of such Member, officer, or employee. (Oct. 26, 1978, Pub. L. 95–521, Title VII, § 704, 92 Stat. 1877.)

396.10 § 288d. Enforcement of Senate subpena or order. **396.10**

396.10–1 (a) Institution of civil actions **396.10–1**

When directed to do so pursuant to section 288b(b) of this title, the Counsel shall bring a civil action under any statute conferring jurisdiction on any court of the United States (including section 1365 of title 28), to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened failure or refusal to comply with, any subpena or order issued by the Senate or a committee or a subcommittee of the Senate authorized to issue a subpena or order.

396.10–2 (b) Actions in name of committees and subcommittees **396.10–2**

Any directive to the Counsel to bring a civil action pursuant to subsection (a) of this section in the name of a committee or subcommittee of the Senate shall, for such committee or subcommittee, constitute authorization to bring such action within the meaning of any statute conferring jurisdiction on any court of the United States.

396.10–3 (c) Consideration of resolutions authorizing actions **396.10–3**

It shall not be in order in the Senate to consider a resolution to direct the Counsel to bring a civil action pursuant to subsection (a) of this section in the name of a committee or subcommittee unless—

(1) such resolution is reported by a majority of the members voting, a majority being present, of such committee or committee of which such subcommittee is a subcommittee, and

(2) the report filed by such committee or committee of which such subcommittee is a subcommittee contains a statement of—

(A) the procedure followed in issuing such subpena;

(B) the extent to which the party subpenaed has complied with such subpena;

(C) any objections or privileges raised by the subpenaed party; and

(D) the comparative effectiveness of bringing a civil action under this section, certification of a criminal action for contempt of Congress, and initiating a contempt proceeding before the Senate.

396.10–4 (d) Rules of Senate 396.10–4

The provisions of subsection (c) of this section are enacted—

(1) as an exercise of the rulemaking power of the Senate, and, as such, they shall be considered as part of the rules of the Senate, and such rules shall supersede any other rule of the Senate only to the extent that rule is inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change such rules (so far as relating to the procedure in the Senate) at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

396.10–5 (e) Committee reports 396.10–5

A report filed pursuant to subsection (c)(2) of this section shall not be receivable in any court of law to the extent such report is in compliance with such subsection.

396.10–6 (f) Omitted 396.10–6

396.10–7 (g) Certification of failure to testify; contempt 396.10–7

Nothing in this section shall limit the discretion of—

(1) the President pro tempore of the Senate in certifying to the United States Attorney for the District of Columbia any matter pursuant to section 194 of this title; or

(2) the Senate to hold any individual or entity in contempt of the Senate. (Oct. 26, 1978, Pub. L. 95–521, Title VII, § 705(a)–(e), (g), 92 Stat. 1878, 1880; Pub. L. 99–336, § 6(a)(2), June 19, 1986, 100 Stat. 639.)

396.11 § 288e. Intervention or appearance. 396.11

396.11–1 (a) Actions or proceedings 396.11–1

When directed to do so pursuant to section 288b(c) of this title, the Counsel shall intervene or appear as amicus curiae in the name of the Senate, or in the name of an officer, committee, subcommittee, or chairman of a committee or subcommittee of the Senate in any legal action or proceeding pending in any court of the United States or of a State or political subdivision thereof in which the powers and responsibilities of Congress under the Constitution of the United States are placed in issue. The Counsel shall be authorized to intervene only if standing to intervene exists under section 2 of article III of the Constitution of the United States.

396.11–2 (b) Notification; publication 396.11–2

The Counsel shall notify the Joint Leadership Group of any legal action or proceeding in which the Counsel is of the opinion that intervention or appearance as amicus curiae under subsection (a) of this section is in the interest of the Senate. Such notification shall contain a description of the legal action or proceeding together with the reasons that the Counsel is of the opinion that intervention or appearance as amicus curiae is in the interest of the Senate. The Joint Leadership Group shall cause said notification to be published in the Congressional Record for the Senate.

396.11–3 (c) Powers and responsibilities of Congress 396.11–3

The Counsel shall limit any intervention or appearance as amicus curiae in an action or proceeding to issues relating to the powers and

responsibilities of Congress. (Oct. 26, 1978, Pub. L. 95–521, Title VII, § 706, 92 Stat. 1880.)

396.12 § 288f. Immunity proceedings. 396.12

When directed to do so pursuant to section 288b(d) of this title, the Counsel shall serve as the duly authorized representative of the Senate or a committee or subcommittee of the Senate in requesting a United States district court to issue an order granting immunity pursuant to section 6005 of title 18. (Oct. 26, 1978, Pub. L. 95–521, Title VII, § 707, 92 Stat. 1880.)

396.13 § 288g. Advisory and other functions. 396.13

396.13–1 (a) Cooperation with persons, committees, subcommittees, and offices 396.13–1

The Counsel shall advise, consult, and cooperate with—

(1) the United States Attorney for the District of Columbia with respect to any criminal proceeding for contempt of Congress certified by the President pro tempore of the Senate pursuant to section 194 of this title;

(2) the committee of the Senate with the responsibility to identify any court proceeding or action which is of vital interest to the Senate;

(3) the Comptroller General, the General Accounting Office, the Office of Legislative Counsel of the Senate, and the Congressional Research Service, except that none of the responsibilities and authority assigned by this chapter to the Counsel shall be construed to affect or infringe upon any functions, powers, or duties of the aforementioned;

(4) any Member, officer, or employee of the Senate not represented under section 288c of this title with regard to obtaining private legal counsel for such Member, officer, or employee;

(5) the President pro tempore of the Senate, the Secretary of the Senate, the Sergeant-at-Arms of the Senate, and the Parliamentarian of the Senate, regarding any subpena, order, or request for withdrawal of papers presented to the Senate which raises a question of the privileges of the Senate; and

(6) any committee or subcommittee of the Senate in promulgating and revising their rules and procedures for the use of congressional investigative powers and with respect to questions which may arise in the course of any investigation.

396.13–2 (b) Legal research files 396.13–2

The Counsel shall compile and maintain legal research files of materials from court proceedings which have involved Congress, a House of Congress, an office or agency of Congress, or any committee, subcommittee, Member, officer, or employee of Congress. Public court papers and other research memoranda which do not contain information of a confidential or privileged nature shall be made available to the public consistent with any applicable procedures set forth in such rules of the Senate as may apply and the interests of the Senate.

396.13–3 (c) Miscellaneous duties 396.13–3

The Counsel shall perform such other duties consistent with the purposes and limitations of this chapter as the Senate may direct. (Oct. 26, 1978, Pub. L. 95–521, Title VII, § 708, 92 Stat. 1880.)

396.14 § 288h. Defense of certain constitutional powers. 396.14

In performing any function under this chapter, the Counsel shall defend vigorously when placed in issue—

(1) the constitutional privilege from arrest or from being questioned in any other place for any speech or debate under section 6 of article I of the Constitution of the United States;

(2) the constitutional power of the Senate to be judge of the elections, returns, and qualifications of its own Members and to punish or expel a Member under section 5 of article I of the Constitution of the United States;

(3) the constitutional power of the Senate to except from publication such parts of its journal as in its judgment may require secrecy;

(4) the constitutional power of the Senate to determine the rules of its proceedings;

(5) the constitutional power of Congress to make all laws as shall be necessary and proper for carrying into execution the constitutional powers of Congress and all other powers vested by the Constitution in the Government of the United States, or in any department or office thereof;

(6) all other constitutional powers and responsibilities of the Senate or of Congress; and

(7) the constitutionality of Acts and joint resolutions of the Congress. (Oct. 26, 1978, Pub. L. 95–521, Title VII, § 709, 92 Stat. 1881.)

396.15 § 288i. Representation conflict or inconsistency. 396.15

396.15–1 (a) Notification 396.15–1

In the carrying out of the provisions of this chapter, the Counsel shall notify the Joint Leadership Group, and any party represented or person affected, of the existence and nature of any conflict or inconsistency between the representation of such party or person and the carrying out of any other provision of this chapter or compliance with professional standards and responsibilities.

396.15–2 (b) Solution; publication in Congressional Record; review 396.15–2

Upon receipt of such notification, the members of the Joint Leadership Group shall recommend the action to be taken to avoid or resolve the conflict or inconsistency. If such recommendation is made by a two-thirds vote, the Counsel shall take such steps as may be necessary to resolve the conflict or inconsistency as recommended. If not, the members of the Joint Leadership Group shall cause the notification of conflict or inconsistency and recommendation with respect to resolution thereof to be published in the Congressional Record of the Senate. If the Senate does not direct the Counsel within fifteen days from the date of publication in the Record to resolve the conflict in another manner, the Counsel shall take such action as may be necessary to resolve the conflict or inconsistency as recommended. Any instruction or determination made pursuant to this subsection shall not be reviewable in any court of law.

396.15–3 (c) Computation of period following publication 396.15–3

For purposes of the computation of the fifteen-day period in subsection (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which the Senate is not in session because of an adjournment of more than three days to a date certain are excluded.

396.15–4 (d) Reimbursement 396.15–4

The Senate may by resolution authorize the reimbursement of any Member, officer, or employee of the Senate who is not represented by the Counsel for fees and costs, including attorneys' fees, reasonably incurred in obtaining representation. Such reimbursement, shall be from funds appropriated to the contingent fund of the Senate. (Oct. 26, 1978, Pub. L. 95–521, Title VII, § 710, 92 Stat. 1882.)

396.16 § 288j. Consideration of resolutions to direct counsel. 396.16

396.16–1 (a) Procedure; rules 396.16–1

(1) A resolution introduced pursuant to section 288b of this title shall not be referred to a committee, except as otherwise required under section 288d(c) of this title. Upon introduction, or upon being reported if required under section 288d(c) of this title, whichever is later, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution. A motion to proceed to the consideration of a resolution shall be highly privileged and not debatable. An amendment to such motion shall not be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed to.

(2) With respect to a resolution pursuant to section 288b(a) of this title, the following rules apply:

(A) If the motion to proceed to the consideration of the resolution is agreed to, debate thereon shall be limited to not more than ten hours, which shall be divided equally between, and controlled by, those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to the resolution shall be in order. No motion to recommit the resolution shall be in order, and it shall not be in order to reconsider the vote by which the resolution is agreed to.

(B) Motions to postpone, made with respect to the consideration of the resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(C) All appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to the resolution shall be decided without debate.

396.16–2 (b) Definition 396.16–2

For purposes of this chapter, other than section 288b of this title, the term "committee" includes standing, select, and special committees of the Senate established by law or resolution.

396.16–3 (c) Rules of the Senate 396.16–3

The provisions of this section are enacted—

(1) as an exercise of the rulemaking power of the Senate, and, as such, they shall be considered as part of the rules of the Senate, and such rules shall supersede any other rule of the Senate only to the extent that rule is inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate. (Oct. 26, 1978, Pub. L. 95–521, Title VII, § 711, 92 Stat. 1882.)

396.17 § 288k. Attorney General relieved of responsibility. **396.17**

(a) Upon receipt of written notice that the Counsel has undertaken, pursuant to section 288c(a) of this title, to perform any representational service with respect to any designated party in any action or proceeding pending or to be instituted, the Attorney General shall—

(1) be relieved of any responsibility with respect to such representational service;

(2) have no authority to perform such service in such action or proceeding except at the request or with the approval of the Senate; and

(3) transfer all materials relevant to the representation authorized under section 288c(a) of this title to the Counsel, except that nothing in this subsection shall limit any right of the Attorney General under existing law to intervene or appear as amicus curiae in such action or proceeding.

(b) The Attorney General shall notify the Counsel with respect to any proceeding in which the United States is a party of any determination by the Attorney General or Solicitor General not to appeal any court decision affecting the constitutionality of an Act or joint resolution of Congress within such time as will enable the Senate to direct the Counsel to intervene as a party in such proceeding pursuant to section 288e of this title. (Oct. 26, 1978, Pub. L. 95–521, Title VII, § 712, 92 Stat. 1883.)

396.18 § 288*l*. Procedural provisions. **396.18**

396.18–1 (a) Intervention or appearance **396.18–1**

Permission to intervene as a party or to appear as amicus curiae under section 288e of this title shall be of right and may be denied by a court only upon an express finding that such intervention or appearance is untimely and would significantly delay the pending action or that standing to intervene has not been established under section 2 of article III of the Constitution of the United States.

396.18–2 (b) Compliance with admission requirements **396.18–2**

The Counsel, the Deputy Counsel, or any designated Assistant Counsel or counsel specially retained by the Office shall be entitled, for the purpose of performing his functions under this chapter, to enter an appearance in any proceeding before any court of the United States or of a State or political subdivision thereof without compliance with any requirement for admission to practice before such court, except that the authorization conferred by this supply with respect to the admission of any such person to practice before the United States Supreme Court.

396.18–3 (c) Standing to sue; jurisdiction 396.18–3

Nothing in this chapter shall be construed to confer standing on any party seeking to bring, or jurisdiction on any court with respect to, any civil or criminal action against Congress, either House of Congress, a Member of Congress, a committee or subcommittee of a House of Congress, any office or agency of Congress, or any officer or employee of a House of Congress or any office or agency of Congress. (Oct. 26, 1978, Pub. L. 95–521, Title VII, § 713, 92 Stat. 1883.)

396.19 § 288m. Contingent fund. 396.19

The expenses of the Office shall be paid from the contingent fund of the Senate in accordance with section 68 of this title, and upon vouchers approved by the Counsel. (Oct. 26, 1978, Pub. L. 95–521, Title VII, § 716, 92 Stat. 1885.)

Chapter 11.—CITIZENS' COMMISSION ON PUBLIC SERVICE AND COMPENSATION

398 § 351. Citizens' Commission on Public Service and Compensation. 398

There is hereby established a commission to be known as the Citizens' Commission on Public Service and Compensation (hereinafter referred to as the "Commission"). (Dec. 16, 1967, Pub. L. 90–206, § 225(a), 81 Stat. 642; Pub. L. 101–194, Title VII, § 701(a)(1), Nov. 30, 1989, 103 Stat. 1763.)

398.1 § 352. Membership. 398.1

(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 [2 U.S.C.A. § 261 et seq.]; 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.

(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.

(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, 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 section 357 of this title (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 section 353 of this title, authority under such subsection shall remain available, after the close of a fiscal year, so long as members of the Commission continue to serve. (Dec. 16, 1967, Pub. L. 90–206, § 225(b), 81 Stat. 642; Dec. 19, 1985, Pub. L. 99–190, § 135(a), 99 Stat. 1322; Pub. L. 101–194, Title VII, § 701(b), Nov. 30, 1989, 103 Stat. 1763.)

398.2 § 353. Executive Director; additional personnel; detail of personnel of other agencies. 398.2

(1) Without regard to the provisions of title 5 governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, and on a temporary basis for periods covering all or part of any fiscal year referred to in subparagraphs (A) and (B) of section 352(8) of this title—

(A) the Commission is authorized to appoint an Executive Director and fix his basic pay at the rate provided for level V of the Executive Schedule by section 5316 of title 5; and

(B) with the approval of the Commission, the Executive Director is authorized to appoint and fix the basic pay (at respective rates not in excess of the maximum rate of the General Schedule in section 5332 of title 5) of such additional personnel as may be necessary to carry out the function of the Commission.

(2) Upon the request of the Commission, the head of any department, agency, or establishment of any branch of the Federal Government is authorized to detail, on a reimbursable basis, for periods covering all or part of any fiscal year referred to in subparagraphs (A) and (B) of section 352(8) of this title, any of the personnel of such department, agency, or establishment to assist the Commission in carrying out its function. (Dec. 16, 1967, Pub. L. 90–206, § 225(c), 81 Stat. 643; Pub. L. 101–194, Title VII, § 701(c), Nov. 30, 1989, 103 Stat. 1764.)

398.3 § 354. Use of United States mails by Commission. 398.3

The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States. (Dec. 16, 1967, Pub. L. 90–206, § 225(d), 81 Stat. 643.)

398.4 § 355. Administrative support services. 398.4

The Administrator of General Services shall provide administrative support services for the Commission on a reimbursable basis. (Dec. 16, 1967, Pub. L. 90–206, § 225(e), 81 Stat. 643.)

398.5 § 356. Functions. 398.5

The Commission shall conduct, in each of the respective fiscal years referred to in subparagraphs (A) and (B) of section 352 (8) of this title, a review of the rates of pay of—

(A) the Vice President of the United States, Senators, Members of the House of Representatives, the Resident Commissioner from Puerto Rico, the Speaker of the House of Representatives, the President pro tempore of the Senate, and the majority and minority leaders of the Senate and the House of Representatives;

(B) offices and positions in the legislative branch referred to in subsections (a), (b), (c), and (d) of section 203 of the Federal Legislative Salary Act of 1964 (78 Stat. 415; Public Law 88–426);

(C) justices, judges, and other personnel in the judicial branch referred to in section 403 of the Federal Judicial Salary Act of 1964 (78 Stat. 434; Public Law 88–426) except bankruptcy judges, but including the judges of the United States Court of Federal Claims;

(D) offices and positions under the Executive Schedule in subchapter II of chapter 53 of title 5; and

(E) the Governors of the Board of Governors of the United States Postal Service appointed under section 202 of title 39.

Such review by the Commission shall be made for the purpose of determining and providing—

(i) the appropriate pay levels and relationships between and among the respective offices and positions covered by such review, and

(ii) the appropriate pay relationships between such offices and positions and the offices and positions subject to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, relating to classification and General Schedule pay rates.

In reviewing the rates of pay of the offices or positions referred to in subparagraph (D) of this section, the Commission shall determine and consider the appropriateness of the executive levels of such offices and positions. (Pub. L. 90–206, Title II, § 255(f), Dec. 16, 1967, 81 Stat.

643; Pub. L. 91–375, § 6(a), Aug. 12, 1970, 84 Stat. 775; Pub. L. 94–82, Title II § 206(a), Aug. 9, 1975, 89 Stat. 423; Pub. L. 95–598, Title III, § 301, Nov. 6, 1978, 92 Stat. 2673; Pub. L. 97–164, Title I, § 143, Apr. 2, 1982, 96 Stat. 45; Pub. L. 99–190; § 135(b), Dec. 19, 1985, 99 Stat. 1322; Pub. L. 100–202, § 101(a) (Title IV, § 408(c)), Dec. 22, 1987, 101 Stat. 1329, 1329–27; Pub. L. 101–194, Title VII, § 701(d), Nov. 30, 1989, 103 Stat. 1764; Pub. L. 102–572, Title IX, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

398.6 § 357. Report by Commission to the President with respect to pay. 398.6

The Commission shall submit to the President a report of the results of each review conducted by the Commission with respect to rates of pay for the offices and positions within the purview of subparagraphs (A), (B), (C), and (D) of section 356 of this title, together with its recommendations. Each such report shall be submitted on such date as the President may designate but not later than December 15 next following the close of the fiscal year in which the review is conducted by the Commission. (Dec. 16, 1967, Pub. L. 90–206, § 225(g), 81 Stat. 644; Dec. 19, 1985, Pub. L. 99–190, § 135(c), 99 Stat. 1322; Pub. L. 101–194, Title VII, § 701(e), Nov. 30, 1989, 103 Stat. 1764.)

398.7 § 358. Recommendations of the President with respect to pay. 398.7

(1) After considering the report and recommendations of the Commission submitted under section 357 of this title, 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 section 356 of this title, 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 section 357 of this title. (Dec. 16, 1967, Pub. L. 90–206, § 225(h), 81 Stat. 644; Pub. L. 99–190, § 135(d), Dec. 19, 1985, 99 Stat. 1322; Pub. L. 101–194, Title VII, § 701(f), Nov. 30, 1989, 103 Stat. 1765.)

398.8 § 359. Effective date of recommendations of the President. 398.8

(1) None of the President's recommendations under section 358 of this title shall take effect unless approved under paragraph (2).

(2)(A) The recommendations of the President under section 358 of this title 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 section 358 of this title, 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 section 358 of this title 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 section 358 of this title) 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. (Dec. 16, 1967, Pub. L. 90–206, § 225(i), 81 Stat. 644; Apr. 12, 1977, Pub. L. 95–19, § 401(a), 91 Stat. 45; Dec. 19, 1985, Pub. L. 99–190, § 135(e), 99 Stat. 1322; Pub. L. 101–194, Title VII, § 701(g), Nov. 30, 1989, 103 Stat. 1765.)

398.9 § 360. Effect of Presidential recommendations on existing law and prior recommendations. 398.9

The recommendations of the President taking effect as provided in subsection 359 of this title shall be held and considered to modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(A) all provisions of law enacted prior to the effective date or dates of all or part (as the case may be) of such recommendations (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 section 358 of this title and ending on the date of their approval under section 359(2) of this title, and

(B) any prior recommendations of the President which take effect under this chapter. (Dec. 16, 1967, Pub. L. 90–206, § 225(j), 81 Stat. 644; Apr. 12, 1977, Pub. L. 95–19, § 401(b), 91 Stat. 46; Dec. 19, 1985, Pub. L. 95–190, § 135(f), 99 Stat. 1322; Pub. L. 99–190, § 135(f), Dec. 19, 1985, 99 Stat. 1322; Pub. L. 101–194, Title VII, § 701(h), Nov. 30, 1989, 103 Stat. 1766.)

398.10 § 361. Publication of recommendations. 398.10

The recommendations of the President which take effect shall be printed in the Statutes at Large in the same volume as public laws and shall be printed in the Federal Register and included in the Code of

Federal Regulations. (Dec. 16, 1967, Pub. L. 90–206, § 225(k), 81 Stat. 644.)

NOTE

Section 135(g) of Public Law 99–190 (99 Stat. 1323, Dec. 19, 1985) provides that the Commission shall not make recommendations on rates of pay in connection with the review of rates of pay conducted in fiscal year 1985 except for the rates of pay of the Governors of the Board of Postal Service.

398.11 § 362. Requirements applicable to recommendations. **398.11**

Notwithstanding any other provision of this chapter, the recommendations submitted by the Commission to the President under section 357 of this title, and the recommendations transmitted by the President to the Congress under section 358 of this title 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 not 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 section 356 of this title.

(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, (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, (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 section 358 of this title be the same as the rate recommended for such office or position by the Commission under section 357 of this title. (Pub. L. 90–206, Title II, § 225(l), as added Pub. L. 101–194, Title VII, § 701(i), Nov. 30, 1989, 103 Stat. 1766.)

398.12 § 363. Additional function. **398.12**

The Commission shall, whenever it conducts a review under section 356 of this title, also conduct a review under this section 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 section shall be included by the Commission as part of its report to the President under section 357 of this title. (Pub. L. 90–206, Title II, § 225(m), as added Pub. L. 101–194, Title VII, § 701(j), Nov. 30, 1989, 103 Stat. 1767.)

398.13 § 364. Provision relating to certain other pay adjustments. 398.13

(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 section 356 of this title shall not take effect before the beginning of the Congress following the Congress during which such provision is enacted.

(2) For purposes of this section, 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 section shall be considered to apply wtih respect to any pay increase—

(A) which takes effect under the preceding sections of this chapter;

(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. (Pub. L. 90–206, Title II, § 225(n), as added Pub. L. 101–194, Title VII, § 701(k), Nov. 30, 1989, 103 Stat. 1767.)

399 Chapter 13.—JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS 399

Repealed. Pub. L. 104–186, Title II, § 212(1)(A), (2), Aug. 20, 1996, 110 Stat. 1745.

Chapter 14.—FEDERAL ELECTION CAMPAIGNS

Subchapter I.—Disclosure of Federal Campaign Funds

399.8 § 431. Definitions. 399.8

When used in this Act:

(1) The term "election" means—

(A) a general, special, primary, or runoff election;

(B) a convention or caucus of a political party which has authority to nominate a candidate;

(C) a primary election held for the selection of delegates to a national nominating convention of a political party; and

(D) a primary election held for the expression of a preference for the nomination of individuals for election to the office of President.

(2) The term "candidate" means an individual who seeks nomination for election, or election, to Federal office, and for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election—

(A) if such individual has received contributions aggregating in excess of $5,000 or has made expenditures aggregating in excess of $5,000; or

(B) if such individual has given his or her consent to another person to receive contributions or make expenditures on behalf of such individual and if such person has received such contributions

aggregating in excess of $5,000 or has made such expenditures aggregating in excess of $5,000.

(3) The term "Federal office" means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.

(4) The term "political committee" means—

(A) any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000 during a calendar year or which makes expenditures aggregating in excess of $1,000 during a calendar year; or

(B) any separate segregated fund established under the provisions of section 441b(b) of this title; or

(C) any local committee of a political party which receives contributions aggregating in excess of $5,000 during a calendar year, or makes payments exempted from the definition of contribution or expenditure as defined in paragraphs (8) and (9) of this section aggregating in excess of $5,000 during a calendar year, or makes contributions aggregating in excess of $1,000 during a calendar year or makes expenditures aggregating in excess of $1,000 during a calendar year.

(5) The term "principal campaign committee" means a political committee designated and authorized by a candidate under section 432(e)(1) of this title.

(6) The term "authorized committee" means the principal campaign committee or any other political committee authorized by a candidate under section 432(e)(1) of this title to receive contributions or make expenditures on behalf of such candidate.

(7) The term "connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee.

(8)(A) The term "contribution" includes—

(i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; or

(ii) the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose.

(B) The term "contribution" does not include—

(i) the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee;

(ii) the use of real or personal property, including a church or community room used on a regular basis by members of a community for noncommercial purposes, and the cost of invitations, food, and beverages, voluntarily provided by an individual to any candidate or any political committee of a political party in rendering voluntary personal services on the individual's residential premises or in the church or community room for candidate-related or political party-related activities, to the extent that the cumulative value of such invitations, food, and beverages provided by such individual on behalf of any single candidate does not exceed $1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed $2,000 in any calendar year;

(iii) the sale of any food or beverage by a vendor for use in any candidate's campaign or for use by or on behalf of any political committee of a political party at a charge less than the normal comparable charge, if such charge is at least equal to the cost of such food or beverage to the vendor, to the extent that the cumulative value of such activity by such vendor on behalf of any single candidate does not exceed $1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed $2,000 in any calendar year;

(iv) any unreimbursed payment for travel expenses made by any individual on behalf of any candidate or any political committee of a political party, to the extent that the cumulative value of such activity by such individual on behalf of any single candidate does not exceed $1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed $2,000 in any calendar year;

(v) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to any cost incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

(vi) any payment made or obligation incurred by a corporation or a labor organization which, under section 441b(b) of this title, would not constitute an expenditure by such corporation or labor organization;

(vii) any loan of money by a State bank, a federally chartered depository institution, or a depository institution the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, other than any overdraft made with respect to a checking or savings account, made in accordance with applicable law and in the ordinary course of business, but such loan—

(I) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors;

(II) shall be made on a basis which assures repayment, evidenced by a written instrument, and subject to a due date or amortization schedule; and

(III) shall bear the usual and customary interest rate of the lending institution;

(viii) any gift, subscription, loan, advance, or deposit of money or anything of value to a national or a State committee of a political party specifically designated to defray any cost for construction or purchase of any office facility not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office;

(ix) any legal or accounting services rendered to or on behalf of—

(I) any political committee of a political party if the person paying for such services is the regular employer of the person rendering such services and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or

(II) an authorized committee of a candidate or any other political committee, if the person paying for such services is the regular employer of the individual rendering such services and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of title 26,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 434(b) of this title by the committee receiving such services;

(x) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided,* That—

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

(xi) the payment by a candidate, for nomination or election to any public office (including State or local office), or authorized committee of a candidate, of the costs of campaign materials which include information on or reference to any other candidate and which are used in connection with volunteer activities (including pins, bumper stickers, handbills, brochures, posters, and yard signs, but not including the use of broadcasting, newspapers, magazines, billboards, direct mail, or similar types of general public communication or political advertising); *Provided,* That such payments are made from contributions subject to the limitations and prohibitions of this Act;

(xii) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided,* That—

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates;

(xiii) payments made by a candidate or the authorized committee of a candidate as a condition of ballot access and payments received by any political party committee as a condition of ballot access; and

(xiv) any honorarium (within the meaning of section 441i of this title).

(9)(A) The term "expenditure" includes—

(i) any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office; and

(ii) a written contract, promise, or agreement to make an expenditure.

(B) The term "expenditure" does not include—

(i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(ii) nonpartisan activity designed to encourage individuals to vote or to register to vote;

(iii) any communication by any membership organization or corporation to its members, stockholders, or executive or administrative personnel, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office, except that the costs incurred by a membership organization (including a labor organization) or by a corporation directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate), shall, if such costs exceed $2,000 for any election, be reported to the Commission in accordance with section 434(a)(4)(A)(i) of this title, and in accordance with section 434(a)(4)(A)(ii) of this title with respect to any general election;

(iv) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 of more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

(v) any payment made or obligation incurred by a corporation or a labor organization which, under section 441b(b) of this title, would not constitute an expenditure by such corporation or labor organization;

(vi) any costs incurred by an authorized committee or candidate in connection with the solicitation of contributions on behalf of such candidate, except that this clause shall not apply with respect to costs incurred by an authorized committee of a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 441a(b) of this title, but

all such costs shall be reported in accordance with section 434(b) of this title;

(vii) the payment of compensation for legal or accounting services—

(I) rendered to or on behalf of any political committee of a political party if the person paying for such services is the regular employer of the individual rendering such services, and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or

(II) rendered to or on behalf of a candidate or political committee if the person paying for such services is the regular employer of the individual rendering such services, and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of title 26,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 434(b) of this title by the committee receiving such services;

(viii) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided,* That—

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

(ix) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided,* That—

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates; and

(x) payments received by a political party committee as a condition of ballot access which are transferred to another political party committee or the appropriate State official.

(10) The term "Commission" means the Federal Election Commission.

(11) The term "person" includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons, but such term does not include the Federal Government or any authority of the Federal Government.

(12) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(13) The term "identification" means—

(A) in the case of any individual, the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer; and

(B) in the case of any other person, the full name and address of such person.

(14) The term "national committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Commission.

(15) The term "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission.

(16) The term "political party" means an association, committee, or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee, or organization.

(17) The term "independent expenditure" means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

(18) The term "clearly identified" means that—

(A) the name of the candidate involved appears;

(B) a photograph or drawing of the candidate appears; or

(C) the identity of the candidate is apparent by unambiguous reference.

(19) The term "Act" means the Federal Election Campaign Act of 1971 as amended. (Feb. 7, 1972, Pub. L. 92–225, § 301, 86 Stat. 11; amended Oct. 15, 1974, Pub. L. 93–443, § 201(a), 208(c)(1), 88 Stat. 1272, 1286; amended May 11, 1976, Pub. L. 94–283, § 102, 115(d), (h), 90 Stat. 478, 495, 496; amended Jan. 8, 1980, Pub. L. 96–187, Title I, § 101, 93 Stat. 1339; Oct. 22, 1986, Pub. L. 99–514, § 2, 100 Stat. 2095.)

399.9 § 432. Organization of political committees. **399.9**

(a) Treasurer; vacancy; official authorizations

Every political committee shall have a treasurer. No contribution or expenditure shall be accepted or made by or on behalf of a political committee during any period in which the office of treasurer is vacant. No expenditure shall be made for or on behalf of a political committee without the authorization of the treasurer or his or her designated agent.

(b) Account of contributions; segregated funds

(1) Every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the

contribution is in excess of $50 the name and address of the person making the contribution and the date of receipt.

(2) Every person who receives a contribution for a political committee which is not an authorized committee shall—

(A) if the amount of the contribution is $50 or less, forward to the treasurer such contribution no later than 30 days after receiving the contribution; and

(B) if the amount of the contribution is in excess of $50, forward to the treasurer such contribution, the name and address of the person making the contribution, and the date of receipt of the contribution, no later than 10 days after receiving the contribution.

(3) All funds of a political committee shall be segregated from, and may not be commingled with, the personal funds of any individual.

(c) Recordkeeping

The treasurer of a political committee shall keep an account of—

(1) all contributions received by or on behalf of such political committee;

(2) the name and address of any person who makes any contribution in excess of $50, together with the date and amount of such contribution by any person;

(3) the identification of any person who makes a contribution or contributions aggregating more than $200 during a calendar year, together with the date and amount of any such contribution;

(4) the identification of any political committee which makes a contribution, together with the date and amount of any such contribution; and

(5) the name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement, and the name of the candidate and the office sought by the candidate, if any, for whom the disbursement was made, including a receipt, invoice, or canceled check for each disbursement in excess of $200.

(d) Preservation of records and copies of reports

The treasurer shall preserve all records required to be kept by this section and copies of all reports required to be filed by this subchapter for 3 years after the report is filed. For any report filed in electronic format under section 434(a)(11) of this title, the treasurer shall retain a machine-readable copy of the report as the copy preserved under the preceding sentence.

(e) Principal and additional campaign committees; designations, status of candidate, authorized committees, etc.

(1) Each candidate for Federal office (other than the nominee for the office of Vice President) shall designate in writing a political committee in accordance with paragraph (3) to serve as the principal campaign committee of such candidate. Such designation shall be made no later than 15 days after becoming a candidate. A candidate may designate additional political committees in accordance with paragraph (3) to serve as authorized committees of such candidate. Such designation shall be in writing and filed with the principal campaign committee of such candidate in accordance with subsection (f)(1) of this section.

(2) Any candidate described in paragraph (1) who receives a contribution, or any loan for use in connection with the campaign of such candidate for election, or makes a disbursement in connection with such campaign, shall be considered, for purposes of this Act, as having received the contribution or loan, or as having made the disbursement, as the case may be, as an agent of the authorized committee or committees of such candidate.

(3)(A) No political committee which supports or has supported more than one candidate may be designated as an authorized committee, except that—

(i) the candidate for the office of President nominated by a political party may designate the national committee of such political party as a principal campaign committee, but only if that national committee maintains separate books of account with respect to its function as a principal campaign committee; and

(ii) candidates may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.

(B) As used in this section, the term "support" does not include a contribution by any authorized committee in amounts of $1,000 or less to an authorized committee of any other candidate.

(4) The name of each authorized committee shall include the name of the candidate who authorized such committee under paragraph (1). In the case of any political committee which is not an authorized committee, such political committee shall not include the name of any candidate in its name.

(5) The name of any separate segregated fund established pursuant to section 441b(b) of this title shall include the name of its connected organization.

(f) Filing with and receipt of designations, statements, and reports by principal campaign committee

(1) Notwithstanding any other provision of this Act, each designation, statement, or report of receipts or disbursements made by an authorized committee of a candidate shall be filed with the candidate's principal campaign committee.

(2) Each principal campaign committee shall receive all designations, statements, and reports required to be filed with it under paragraph (1) and shall compile and file such designations, statements, and reports in accordance with this Act.

(g) Filing with and receipt of designations, statements, and reports by Secretary of the Senate; forwarding to Commission; filing requirements with Commission; public inspection and preservation of designations, etc.

(1) Designations, statements, and reports required to be filed under this Act by a candidate for the office of Senator, by the principal campaign committee of such candidate, and by the Republican and Democratic Senatorial Campaign Committees shall be filed with the Secretary of the Senate, who shall receive such designations, statements, and reports, as custodian for the Commission.

(2) The Secretary of the Senate shall forward a copy of any designation, statement, or report filed with the Secretary under this subsection

to the Commission as soon as possible (but no later than 2 working days) after receiving such designation, statement, or report.

(3) All designations, statements, and reports required to be filed under this Act, except designations, statements, and reports filed in accordance with paragraph (1), shall be filed with the Commission.

(4) The Secretary of the Senate shall make the designations, statements, and reports received under this subsection available for public inspection and copying in the same manner as the Commission under section 438(a)(4) of this title, and shall preserve such designations, statements, and reports in the same manner as the Commission under section 438(a)(5) of this title.

(h) Campaign depositories; designations, maintenance of accounts, etc.; petty cash fund for disbursements; record of disbursements

(1) Each political committee shall designate one or more State banks, federally chartered depository institutions, or depository institutions the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, as its campaign depository or depositories. Each political committee shall maintain at least one checking account and such other accounts as the committee determines at a depository designated by such committee. All receipts received by such committee shall be deposited in such accounts. No disbursements may be made (other than petty cash disbursements under paragraph (2)) by such committee except by check drawn on such accounts in accordance with this section.

(2) A political committee may maintain a petty cash fund for disbursements not in excess of $100 to any person in connection with a single purchase or transaction. A record of all petty cash disbursements shall be maintained in accordance with subsection (c)(5) of this section.

(i) When the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or any records of such committee shall be considered in compliance with this Act or chapter 95 or chapter 96 of title 26. (Feb. 7, 1972, Pub. L. 92–225, § 302, 86 Stat. 12; amended Oct. 15, 1974, Pub. L. 93–443, § 202, 208(c)(2), 88 Stat. 1275, 1286; amended May 11, 1976, Pub. L. 94–283, § 103, 90 Stat. 480; amended Jan. 8, 1980, Pub. L. 96–187, Title I, § 102, 93 Stat. 1345; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 104–79, § 1(b), 3(a), Dec. 28, 1995, 109 Stat. 791, 792.)

399.10 § 433. Registration of political committees. **399.10**

(a) Statements of organizations

Each authorized campaign committee shall file a statement of organization no later than 10 days after designation pursuant to section 432(e)(1) of this title. Each separate segregated fund established under the provisions of section 441b(b) of this title shall file a statement of organization no later than 10 days after establishment. All other committees shall file a statement or organization within 10 days after becoming a political committee within the meaning of section 431(4) of this title.

(b) Contents of statements

The statement of organization of a political committee shall include—

(1) the name, address, and type of committee;

(2) the name, address, relationship, and type of any connected organization or affiliated committee;

(3) the name, address, and position of the custodian of books and accounts of the committee;

(4) the name and address of the treasurer of the committee;

(5) if the committee is authorized by a candidate, the name, address, office sought, and party affiliation of the candidate; and

(6) a listing of all banks, safety deposit boxes, or other depositories used by the committee.

(c) Change of information in statements

Any change in information previously submitted in a statement of organization shall be reported in accordance with section 432(g) of this title no later than 10 days after the date of the change.

(d) Termination, etc., requirements and authorities

(1) A political committee may terminate only when such a committee files a written statement, in accordance with section 432(g) of this title, that it will no longer receive any contributions or make any disbursements and that such committee has no outstanding debts or obligations.

(2) Nothing contained in this subsection may be construed to eliminate or limit the authority of the Commission to establish procedures for—

(A) the determination of insolvency with respect to any political committee;

(B) the orderly liquidation of an insolvent political committee, and the orderly application of its assets for the reduction of outstanding debts; and

(C) the termination of an insolvent political committee after such liquidation and application of assets.

(Feb. 7, 1972, Pub. L. 92–225, § 303, 86 Stat. 14; amended Oct. 15, 1974, Pub. L. 93–443, § 203, 208(c)(3), 88 Stat. 1276, 1886; amended Jan. 8, 1980, Pub. L. 96–187, Title I, § 103, 93 Stat. 1347.)

399.11 § 434. Reporting requirements. **399.11**

(a) Receipts and disbursements by treasurers of political committees; filing requirements

(1) Each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of this subsection. The treasurer shall sign each such report.

(2) If the political committee is the principal campaign committee of a candidate for the House of Representatives or for the Senate—

(A) in any calendar year during which there is regularly scheduled election for which such candidate is seeking election, or nomination for election, the treasurer shall file the following reports:

(i) a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which such candidate is seeking election, or nomination for election, and which shall be complete as of the 20th day before such election;

(ii) a post-general election report, which shall be filed no later than the 30th day after any general election in which such candidate has sought election, and which shall be complete as of the 20th day after such general election; and

(iii) additional quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter: except that the report for the quarter ending December 31 shall be filed no later than January 31 of the following calendar year; and

(B) in any other calendar year the following reports shall be filed:

(i) a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31; and

(ii) a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year.

(3) If the committee is the principal campaign committee of a candidate for the office of President—

(A) in any calendar year during which a general election is held to fill such office—

(i) the treasurer shall file monthly reports if such committee has on January 1 of such year, received contributions aggregating $100,000 or made expenditures aggregating $100,000 or anticipates receiving contributions aggregating $100,000 or more or making expenditures aggregating $100,000 or more during such year: such monthly reports shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month, except that, in lieu of filing the report otherwise due in November and December, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year;

(ii) the treasurer of the other principal campaign committees of a candidate for the office of President shall file a pre-election report or reports in accordance with paragraph (2)(A)(i), a post-general election report in accordance with paragraph (2)(A)(ii), and quarterly reports in accordance with paragraph (2)(A)(iii); and

(iii) if at any time during the election year a committee filing under paragraph (3)(A)(ii) receives contributions in excess of $100,000 or makes expenditures in excess of $100,000, the treasurer shall begin filing monthly reports under paragraph (3)(A)(i) at the next reporting period; and

(B) in any other calendar year, the treasurer shall file either—

(i) monthly reports, which shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month; or

(ii) quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter and which shall be complete as of the last day of each calendar quarter.

(4) All political committees other than authorized committees of a candidate shall file either—

(A)(i) quarterly reports, in a calendar year in which a regularly scheduled general election is held, which shall be filed no later than the 15th day after the last day of each calendar quarter:

except that the report for the quarter ending on December 31 of such calendar year shall be filed no later than January 31 of the following calendar year;

(ii) a pre-election report, which shall be filed no later than the 12th day before (or posted by registered or certified mail no later than the 15th day before) any election in which the committee makes a contribution to or expenditure on behalf of a candidate in such election, and which shall be complete as of the 20th day before the election;

(iii) a post-general election report, which shall be filed no later than the 30th day after the general election and which shall be complete as of the 20th day after such general election; and

(iv) in any other calendar year, a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31 and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year; or

(B) monthly reports in all calendar years which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.

(5) If a designation, report, or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or (4)(A)(ii)) is sent by registered or certified mail, the United States postmark shall be considered the date of filing of the designation, report, or statement.

(6)(A) The principal campaign committee of a candidate shall notify the Secretary or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of $1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution.

(B) The notification required under this paragraph shall be in addition to all other reporting requirements under this Act.

(7) The reports required to be filed by this subsection shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward.

(8) The requirement for a political committee to file a quarterly report under paragraph (2)(A)(iii) or paragraph (4)(A)(i) shall be waived if such committee is required to file a pre-election report under paragraph (2)(A)(i), or paragraph (4)(A)(ii) during the period beginning on the 5th day after the close of the calendar quarter and ending on the 15th day after the close of the calendar quarter.

(9) The Commission shall set filing dates for reports to be filed by principal campaign committees of candidates seeking election, or nomina-

tion for election, in special elections and political committees filing under paragraph (4)(A) which make contributions to or expenditures on behalf of a candidate or candidates in special elections. The Commission shall require no more than one pre-election report for each election and one post-election report for the election which fills the vacancy. The Commission may waive any reporting obligation of committees required to file for special elections if any report required by paragraph (2) or (4) is required to be filed within 10 days of a report required under this subsection. The Commission shall establish the reporting dates within 5 days of the setting of such election and shall publish such dates and notify the principal campaign committees of all candidates in such election of the reporting dates.

(10) The treasurer of a committee supporting a candidate for the office of Vice President (other than the nominee of a political party) shall file reports in accordance with paragraph (3).

(11)(A) The Commission shall permit reports required by this Act to be filed and preserved by means of computer disk or any other appropriate electronic format or method, as determined by the Commission.

(B) In carrying out subparagraph (A) with respect to filing of reports, the Commission shall provide for one or more methods (other than requiring a signature on the report being filed) for verifying reports filed by means of computer disk or other electronic format or method. Any verification under the preceding sentence shall be treated for all purposes (including penalties for perjury) in the same manner as a verification by signature.

(C) As used in this paragraph, the term "report" means, with respect to the Commission, a report, designation, or statement required by this Act to be filed with the Commission.

(b) Contents of reports

Each report under this section shall disclose—

(1) the amount of cash on hand at the beginning of the reporting period;

(2) for the reporting period and the calendar year, the total amount of all receipts, and the total amount of all receipts in the following categories:

(A) contributions from persons other than political committees;

(B) for an authorized committee, contributions from the candidate;

(C) contributions from political party committees;

(D) contributions from other political committees;

(E) for an authorized committee, transfers from other authorized committees of the same candidate;

(F) transfers from affiliated committees and, where the reporting committee is a political party committee, transfers from other political party committees, regardless of whether such committees are affiliated;

(G) for an authorized committee, loans made by or guaranteed by the candidate;

(H) all other loans;

(I) rebates, refunds, and other offsets to operating expenditures;

(J) dividends, interest, and other forms of receipts; and

(K) for an authorized committee of a candidate for the office of President, Federal funds received under chapter 95 and chapter 96 of title 26;

(3) the identification of each—

(A) person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of $200 within the calendar year, or in any lesser amount if the reporting committee should so elect, together with the date and amount of any such contribution;

(B) political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution;

(C) authorized committee which makes transfer to the reporting committee;

(D) affiliated committee which makes a transfer to the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds to the reporting committee from another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfer;

(E) person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and the date and amount or value of such loan;

(F) person who provides a rebate, refund, or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount of such receipt; and

(G) person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of $200 within the calendar year, together with the date and amount of any such receipt;

(4) for the reporting period and the calendar year, the total amount of all disbursements, and all disbursements in the following categories:

(A) expenditures made to meet candidate or committee operating expenses;

(B) for authorized committees, transfers to other committees authorized by the same candidate;

(C) transfers to affiliated committees and, where the reporting committee is a political party committee, transfers to other political party committees, regardless of whether they are affiliated;

(D) for an authorized committee, repayment of loans made by or guaranteed by the candidate;

(E) repayment of all other loans;

(F) contribution refunds and other offsets to contributions;

(G) for an authorized committee, any other disbursements;

(H) for any political committee other than an authorized committee—

(i) contributions made to other political committees;

(ii) loans made by the reporting committees;

(iii) independent expenditures;

(iv) expenditures made under section 441a(d) of this title; and

(v) any other disbursements; and

(I) for an authorized committee of a candidate for the office of President, disbursements not subject to the limitation of section 441a(b) of this title;

(5) the name and address of each—

(A) person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure;

(B) authorized committee to which a transfer is made by the reporting committee;

(C) affiliated committee to which a transfer is made by the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds by the reporting committee to anther political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfers;

(D) person who receives loan repayment from the reporting committee during the reporting period, together with the date and amount of such loan repayment; and

(E) person who receives a contribution refund or other offset to contributions from the reporting committee where such contribution was reported under paragraph 3(A) of this subsection, together with the date and amount of such disbursement;

(6)(A) for an authorized committee, the name and address of each person who has received any disbursement not disclosed under paragraph (5) in an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount of any such disbursement;

(B) for any other political committee, the name and address of each—

(i) political committee which has received a contribution from the reporting committee during the reporting period, together with the date and amount of any such contribution;

(ii) person who has received a loan from the reporting committee during the reporting period, together with the date and amount of such loan;

(iii) person who receives any disbursement during the reporting period in an aggregate amount or value in excess of $200 within the calendar year in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure and a statement which indicates whether such independent expenditure is in support of, or in opposition to, a candidate, as well as the name and office sought by such candidate, and a certification, under penalty of perjury, whether such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of any candidate or any authorized committee or agent of such committee;

(iv) person who receives any expenditure from the reporting committee during the reporting period in connection with an expenditure under section 441a(d) of this title, together with the date, amount, and purpose of any such expenditure as well as the name of, and office sought by, the candidate on whose behalf the expenditure is made; and

(v) person who has received any disbursement not otherwise disclosed in this paragraph or paragraph (5) in an aggregate amount or value in excess of $200 within the calendar year from the reporting committee within the reporting period, together with the date, amount, and purpose of any such disbursement;

(7) the total sum of all contributions to such political committee, together with the total contributions less offsets to contributions and the total sum of all operating expenditures made by such political committee, together with total operating expenditures less offsets to operating expenditures, for both the reporting period and the calendar year; and

(8) the amount and nature of outstanding debts and obligations owed by or to such political committee; and where such debts and obligations are settled for less than their reported amount or value, a statement as to the circumstances and conditions under which such debts or obligations were extinguished and the consideration therefor.

(c) Statements by other than political committees; filing; contents; indices of expenditures

(1) Every person (other than a political committee) who makes independent expenditures in an aggregate amount or value in excess of $250 during a calendar year shall file a statement containing the information requiring under subsection (b)(3)(A) of this section for all contributions received by such person.

(2) Statements required to be filed by this subsection shall be filed in accordance with subsection (a)(2) of this section, and shall include—

(A) the information required by subsection (b)(6)(B)(iii) of this section, indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved;

(B) under penalty of perjury, a certification whether or not such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

(C) the identification of each person who made a contribution in excess of $200 to the person filing such statement which was made for the purpose of furthering an independent expenditure.

Any independent expenditure (including those described in subsection (b)(6)(B)(iii) of this section) aggregating $1,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made. Such statement shall be filed with the Secretary or the Commission and the Secretary of State and shall contain the information required by subsection (b)(6)(B)(iii) of this section indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved.

(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all inde-

pendent expenditures separately, including those reported under subsection (b)(6)(B)(iii) of this section, made by or for each candidate, as reported under this subsection, and for periodically publishing such indices on a timely pre-election basis. (Pub. L. 92–225, Title III, § 304, Feb. 7, 1972, 86 Stat. 14; Pub. L. 93–443, Title II, § 204(a)–(d), 208(c)(4), Oct. 15, 1974, 88 Stat. 1276–1278, 1286; Pub. L. 94–283, Title I, § 104, May 11, 1976, 90 Stat. 480; Pub. L. 96–187, Title I, § 104, Jan. 8, 1980, 93 Stat. 1348; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 104–79, § 1(a), 3(b), Dec. 28, 1995, 109 Stat. 791, 792; Pub. L. 106–58, Title VI, § 639(a), 641(a), Sept. 29, 1999, 113 Stat. 476, 477.)

§ 435. (Repealed.)

(Feb. 7, 1972, Pub. L. 92–225, § 305, 86 Stat. 16; amended Oct. 15, 1974, Pub. L. 93–443, § 205, 88 Stat. 1278; Repealed Jan. 8, 1978, Pub. L. 96–187, Title I, § 105(1), 93 Stat. 1354.)

§ 436. (Repealed.)

(Feb. 7, 1972, Pub. L. 92–225, § 306, 86 Stat. 16; Oct. 15, 1974, Pub. L. 93–443, §§ 206, 207, 208(c)(5), 88 Stat. 1278, 1279, 1286; May 11, 1976, Pub. L. 94–283, § 115(a), 90 Stat. 495; Repealed Jan. 8, 1980, Pub. L. 96–187, Title I, § 105(1), 93 Stat. 1354.)

399.14 § 437. Reports on convention financing. **399.14**

Each committee or other organization which—

(1) represents a State, or a political subdivision thereof, or any group of persons, in dealing with officials of a national political party with respect to matters involving a convention held in such State or political subdivision to nominate a candidate for the office of President or Vice President, or

(2) represents a national political party in making arrangements for the convention of such party held to nominate a candidate for the office of President or Vice President,

shall, within 60 days following the end of the convention (but not later than 20 days prior to the date on which presidential and vice presidential electors are chosen), file with the Commission a full and complete financial statement, in such form and detail as it may prescribe, of the sources from which it derived its funds, and the purposes for which such funds were expended. (Feb. 7, 1972, Pub. L. 92–225, § 307, 86 Stat. 16; Oct. 15, 1974, Pub. L. 93–443, § 208(c)(6), 88 Stat. 1286; Jan. 8, 1980, Pub. L. 96–187, Title I, §§ 105(2), 112a, 93 Stat. 1354, 1366.)

§ 437a. (Repealed.)

§ 437b. (Repealed.)

(Oct. 15, 1974, Pub. L. 93–443, § 208(a), 88 Stat. 1280; May 11, 1976, Pub. L. 94–283, §§ 105, 106, 115(i), 90 Stat. 481, 496; Jan. 8, 1980, Pub. L. 96–187, Title I, § 105(1), 93 Stat. 1354.)

399.14–3 § 437c. Federal Election Commission. **399.14–3**

(a) Establishment; membership; term of office; vacancies; qualifications; compensation; chairman and vice chairman

(1) There is established a commission to be known as the Federal Election Commission. The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives or their des-

ignees, ex officio and without the right to vote, and 6 members appointed by the President, by and with the advice and consent of the Senate. No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.

(2)(A) Members of the Commission shall serve for a single term of 6 years, except that of the members first appointed—

(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977;

(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979; and

(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

(B) A member of the Commission may serve on the Commission after the expiration of his or her term until his or her successor has taken office as a member of the Commission.

(C) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he or she succeeds.

(D) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.

(3) Members shall be chosen on the basis of their experience, integrity, impartiality, and good judgment and members (other than the Secretary of the Senate and the Clerk of the House of Representatives) shall be individuals who, at the time appointed to the Commission, are not elected or appointed officers or employees in the executive, legislative, or judicial branch of the Federal Government. Such members of the Commission shall not engage in any other business, vocation, or employment. Any individual who is engaging in any other business, vocation, or employment at the time of his or her appointment to the Commission shall terminate or liquidate such activity no later than 90 days after such appointment.

(4) Members of the Commission (other than the Secretary of the Senate and the Clerk of the House of Representatives) shall receive compensation equivalent to the compensation paid at level IV of the Executive Schedule (section 5315 of title 5).

(5) The Commission shall elect a chairman and a vice chairman from among its members (other than the Secretary of the Senate and the Clerk of the House of Representatives) for a term of one year. A member may serve as chairman only once during any term of office to which such member is appointed. The chairman and the vice chairman shall not be affiliated with the same political party. The vice chairman shall act as chairman in the absence or disability of the chairman or in the event of a vacancy in such office.

(b) Administration, enforcement, and formulation of policy; exclusive jurisdiction of civil enforcement; Congressional authorities or functions with respect to elections for Federal office

(1) The Commission shall administer, seek to obtain compliance with, and formulate policy with respect to, this Act and chapter 95 and chapter 96 of title 26. The Commission shall have exclusive jurisdiction with respect to this civil enforcement of such provisions.

(2) Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary

authority or function of the Congress or any committee of the Congress with respect to elections for Federal office.

(c) Voting requirements; delegation of authorities

All decisions of the Commission with respect to the exercise of its duties and powers under the provisions of this Act shall be made by a majority vote of the members of the Commission. A member of the Commission may not delegate to any person his or her vote or any decisionmaking authority or duty vested in the Commission by the provisions of this Act, except that the affirmative vote of 4 members of the Commission shall be required in order for the Commission to take any action in accordance with paragraph (6), (7), (8), or (9) of section 437d(a) of this title or with chapter 95 or chapter 96 of title 26.

(d) Meetings

The Commission shall meet at least once each month and also at the call of any member.

(e) Rules for conduct of activities; judicial notice of seal; principal office

The Commission shall prepare written rules for the conduct of its activities, shall have an official seal which shall be judicially noticed, and shall have its principal office in or near the District of Columbia (but it may meet or exercise any of its powers anywhere in the United States).

(f) Staff director and general counsel; appointment and compensation; appointment and compensation of personnel and procurement of intermittent services by staff director; use of assistance, personnel, and facilities of Federal agencies and departments; counsel for defense of actions

(1) The Commission shall have a staff director and a general counsel who shall be appointed by the Commission. The staff director shall be paid at a rate not to exceed the rate of basic pay in effect for level IV of the Executive Schedule (section 5315 of title 5). The general counsel shall be paid at a rate not to exceed the rate of basic pay in effect for level V of the Executive Schedule (section 5316 of title 5). With the approval of the Commission, the staff director may appoint and fix the pay of such additional personnel as he or she considers desirable without regard to the provisions of title 5, governing appointments in the competitive service.

(2) With the approval of the Commission, the staff director may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–15 of the General Schedule (section 5332 of title 5).

(3) In carrying out its responsibilities under this Act, the Commission shall, to the fullest extent practicable, avail itself of the assistance, including personnel and facilities of other agencies and departments of the United States. The heads of such agencies and departments may make available to the Commission such personnel, facilities, and other assistance, with or without reimbursement, as the Commission may request.

(4) Notwithstanding the provisions of paragraph (2) the Commission is authorized to appear in and defend against any action instituted under this Act, either (A) by attorneys employed in office, or (B) by counsel whom it may appoint, on a temporary basis as may be necessary for such purpose, without regard to the provisions of title 5, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title. The compensation of counsel so appointed on a temporary basis shall be paid out of any funds otherwise available to pay the compensation of employees of the Commission. (Pub. L. 92–225, Title III, § 306, formerly § 310, as added Pub. L. 93–443, Title II, § 208(a), Oct. 15, 1974, 88 Stat. 1280, renumbered § 309, and amended Pub. L. 94–283, Title I, §§ 101(a)–(d), 105, May 11, 1976, 90 Stat. 475, 476, 481, renumbered § 306 and amended Pub. L. 96–187, Title I, §§ 105(3), (6), 112(b), Jan. 8, 1980, 93 Stat. 1354, 1366; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 105–61, Title V, § 512(a), Oct. 10, 1997, 111 Stat. 1305.)

399.14–4 § 437d. Powers of Commission. **399.14–4**

(a) Specific authorities

The Commission has the power—

(1) to require by special or general orders, any person to submit, under oath, such written reports and answers to questions as the Commission may prescribe;

(2) to administer oaths or affirmations;

(3) to require by subpena, signed by the chairman or the vice chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(4) in any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (3);

(5) to pay witnesses the same fees and mileages as are paid in like circumstances in the courts of the United States;

(6) to initiate (through civil actions for injunctive, declaratory, or other appropriate relief), defend (in the case of any civil action brought under section 437g(a)(8) of this title) or appeal any civil action in the name of the Commission to enforce the provisions of this Act and chapter 95 and chapter 96 of title 26, through its general counsel;

(7) to render advisory opinions under section 437f of this title;

(8) to develop such prescribed forms and to make, amend, and repeal such rules, pursuant to the provisions of chapter 5 of title 5, as are necessary to carry out the provisions of this Act and chapter 95 and chapter 96 of title 26; and

(9) to conduct investigations and hearings expeditiously, to encourage voluntary compliance, and to report apparent violations to the appropriate law enforcement authorities.

(b) Judicial orders for compliance with subpenas and orders of commission; contempt of court

Upon petition by the Commission, any United States district court within the jurisdiction of which any inquiry is being carried on may, in case of refusal to obey a subpena or order of the Commission issued under subsection (a) of this section, issue an order requiring compliance. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(c) Civil liability for disclosure of information

No person shall be subject to civil liability to any person (other than the Commission or the United States) for disclosing information at the request of the Commission.

(d) Concurrent transmissions to Congress or member of budget estimates, etc.; prior submission of legislative recommendations, testimony, or comments on legislation

(1) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress.

(2) Whenever the Commission submits any legislative recommendation, or testimony, or comments on legislation, requested by the Congress, or by any Member of the Congress, to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress or to the Member requesting the same. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, testimony, or comments on legislation, to any office or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

(e) Exclusive civil remedy for enforcement

Except as provided in section 437g(a)(8) of this title, the power of the Commission to initiate civil actions under subsection (a)(6) of this section shall be the exclusive civil remedy for the enforcement of the provisions of this Act. (Pub. L. 92–225, Title III, § 307, formerly § 311, as added Pub. L. 93–443, Title II, § 208(a), Oct. 15, 1974, 88 Stat. 1282, renumbered § 310 and amended Pub. L. 94–283, Title I, §§ 105, 107, 115(b), May 11, 1976, 90 Stat. 481, 482, 495, renumbered § 307 and amended Pub. L. 96–187, Title I, §§ 105(3), 106, Jan. 8, 1980, 93 Stat. 1354, 1356; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

§ 437e. (Repealed.)

399.14–6 § 437f. Advisory opinions. **399.14–6**

(a) Requests by persons, candidates, or authorized committees; subject matter, time for response

(1) Not later than 60 days after the Commission receives from a person a complete written request concerning the application of this Act, chapter 95 or chapter 96 of title 26, or a rule or regulation prescribed by the Commission, with respect to a specific transaction or activity by the person, the Commission shall render a written advisory opinion relating to such transaction or activity to the person.

(2) If an advisory opinion is requested by a candidate, or any authorized committee of such candidate, during the 60-day period before any election for Federal office involving the requesting party, the Commission shall render a written advisory opinion relating to such request no later than 20 days after the Commission receives a complete written request.

(b) Procedures applicable to initial proposal of rules or regulations, and advisory opinions

Any rule of law which is not stated in this Act or in chapter 95 or chapter 96 of title 26 may be initially proposed by the Commission only as a rule or regulation pursuant to procedures established in section 438(d) of this title. No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with the provisions of this section.

(c) Persons entitled to rely upon opinions; scope of protection for good faith reliance

(1) Any advisory opinion rendered by the Commission under subsection (a) may be relied upon by—

(A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and

(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(2) Notwithstanding any other provisions of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (1) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of title 26.

(d) Requests made public; submission of written comments by interested public

The Commission shall make public any request made under subsection (a) for an advisory opinion. Before rendering an advisory opinion, the Commission shall accept written comments submitted by any interested party within the 10-day period following the date the request is made public. (Pub. L. 92–225, Title III, § 308, formerly § 313, as added Pub. L. 93–443, Title II, § 208(a), Oct. 15, 1974, 88 Stat. 1283, renumbered § 312 and amended Pub. L. 94–283, Title I, § § 105, 108(a), May 11, 1976, 90 Stat. 481, 482, renumbered § 308 and amended Pub. L. 96–187, Title I, §§ 105(4), 107(a), Jan. 8, 1980, 93 Stat. 1354, 1357; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

§ 437e. (Repealed).

399.14–7 § 437g. Enforcement. **399.14–7**

(a) Administrative and judicial practice and procedure

(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of title 26 has occurred, may file a complaint with the Commission. Such complaint shall be in writing, signed and sworn to by the person filing such complaint, shall be notarized, and shall be made under penalty of perjury and subject to the provisions of section

1001 of title 18. Within 5 days after receipt of a complaint, the Commission shall notify, in writing, any person alleged in the complaint to have committed such a violation. Before the Commission conducts any vote on the complaint, other than a vote to dismiss, any person so notified shall have the opportunity to demonstrate, in writing, to the commission within 15 days after notification that no action should be taken against such person on the basis of the complaint. The Commission may not conduct any investigation or take any other action under this section solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

(2) If the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, determines, by an affirmative vote of 4 of its members, that it has reason to believe that a person has committed, or is about to commit, a violation of this Act or chapter 95 or chapter 96 of title 26, the Commission shall, through its chairman or vice chairman, notify the person of the alleged violation. Such notification shall set forth the factual basis for such alleged violation. The Commission shall make an investigation of such alleged violation, which may include a field investigation or audit, in accordance with the provisions of this section.

(3) The general counsel of the Commission shall notify the respondent of any recommendation to the Commission by the general counsel to proceed to a vote on probable cause pursuant to paragraph (4)(A)(i). With such notification, the general counsel shall include a brief stating the position of the general counsel on the legal and factual issues of the case. Within 15 days of receipt of such brief, respondent may submit a brief stating the position of such respondent on the legal and factual issues of the case, and replying to the brief of general counsel. Such briefs shall be filed with the Secretary of the Commission and shall be considered by the Commission before proceeding under paragraph (4).

(4)(A)(i) Except as provided in clause (ii) and subparagraph (C), if the Commission determines, by an affirmative vote of 4 of its members, that there is probable cause to believe that any person has committed, or is about to commit, a violation of this Act or of chapter 95 or chapter 96 of title 26, the Commission shall attempt, for a period of at least 30 days, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with any person involved. Such attempt by the commission to correct or prevent such violation may continue for a period of not more than 90 days. The Commission may not enter into a conciliation agreement under this clause except pursuant to an affirmative vote of 4 of its members. A conciliation agreement, unless violated, is a complete bar to any further action by the Commission, including the bringing of a civil proceeding under paragraph (6)(A).

(ii) If any determination of the Commission under clause (i) occurs during the 45-day period immediately preceding any election, then the Commission shall attempt, for a period of at least 15 days, to correct or prevent the violation involved by the methods specified in clause (i).

(B)(i) No action by the Commission or any person, and no information derived, in connection with any conciliation attempt by the Commission

under subparagraph (A) may be made public by the Commission without the written consent of the respondent and the Commission.

(ii) If a conciliation agreement is agreed upon by the Commission and the respondent, the Commission shall make public any conciliation agreement signed by both the Commission and the respondent. If the Commission makes a determination that a person has not violated this Act or chapter 95 or chapter 96 of title 26, the Commission shall make public such determination.

(C)(i) Notwithstanding subparagraph (A), in the case of a violation of any requirement of section 434(a) of this title, the Commission may—

(I) find that a person committed such a violation on the basis of information obtained pursuant to the procedures described in paragraphs (1) and (2); and

(II) based on such finding, require the person to pay a civil money penalty in an amount determined under a schedule of penalties which is established and published by the Commission and which takes into account the amount of the violation involved, the existence of previous violations by the person, and such other factors as the Commission considers appropriate.

(ii) The Commission may not make any determination adverse to a person under clause (i) until the person has been given written notice and an opportunity to be heard before the Commission.

(iii) Any person against whom an adverse determination is made under this subparagraph may obtain a review of such determination in the district court of the United States for the district in which the person resides, or transacts business, by filing in such court (prior to the expiration of the 30-day period which begins on the date the person receives notification of the determination) a written petition requesting that the determination be modified or set aside.

(5)(A) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of title 26 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation.

(B) If the Commission believes that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of title 26 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may require that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation.

(C) If the Commission by an affirmative vote of 4 of its members, determines that there is probable cause to believe that a knowing and willful violation of this Act which is subject to subsection (d) of this section or a knowing and willful violation of chapter 95 or chapter 96 of title 26, has occurred or is about to occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitations set forth in paragraph (4)(A).

(D) In any case in which a person has entered into a conciliation agreement with the Commission under paragraph (4)(A), the Commission may institute a civil action for relief under paragraph (6)(A) if it believes

that the person has violated any provision of such conciliation agreement. For the Commission to obtain relief in any civil action, the Commission need only establish that the person has violated, in whole or in part, any requirement of such conciliation agreement.

(6)(A) If the Commission is unable to correct or prevent any violation of this Act or of chapter 95 or chapter 96 of title 26, by the methods specified in paragraph (4), the Commission may, upon an affirmative vote of 4 of its members, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order (including an order for a civil penalty which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation) in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

(B) In any civil action instituted by the Commission under subparagraph (A), the court may grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation, upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 or chapter 96 of title 26.

(C) In any civil action for relief instituted by the Commission under subparagraph (A), if the court determines that the Commission has established that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of title 26, the court may impose a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation.

(7) In any action brought under paragraph (5) or (6), subpenas for witnesses who are required to attend a United States district court may run into any other district.

(8)(A) Any party aggrieved by an order of the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure of the Commission to act on such complaint during the 120-day period beginning on the date the complaint is filed, may file a petition with the United States District Court for the District of Columbia.

(B) Any petition under subparagraph (A) shall be filed, in the case of a dismissal of a complaint by the Commission, within 60 days after the date of the dismissal.

(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the failure to act is contrary to law, and may direct the Commission to conform with such declaration within 30 days, failing which the complainant may bring, in the name of such complainant, a civil action to remedy the violation involved in the original complaint.

(9) Any judgment of a district court under this subsection may be appealed to the court of appeals, and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(10) **Repealed.** (98 Stat. 3357)

(11) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (6), it may petition the court for an order to hold such person in civil contempt, but if it believes the violation to be knowing and willful it may petition the court for an order to hold such person in criminal contempt.

(12)(A) Any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

(B) Any member or employee of the Commission, or any other person, who violates the provisions of subparagraph (A) shall be fined not more than $2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subparagraph (A) shall be fined not more than $5,000.

(b) Notice to persons not filing required reports prior to institution of enforcement action; publication of identity of persons and unfiled reports

Before taking any action under subsection (a) against any person who has failed to file a report required under section 434(a)(2)(A)(iii) of this title for the calendar quarter immediately preceding the election involved, or in accordance with section 434(a)(2)(A)(i) of this title, the Commission shall notify the person of such failure to file the required reports. If a satisfactory response is not received within 4 business days after the date of notification, the Commission shall, pursuant to section 438(a)(7) of this title, publish before the election the name of the person and the report or reports such person has failed to file.

(c) Reports by Attorney General of apparent violations

Whenever the Commission refers an apparent violation to the Attorney General, the Attorney General shall report to the Commission any action taken by the Attorney General regarding the apparent violation. Each report shall be transmitted within 60 days after the date the Commission refers an apparent violation, and every 30 days thereafter until the final disposition of the apparent violation.

(d) Penalties; defenses; mitigation of offenses

(1)(A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution or expenditure aggregating $2,000 or more during a calendar year shall be fined, or imprisoned for not more than one year, or both. The amount of this fine shall not exceed the greater of $25,000 or 300 percent of any contribution or expenditure involved in such violation.

(B) In the case of a knowing and willful violation of section 441b(b)(3) of this title, the penalties set forth in this subsection shall apply to a violation involving an amount aggregating $250 or more during a calendar year. Such violation of section 441b(b)(3) of this title may incorporate a violation of section 441c(b), 441f, or 441g of this title.

(C) In the case of a knowing and willful violation of section 441h of this title, the penalties set forth in this subsection shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of $ 1,000 or more is involved.

(2) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or of chapter 96 of title 26, any defendant may evidence their lack of knowledge or intent to commit the alleged violation by introducing as evidence a conciliation agreement entered into between the defendant and the Commission under subsection (a)(4)(A) of this section which specifically deals with the act or failure to act constituting such violation and which is still in effect.

(3) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or chapter 96 of title 26, the court before which such action is brought shall take into account, in weighing the seriousness of the violation and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

(A) the specific act or failure to act which constitutes the violation for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under subparagraph (a)(4)(A);

(B) the conciliation agreement is in effect; and

(C) the defendant is, with respect to the violation involved, in compliance with the conciliation agreement.

(Pub. L. 92–225, Title III, § 309, formerly § 314, as added Pub. L. 93–443, Title II, § 208(a), Oct. 15, 1974, 88 Stat. 1284, renumbered § 313 and amended Pub. L. 94–283, Title I, §§ 105, 109, May 11, 1976, 90 Stat. 481, 483, renumbered § 309 and amended Pub. L. 96–187, Title I, §§ 105(4), 108, Jan. 8, 1980, 93 Stat. 1354, 1358; Pub L. 98–620, Title IV, § 402(1)(A), Nov. 8, 1984, 98 Stat. 3357; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 106–58, Title VI, § 640(a)(b), Sept. 29, 1999, 113 Stat. 476, 477.)

399.14–8 § 437h. Judicial review. **399.14–8**

The Commission, the national committee of any political party, or any individual eligible to vote in any election for the office of President may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this Act. The district court immediately shall certify all questions of constitutionality of this Act to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(b) Repealed. (102 Stat. 663)

(c) Repealed. (98 Stat. 3357)

(Pub. L. 92–225, Title III, § 310, formerly § 315, as added Pub. L. 93–443, Title II, § 208(a), Oct. 15, 1974, 88 Stat. 1285; renumbered § 314 and amended Pub. L. 94–283, Title I, §§ 105, 115(e), May 11, 1976, 90 Stat. 481, 496; renumbered § 310 and amended Pub. L. 96–187, Title I, §§ 105(4), 112(c), Jan. 8, 1980, 93 Stat. 1354, 1366; Pub. L. 98–620, Title IV, § 402(1)(B), Nov. 8, 1984, 98 Stat. 3357; Pub. L. 100–352, § 6(a), June 27, 1988, 102 Stat. 663.)

399.15 § 438. Administrative provisions. **399.15**

(a) Duties of Commission

The Commission shall—

(1) prescribe forms necessary to implement this Act;

(2) prepare, publish, and furnish to all persons required to file reports and statements under this Act a manual recommending uniform methods of bookkeeping and reporting;

(3) develop a filing, coding, and cross-indexing system consistent with the purposes of this Act;

(4) within 48 hours after the time of the receipt by the Commission of reports and statements filed with it, make them available for public inspection, and copying, at the expense of the person requesting such copying except that any information copied from such reports or statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee. A political committee may submit 10 pseudonyms on each report filed in order to protect against the illegal use of names and addresses of contributors, provided such committee attaches a list of such pseudonyms to the appropriate report. The Secretary or the Commission shall exclude these lists from the public record;

(5) keep such designations, reports, and statements for a period of 10 years from the date of receipt, except that designations, reports, and statements that relate solely to candidates for the House of Representatives shall be kept for 5 years from the date of their receipt;

(6)(A) compile and maintain a cumulative index of designations, reports, and statements filed under this Act, which index shall be published at regular intervals and made available for purchase directly or by mail;

(B) compile, maintain, and revise a separate cumulative index of reports and statements filed by multi-candidate committees, including in such index a list of multi-candidate committees; and

(C) compile and maintain a list of multi-candidate committees, which shall be revised and made available monthly;

(7) prepare and publish periodically lists of authorized committees which fail to file reports as required by this Act;

(8) prescribe rules, regulations, and forms to carry out the provisions of this Act, in accordance with the provisions of subsection (d) of this section;

(9) transmit to the President and to each House of the Congress no later than June 1 of each year, a report which states in detail the activities of the Commission in carrying out its duties under this Act, and any recommendations for any legislative or other action the Commission considers appropriate; and

(10) serve as a national clearinghouse for the compilation of information and review of procedures with respect to the administration of Federal elections. The Commission may enter into contracts for the purpose of conducting studies under this paragraph. Reports or studies made under this paragraph shall be available to the public upon the payment of the cost thereof, except that copies shall be made available without cost, upon request, to agencies and branches of the Federal Government.

(b) Audits and field investigations

The Commission may conduct audits and field investigations of any political committee required to file a report under section 434 of this

title. All audits and field investigations concerning the verification for, and receipt and use of, any payments received by a candidate or committee under chapter 95 or chapter 96 of title 26 shall be given priority. Prior to conducting any audit under this subsection, the Commission shall perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. Such thresholds for compliance shall be established by the Commission. The Commission may, upon an affirmative vote of 4 of its members, conduct an audit and field investigation of any committee which does meet the threshold requirements, established by the Commission. Such audit shall be commenced within 30 days of such vote, except that any audit of an authorized committee of a candidate, under the provisions of this subsection, shall be commenced within 6 months of the election for which such committee is authorized.

(c) Statutory provisions applicable to forms and information gathering activities

Any forms prescribed by the Commission under subsection (a)(1), and any information-gathering activities of the Commission under this Act, shall not be subject to the provisions of section 3512 of title 44.

(d) Rules, regulations, or forms; issuance, procedures applicable, etc.

(1) Before prescribing any rule, regulation, or form under this section or any other provision of this Act, the Commission shall transmit a statement with respect to such rule, regulation, or form to the Senate and the House of Representatives, in accordance with this subsection. Such statement shall set forth the proposed rule, regulation, or form, and shall contain a detailed explanation and justification of it.

(2) If either House of the Congress does not disapprove by resolution any proposed rule or regulation submitted by the Commission under this section within 30 legislative days after the date of the receipt of such proposed rule or regulation or within 10 legislative days after the date of receipt of such proposed form, the Commission may prescribe such rule, regulation, or form.

(3) For purposes of this subsection, the term "legislative day" means, with respect to statements transmitted to the Senate, any calendar day on which the Senate is in session, and with respect to statements transmitted to the House of Representatives, any calendar day on which the House of Representatives is in session.

(4) For purposes of this subsection, the terms "rule" and "regulation" mean a provision or series of interrelated provisions stating a single, separable rule of law.

(5)(A) A motion to discharge a committee of the Senate from the consideration of a resolution relating to any such rule, regulation, or form or a motion to proceed to the consideration of such resolution, is highly privileged and shall be decided without debate.

(B) Whenever a committee of the House of Representatives reports any resolution relating to any such form, rule or regulation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in

order to move to reconsider the vote by which the motion is agreed to or disagreed with.

(e) Scope of protection for good faith reliance upon rules or regulations

Notwithstanding any other provision of law, any person who relies upon any rule or regulation prescribed by the Commission in accordance with the provisions of this section and who acts in good faith in accordance with such rule or regulation shall not, as a result of such act, be subject to any sanction provided by this Act or by chapter 95 or chapter 96 of title 26.

(f) Promulgation of rules, regulations, and forms by Commission and Internal Revenue Service; report to Congress on cooperative efforts

In prescribing such rules, regulations, and forms under this section, the Commission and the Internal Revenue Service shall consult and work together to promulgate rules, regulations, and forms which are mutually consistent. The Commission shall report to the Congress annually on the steps it has taken to comply with this subsection. (Pub. L. 92–225, Title III, § 311, formerly § 308, Feb. 7, 1972, 86 Stat. 16, renumbered § 316 and amended Pub. L. 93–443, Title II, §§ 208(a), (c)(7)–(10), 209(a)(1), (b), Oct. 15, 1974, 88 Stat. 1279, 1286, 1287, renumbered § 315 and amended Pub. L. 94–283, Title I, §§ 105, 110, May 11, 1976, 90 Stat. 481, 486, renumbered § 311 and amended Pub. L. 96–187, Title I, §§ 105(4), 109, Jan. 8, 1980, 93 Stat. 1354, 1362; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 104–79, § 3(c), Dec. 28, 1995, 109 Stat. 792.)

399.16 § 439. Statements filed with State officers; "appropriate State" defined; duties of State officers. 399.16

(a)(1) A copy of each report and statement required to be filed by any person under this Act shall be filed by such person with the Secretary of State (or equivalent State officer) of the appropriate State, or, if different, the officer of such State who is charged by State law with maintaining State election campaign reports. The chief executive officer of such State shall designate any such officer and notify the Commission of any such designation.

(2) For purposes of this subsection, the term "appropriate State" means—

(A) for statements and reports in connection with the campaign for nomination for election of a candidate to the office of President or Vice President, each State in which an expenditure is made on behalf of the candidate; and

(B) for statements and reports in connection with the campaign for nomination for election, or election, of a candidate to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, the State in which the candidate seeks election; except that political committees other than authorized committees are only required to file, and Secretaries of State required to keep, that portion of the report applicable to candidates seeking election in that State.

(b) The Secretary of State (or equivalent State officer), or the officer designated under subsection (a)(1) of this section, shall—

(1) receive and maintain in an orderly manner an reports and statements required by this Act to be filed therewith;

(2) keep such reports and statements (either in original filed form or in facsimile copy by microfilm or otherwise) for 2 years after their date of receipt;

(3) make each report and statement filed therewith available as soon as practicable (but within 48 hours of receipt) for public inspection and copying during regular business hours, and permit copying of any such report or statement by hand or by duplicating machine at the request of any person, except that such copying shall be at the expense of the person making the request; and

(4) compile and maintain a current list of all reports and statements pertaining to each candidate.

(c) Subsections (a) and (b) of this section shall not apply with respect to any State that, as determined by the Commission, has a system that permits electronic access to, and duplication of, reports and statements that are filed with the Commission. (Pub. L. 92–225, Title III, § 312, formerly § 309, as added Pub. L. 93–433 renumbered § 317 and amended Pub. L. 93–443, Title II, § 208(a), (c) (11), Oct. 15, 1974, 88 Stat. 1279, 1287; renumbered § 316, Pub. L. 94–283, Title I, § 105, May 11, 1976, 90 Stat. 481, renumbered § 312 and amended Pub. L. 96–187, Title I, §§ 105(4), 110, Jan. 8, 1980, 93 Stat. 1354, 1364; Pub. L. 104–79, § 2, Dec. 28, 1995, 109 Stat. 791.)

399.16–1 § 439a. Use of contributed amounts for certain purposes. **399.16–1**

Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures, and any other amounts contributed to an individual for the purpose of supporting his or her activities as a holder of Federal office, may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office, may be contributed to any organization described in section 170(c) of title 26, or may be used for any other lawful purpose, including transfers without limitation to any national, State, or local committee of any political party; except that no such amounts may be converted by any person to any personal use, other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office. (Pub. L. 92–225, Title III, § 313, formerly § 318, as added Pub. L. 93–443, Title II, § 210, Oct. 15, 1974, 88 Stat. 1288, renumbered § 317, Pub. L. 94–283, Title I, § 105, May 11, 1976, 90 Stat. 481, renumbered § 313 and amended Pub. L. 96–187, Title I, §§ 105(4), 113, Jan. 8, 1980, 93 Stat. 1354, 1366; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101–194, Title V, § 504(a), Nov. 30, 1989, 103 Stat. 1755.)

§ 439b. (Repealed.)

399.16–3 § 439c. Authorization of appropriations. **399.16–3**

There are authorized to be appropriated to the Commission for the purpose of carrying out its functions under this Act, and under chapters 95 and 96 of title 26, not to exceed $5,000,000 for the fiscal year ending June 30, 1975. There are authorized to be appropriated to the Commission $6,000,000 for the fiscal year ending June 30, 1976, $1,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, $6,000,000 for the fiscal year ending September 30, 1977, and $7,811,500

for the fiscal year ending September 30, 1978, and $9,400,000 (of which not more than $400,000 is authorized to be appropriated for the national clearinghouse function described in section (438(a)(10) of this title) for the fiscal year ending September 30, 1981. (Pub. L. 92–225, Title III, Sec. 314, formerly Sec. 320, as added Pub. L. 93–443, Title II, Sec. 210, Oct. 15, 1974, 88 Stat. 1289; renumbered Sec. 319 and amended Pub. L. 94–283, Title I, Sec. 105; 113, May 11, 1976, 90 Stat. 481, 495; Pub. L. 95–127, Oct. 12, 1977, 91 Stat. 1110; renumbered Sec. 314, Pub. L. 96–187, Title I, Sec. 105(5), Jan. 8, 1980, 93 Stat. 1354; Pub. L. 96–253, May 29, 1980, 94 Stat. 398; Pub. L. 99–514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095.)

§ 440. (Repealed.)

§ 441. (Repealed.)

399.17 § 441a. Limitations on contributions and expenditures. 399.17

(a) Dollar limits on contributions

(1) No person shall make contributions—

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year which, in the aggregate, exceed $20,000; or

(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

(2) No multicandidate political committee shall make contributions—

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year, which, in the aggregate, exceed $15,000; or

(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

(3) No individual shall make contributions aggregating more than $25,000 in any calendar year. For purposes of this paragraph, any contribution made to a candidate in a year other than the calendar year in which the election is held with respect to which such contribution is made, is considered to be made during the calendar year in which such election is held.

(4) The limitations on contributions contained in paragraphs (1) and (2) do not apply to transfers between and among political committees which are national, State, district, or local committees (including any subordinate committee thereof) of the same political party. For purposes of paragraph (2), the term "multicandidate political committee" means a political committee which has been registered under section 433 for a period of not less than 6 months, which has received contributions from more than 50 persons, and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office.

(5) For purposes of the limitations provided by paragraph (1) and paragraph (2), all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fund raising efforts; (B) for purposes of the limitations provided by paragraph (1) and paragraph (2) all contributions made by a single political committee established or financed or maintained or controlled by a national committee of a political party and by a single political committee established or financed or maintained or controlled by the State committee of a political party shall not be considered to have been made by a single political committee; and (C) nothing in this section shall limit the transfer of funds between the principal campaign committee of a candidate seeking nomination or election to a Federal office and the principal campaign committee of that candidate for nomination or election to another Federal office if (i) such transfer is not made when the candidate is actively seeking nomination or election to both such offices; (ii) the limitations contained in this Act on contributions by persons are not exceeded by such transfer; and (iii) the candidate has not elected to receive any funds under chapter 95 or chapter 96 of title 26. In any case in which a corporation and any of its subsidiaries, branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish or finance or maintain or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single separate segregated fund for purposes of the limitations provided by paragraph (1) and paragraph (2).

(6) The limitations on contributions to a candidate imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

(7) For purposes of this subsection—

(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

(B)(i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents, shall be considered to be a contribution to such candidate;

(ii) the financing by any person of the dissemination, distribution, of republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

(C) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice

President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

(8) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

(b) Dollar limits on expenditures by candidates for office of President of the United States

(1) No candidate for the office of President of the United States who is eligible under section 9003 of title 26 (relating to condition for eligibility for payments) or under section 9033 of title 26 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of—

(A) $10,000,000 in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State (as certified under subsection (e) of this section), or $200,000; or

(B) $20,000,000 in the case of a campaign for election to such office.

(2) For purposes of this subsection—

(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

(B) an expenditure is made on behalf of a candidate, including a vice presidential candidate, if it is made by—

(i) an authorized committee or any other agent of the candidate for purposes of making any expenditure; or

(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or any agent of the candidate, to make the expenditure.

(c) Increases on limits based on increases in price index

(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (b) and subsection (d) shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.

(2) For purposes of paragraph (1)—

(A) the term "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

(B) the term "base period" means the calendar year 1974.

(d) Expenditures by national committee, State committee, or subordinate committee of State committee in connection with general election campaign of candidates for Federal office

(1) Notwithstanding any other provision of law with respect to the limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e) of this section). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States.

(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e) of this section); or

(ii) $20,000; and

(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

(e) Certification and publication of estimated voting age population

During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term "voting age population" means resident population, 18 years of age or older.

(f) Prohibited contributions and expenditures

No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

(g) Attribution of multi-State expenditures to candidate's expenditure limitation in each State

The Commission shall prescribe rules under which any expenditure by a candidate for presidential nominations for use in 2 or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

(h) Senatorial candidates

Notwithstanding any other provision of this Act, amounts totaling not more than $17,500 may be contributed to a candidate for nomination for election, or for election, to the United States Senate during the year in which an election is held in which he is such a candidate, by the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees. (May 11, 1976, Pub. L. 94–283, § 112(2), 90 Stat. 486; Jan. 8, 1980, Pub. L. 96–187, Title I, § 105(5), 93 Stat. 1354; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

399.17–1 § 441b. Contributions or expenditures by national banks, corporations, or labor organizations. 399.17–1

(a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization, to make a contribution or expenditure in connection with any election at which presidential and vice presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

(b)(1) For the purposes of this section the term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(2) For purposes of this section and section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 791(h)), the term "contribution or expenditure" shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section, but shall not include (A) communications by a corporation to its stockholders and executive

or administrative personnel and their families or by a labor organization to its members and their families on any subject; (B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; and (C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.

(3) It shall be unlawful—

(A) for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;

(B) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

(4)(A) Except as provided in subparagraphs (B), (C), and (D), it shall be unlawful—

(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

(B) It shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make 2 written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution of $50 or less as a result of such solicitation who does not make such a contribution.

(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate segregated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organization, cooperative, or corporation without capital stock.

(D) This paragraph shall not prevent a trade association or a separate segregated fund established by a trade association from soliciting con-

tributions from the stockholders and executive or administrative personnel of the member corporations of such trade association and the families of such stockholders or personnel to the extent that such solicitation of such stockholders and personnel, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation does not approve any such solicitation by more than one such trade association in any calendar year.

(5) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members.

(6) Any corporation, including its subsidiaries, branches, divisions, and affiliates, that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available such method, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, to a labor organization representing any members working for such corporation, its subsidiaries, branches, divisions, and affiliates.

(7) For purposes of this section, the term "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking, managerial, professional, or supervisory responsibilities. (May 11, 1976, Pub. L. 94–283, § 112(2), 90 Stat. 490; renumbered and amended Pub. L. 96–187, Title I, §§ 105(5), 112(d), Jan. 8, 1980, 93 Stat. 1354, 1366.)

399.17–2 § 441c. Contributions by government contractors. **399.17–2**

(a) Prohibition

It shall be unlawful for any person—

(1) who enters into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (A) the completion of performance under; or (B) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other things of value, or to promise expressly or impliedly to make any such contribution to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

(2) knowingly to solicit any such contribution from any such person for any such purpose during any such period.

(b) Separate segregated funds

This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation, labor organization, membership organization, cooperative, or corporation without capital stock for the pur-

pose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 441b prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund. Each specific prohibition, allowance, and duty applicable to a corporation, labor organization, or separate segregated fund under section 441b applies to a corporation, labor organization, or separate segregated fund to which this subsection applies.

(c) "Labor organization" defined

For purposes of this section, the term "labor organization" has the meaning given it by section 441b(b)(1) of this title. (May 11, 1976, Pub. L. 94–283, § 112(2), 90 Stat. 492; Jan. 8, 1980, Pub. L. 96–187, Title I, § 105(5), 93 Stat. 1354.)

399.17–3 § 441d. Publication and distribution of statements and solicitations; charge for newspaper or magazine space. 399.17–3

(a) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication—

(1) if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee, or

(2) if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other persons and authorized by such authorized political committee;

(3) if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

(b) No person who sells space in a newspaper or magazine to a candidate or to the agent of a candidate, for use in connection with such candidate's campaign, may charge any amount for such space which exceeds the amount charged for comparable use of such space for other purposes. (Pub. L. 92–225, Title III, § 318, formerly § 323, as added Pub. L. 94–283, Title I, § 112(2), May 11, 1976, 90 Stat. 493, renumbered and amended Pub. L. 96–187, Title I, §§ 105(5), 111, Jan. 8, 1980, 93 Stat. 1354, 1365.)

399.17–4 § 441e. Contributions by foreign nationals. 399.17–4

(a) It shall be unlawful for a foreign national directly or through any other person to make any contribution of money or other thing of value, or to promise expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or for any person to solicit, accept, or receive any such contribution from a foreign national.

(b) As used in this section, the term "foreign national" means—

(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)), except that the term "foreign national" shall not include any individual who is a citizen of the United States; or

(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)). (May 11, 1976, Pub. L. 94–283, § 112(2), 90 Stat. 493; Jan. 8, 1980, Pub. L. 96–187, Title I, § 105(5), 93 Stat. 1354.)

399.17–5 § 441f. Contributions in name of another prohibited. 399.17–5

No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person. (May 11, 1976, Pub. L. 94–283, § 112(2), 90 Stat. 494; Jan. 8, 1980, Pub. L. 96–187, Title I, § 105(5), 93 Stat. 1354.)

399.17–6 § 441g. Limitation on contribution of currency. 399.17–6

No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed $100, with respect to any campaign of such candidate for nomination for election, or for election, to Federal office. (May 11, 1976, Pub. L. 94–283, § 112(2), 90 Stat. 494; Jan. 8, 1980, Pub. L. 96–187, Title I, § 105(5), 93 Stat. 1354.)

399.17–7 § 441h. Fraudulent misrepresentation of campaign authority. 399.17–7

No person who is a candidate for Federal office or any employee or agent of such a candidate shall—

(1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

(2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1). (May 11, 1976, Pub. L. 94–283, § 112(2), 90 Stat. 494; Jan. 8, 1980, Pub. L. 96–187, Title I, § 105(5), 93 Stat. 1354.)

399.17–8 § 441i. (Repealed.) (Pub. L. 102–90, § 6(d), Aug. 14, 1991, 105 Stat. 451) 399.17–8

§ 441j. (Repealed.)

399.19 § 442. Authority to procure technical support and other services and incur travel expenses; payment of such expenses. 399.19

For the purpose of carrying out his duties under the Federal Election Campaign Act of 1971, the Secretary of the Senate is authorized, from and after July 1, 1972, (1) to procure technical support services, (2) to procure the temporary or intermittent services of individual technicians, experts, or consultants, or organizations thereof, in the same manner and under the same conditions, to the extent applicable, as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946, (3) with the prior consent of the Government department or agency concerned and the

Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency, and (4) to incur official travel expenses. Payments to carry out the provisions of this paragraph shall be made from funds included in the appropriation "Miscellaneous Items" under the heading "Contingent Expenses of the Senate" upon vouchers approved by the Secretary of the Senate. All sums received by the Secretary under authority of the Federal Election Campaign Act of 1971 shall be covered into the Treasury as miscellaneous receipts. (July 10, 1972, Pub. L. 92–342, § 101, 86 Stat. 435.)

Subchapter II.—General Provisions

399.20 § 451. Extension of credit by regulated industries; regulations. 399.20

The Secretary of Transportation, the Federal Communications Commission, and the Surface Transportation Board shall each maintain,[1] its own regulations with respect to the extension of credit, without security, by any person regulated by the Secretary under subpart II of part A of subtitle VII of title 49, or such Commission or Board, to any candidate for Federal office, or to any person on behalf of such a candidate, for goods furnished or services rendered in connection with the campaign of such candidate for nomination for election, or election, to such office. Pub. L. 92–225, Title IV, § 401, Feb. 7, 1972, 86 Stat. 19; Pub. L. 93–443, Title II, § 201(b)(1), Oct. 15, 1974, 88 Stat. 1275; Pub. L. 103–272, § 4(a), July 5, 1994, 108 Stat. 1360; Pub. L. 104–88, Title III, § 313, Dec. 29, 1995, 109 Stat. 948: Pub. L. 104–287, § 6(g), Oct. 11, 1996, 110 Stat. 3399.)

399.21 § 452. Prohibition against use of certain Federal funds for election activities. 399.21

No part of any funds appropriated to carry out the Economic Opportunity Act of 1964 shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the Office of Economic Opportunity who, in his official capacity as such an officer or employee, engages in any such activity. (Feb. 7, 1972, Pub. L. 92–225, § 402, 86 Stat. 19; Oct. 15, 1974, Pub. L. 93–443, § 201(b)(2), 88 Stat. 1275.)

399.22 § 453. State laws affected. 399.22

The provisions of this Act, and of rules prescribed under this Act, supersede and preempt any provision of State law with respect to election to Federal Office. (Feb. 7, 1972, Pub. L. 92–225, § 403, 86 Stat. 20; Oct. 15, 1974, Pub. L. 93–443, § 301, 88 Stat. 1289.)

399.23 § 454. Partial invalidity. 399.23

If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby. (Feb. 7, 1972, Pub. L. 92–225, § 404, 86 Stat. 20.)

[1] So in original. The comma probably should not appear.

399.23–1 § 455. Period of limitations. 399.23–1

(a) No person shall be prosecuted, tried, or punished for any violation of subchapter I of this chapter unless the indictment is found or the information is instituted within 3 years after the date of the violation.

(b) Notwithstanding any other provision of law—

(1) the period of limitations referred to in subsection (a) of this section shall apply with respect to violations referred to in such subsection committed before, on, or after the effective date of this section; and

(2) no criminal proceeding shall be instituted against any person for any act or omission which was a violation of any provision of subchapter I of this chapter, as in effect on December 31, 1974, if such act or omission does not constitute a violation of any such provision, as amended by the Federal Election Campaign Act Amendments of 1974.

Nothing in this subsection shall affect any proceeding pending in any court of the United States on January 1, 1975. (Feb. 7, 1972, Pub. L. 92–225, § 406, as added, Oct. 15, 1974, Pub. L. 93–443, § 302, 88 Stat. 1289; May 11, 1976, Pub. L. 94–283, § 115(f), 90 Stat. 496.)

§ 456. (Repealed.)

Chapter 15.—OFFICE OF TECHNOLOGY ASSESSMENT

399.24 § 471. Congressional findings and declaration of purpose. 399.24

The Congress hereby finds and declares that:

(a) As technology continues to change and expand rapidly, its applications are—

(1) large and growing in scale; and

(2) increasingly extensive, pervasive, and critical in their impact, beneficial and adverse, on the natural and social environment.

(b) Therefore, it is essential that, to the fullest extent possible, the consequences of technological applications be anticipated, understood, and considered in determination of public policy on existing and emerging national problems.

(c) The Congress further finds that:

(1) the Federal agencies presently responsible directly to the Congress are not designed to provide the legislative branch with adequate and timely information, independently developed, relating to the potential impact of technological applications, and

(2) the present mechanisms of the Congress do not and are not designed to provide the legislative branch with such information.

(d) Accordingly, it is necessary for the Congress to—

(1) equip itself with new and effective means for securing competent, unbiased information concerning the physical, biological, economic, social, and political effects of such applications; and

(2) utilize this information, whenever appropriate, as one factor in the legislative assessment of matters pending before the Congress, particularly in those instances where the Federal Government may be called upon to consider support for, or manage-

ment or regulation of, technological applications. (Oct. 13, 1972, Pub. L. 92–484, § 2, 86 Stat. 797.)

399.25 § 472. Office of Technology Assessment. **399.25**

(a) In accordance with the findings and declaration of purpose, in section 471 of this title, there is hereby created the Office of Technology Assessment (hereinafter referred to as the "Office") which shall be within and responsible to the legislative branch of the Government.

(b) The Office shall consist of a Technology Assessment Board (hereinafter referred to as the "Board") which shall formulate and promulgate the policies of the Office, and a Director who shall carry out such policies and administer the operations of the Office.

(c) The basic function of the Office shall be to provide early indications of the probable beneficial and adverse impacts of the applications of technology and to develop other coordinate information which may assist the Congress. In carrying out such function, the Office shall:

(1) identify existing or probable impacts of technology or technological programs;

(2) where possible, ascertain cause-and-effect relationships;

(3) identify alternative technological methods of implementing specific programs;

(4) identify alternative programs for achieving requisite goals;

(5) make estimates and comparisons of the impacts of alternative methods and programs;

(6) present findings of completed analyses to the appropriate legislative authorities;

(7) identify areas where additional research or data collection is required to provide adequate support for the assessments and estimates described in paragraphs (1) through (5) of this subsection; and

(8) undertake such additional associated activities as the appropriate authorities specified under subsection (d) may direct.

(d) Assessment activities undertaken by the Office may be initiated upon the request of:

(1) the chairman of any standing, special, or select committee of either House of the Congress, or of any joint committee of the Congress, acting for himself or at the request of the ranking minority member or a majority of the committee members;

(2) the Board; or

(3) the Director, in consultation with the Board.

(e) Assessments made by the Office, including information, surveys, studies, reports, and findings related thereto, shall be made available to the initiating committee or other appropriate committees of the Congress. In addition, any such information, surveys, studies, reports, and findings produced by the Office may be made available to the public except where—

(1) to do so would violate security statutes; or

(2) the Board considers it necessary or advisable to withhold such information in accordance with one or more of the numbered paragraphs in section 552(b) of title 5, United States Code. (Oct. 13, 1972, Pub. L. 92–484, § 3, 86 Stat. 797.)

399.26 § 473. Technology Assessment Board. **399.26**

(a) The Board shall consist of thirteen members as follows:

(1) six Members of the Senate, appointed by the President pro tempore of the Senate, three from the majority party and three from the minority party;

(2) six Members of the House of Representatives appointed by the Speaker of the House of Representatives, three from the majority party and three from the minority party; and

(3) the Director, who shall not be a voting member.

(b) Vacancies in the membership of the Board shall not affect the power of the remaining members to execute the functions of the Board and shall be filled in the same manner as in the case of the original appointment.

(c) The Board shall select a chairman and a vice chairman from among its members at the beginning of each Congress. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. The chairmanship and the vice chairmanship shall alternate between the Senate and the House of Representatives with each Congress. The chairman during each even-numbered Congress shall be selected by the Members of the House of Representatives on the Board from among their number. The vice chairman during each Congress shall be chosen in the same manner from that House of Congress other than the House of Congress of which the chairman is a Member.

(d) The Board is authorized to sit and act at such places and times during the sessions, recesses, and adjourned periods of Congress, and upon a vote of a majority of its members, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths and affirmations, to take such testimony, to procure such printing and binding, and to make such expenditures, as it deems advisable. The Board may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Board unless a majority of the Board assent. Subpenas may be issued over the signature of the chairman of the Board or of any voting member designated by him or by the Board, and may be served by such person or persons as may be designated by such chairman or member. The chairman of the Board or any voting member thereof may administer oaths or affirmations to witnesses. (Oct. 13, 1972, Pub. L. 92–484, § 4, 86 Stat. 798.)

399.27 § 474. Director of Office of Technology Assessment. **399.27**

(a) The Director of the Office of Technology Assessment shall be appointed by the Board and shall serve for a term of six years unless sooner removed by the Board. He shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of title 5.

(b) In addition to the powers and duties vested in him by this Act, the Director shall exercise such powers and duties as may be delegated to him by the Board.

(c) The Director may appoint with the approval of the Board, a Deputy Director who shall perform such functions as the Director may prescribe and who shall be Acting Director during the absence or incapacity of the Director or in the event of a vacancy in the office of Director. The Deputy Director shall receive basic pay at the rate provided for level IV of the Executive Schedule under section 5315 of title 5.

(d) Neither the Director nor the Deputy Director shall engage in any other business, vocation, or employment than that of serving as such Director or Deputy Director, as the case may be; nor shall the Director or Deputy Director, except with the approval of the Board, hold any office in, or act in any capacity or, any organization, agency, or institution with which the Office makes any contract or other arrangement under this chapter. (Oct. 13, 1972, Pub. L. 92–484, § 5, 86 Stat. 799.)

399.28 § 475. Powers of Office of Technology Assessment. **399.28**

(a) The Office shall have the authority, within the limits of available appropriations, to do all things necessary to carry out the provisions of this chapter, including, but without being limited to, the authority to—

(1) make full use of competent personnel and organizations outside the Office, public or private, and form special ad hoc task forces or make other arrangements when appropriate;

(2) enter into contracts or other arrangements as may be necessary for the conduct of the work of the Office with any agency or instrumentality of the United States, with any State, territory, or possession or any political subdivision thereof, or with any person, firm, association, corporation, or educational institution, with or without reimbursement, without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

(3) make advance, progress, and other payments which relate to technology assessment without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529);

(4) accept and utilize the services of voluntary and uncompensated personnel necessary for the conduct of the work of the Office and provide transportation and subsistence as authorized by section 5703 of title 5 for persons serving without compensation;

(5) acquire by purchase, lease, loan, or gift, and hold and dispose of by sale, lease, or loan, real and personal property of all kinds necessary for or resulting from the exercise of authority granted by this chapter; and

(6) prescribe such rules and regulations as it deems necessary governing the operation and organization of the Office.

(b) Contractors and other parties entering into contracts and other arrangements under this section which involve costs to the Government shall maintain such books and related records as will facilitate an effective audit in such detail and in such manner as shall be prescribed by the Office, and such books and records (and related documents and papers) shall be available to the Office and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination.

(c) The Office, in carrying out the provisions of this chapter, shall not, itself, operate any laboratories, pilot plants, or test facilities.

(d) The Office is authorized to secure directly from any executive department or agency information, suggestions, estimates, statistics, and technical assistance for the purpose of carrying out its functions under this chapter. Each such executive department or agency shall furnish the information, suggestions, estimates, statistics, and technical assistance directly to the Office upon its request.

(e) On request of the Office, the head of any executive department or agency may detail, with or without reimbursement, any of its per-

sonnel to assist the Office in carrying out its functions under this chapter.

(f) The Director shall, in accordance with such policies as the Board shall prescribe, appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter. (Oct. 13, 1972, Pub. L. 92–484, § 6, 86 Stat. 799.)

399.29 § 476. Technology Assessment Advisory Council. **399.29**

(a) The Office shall establish a Technology Assessment Advisory Council (hereinafter referred to as the "Council"). The Council shall be composed of the following twelve members:

(1) ten members from the public, to be appointed by the Board, who shall be persons eminent in one or more fields of the physical, biological, or social sciences or engineering or experienced in the administration of technological activities, or who may be judged qualified on the basis of contributions made to educational or public activities;

(2) the Comptroller General; and

(3) the Director of the Congressional Research Service of the Library of Congress.

(b) The Council, upon request by the Board, shall—

(1) review and make recommendations to the Board on activities undertaken by the Office or on the initiation thereof in accordance with section 472(d) of this title;

(2) review and make recommendations to the Board on the findings of any assessment made by or for the Office; and

(3) undertake such additional related tasks as the Board may direct.

(c) The Council, by majority vote, shall elect from its members appointed under subsection (a)(1) of this section a Chairman and a Vice Chairman, who shall serve for such time and under such conditions as the Council may prescribe. In the absence of the Chairman, or in the event of his incapacity, the Vice Chairman shall act as Chairman.

(d) The term of office of each member of the Council appointed under subsection (a)(1) shall be four years except that any such member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. No person shall be appointed a member of the Council under subsection (a)(1) more than twice. Terms of the members appointed under subsection (a)(1) shall be staggered so as to establish a rotating membership according to such method as the Board may devise.

(e)(1) The members of the Council other than those appointed under subsection (a)(1) shall receive no pay for their services as members of the Council, but shall be allowed necessary travel expenses (or, in the alternative, mileage for use of privately owned vehicles and payments when traveling on official business at not to exceed the payment prescribed in regulations implementing section 5702 and in 5704 of title 5), and other necessary expenses incurred by them in the performance of duties vested in the Council, without regard to the provisions of subchapter 1 of chapter 57 and section 5731 of title 5, and regulations promulgated thereunder.

(2) The members of the Council appointed under subsection (a)(1) shall receive compensation for each day engaged in the actual perform-

ance of duties vested in the Council at rates of pay not in excess of the daily equivalent of the highest rate of basic pay set forth in the General Schedule of section 5332(a) of title 5, and in addition shall be reimbursed for travel, subsistence, and other necessary expenses in the manner provided for other members of the Council under paragraph (1) of this subsection. (Oct. 13, 1972, Pub. L. 92–484, § 7, 86 Stat. 800; Pub. L. 99–234, Title I, § 107(a), Jan. 2, 1986, 99 Stat. 1759.)

399.30 § 477. Utilization of services of Library of Congress. **399.30**

(a) To carry out the objectives of this Act, the Librarian of Congress is authorized to make available to the Office such services and assistance of the Congressional Research Service as may be appropriate and feasible.

(b) Such services and assistance made available to the Office shall include, but not be limited to, all of the services and assistance which the Congressional Research Service is otherwise authorized to provide to the Congress.

(c) Nothing in this section shall alter or modify any services or responsibilities, other than those performed for the Office, which the Congressional Research Service under law performs for or on behalf of the Congress. The Librarian is, however, authorized to establish within the Congressional Research Service such additional divisions, groups, or other organizational entities as may be necessary to carry out the purpose of this Act.

(d) Services and assistance made available to the Office by the Congressional Research Service in accordance with this section may be provided with or without reimbursement from funds of the Office, as agreed upon by the Board and the Librarian of Congress. (Oct. 13, 1972, Pub. L. 92–484, § 8, 86 Stat. 801.)

399.31 § 478. Utilization of services of General Accounting Office. **399.31**

(a) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) and such other services as may be appropriate shall be provided the Office by the General Accounting Office.

(b) Such services and assistance to the Office shall include, but not be limited to, all of the services and assistance which the General Accounting Office is otherwise authorized to provide to the Congress.

(c) Nothing in this section shall alter or modify any services or responsibilities, other than those performed for the Office, which the General Accounting Office under law performs for or on behalf of the Congress.

(d) Services and assistance made available to the Office by the General Accounting Office in accordance with this section may be provided with or without reimbursement from funds of the Office, as agreed upon by the Board and the Comptroller General. (Oct. 13, 1972, Pub. L. 92–484, § 9, 86 Stat. 802.)

399.32 § 479. Coordination of activities with National Science Foundation. **399.32**

The Office shall maintain a continuing liaison with the National Science Foundation with respect to—

(1) grants and contracts formulated or activated by the Foundation which are for purposes of technology assessment; and

(2) the promotion of coordination in areas of technology assessment, and the avoidance of unnecessary duplication or overlapping of research activities in the development of technology assessment techniques and programs. (Oct. 13, 1972, Pub. L. 92–484, § 10(a), 86 Stat. 802.)

399.33 § 480. Annual report to Congress. 399.33

The Office shall submit to the Congress an annual report which shall include, but not be limited to, an evaluation of technology assessment techniques and identification, insofar as may be feasible, of technological areas and programs requiring future analysis. Such report shall be submitted not later than March 15 of each year. (Oct. 13, 1972, Pub. L. 92–484, § 11, 86 Stat. 802.)

399.34 § 481. Authorization of appropriations; availability of appropriations. 399.34

(a) To enable the Office to carry out its powers and duties, there is hereby authorized to be appropriated to the Office, out of any money in the Treasury not otherwise appropriated, not to exceed $5,000,000 in the aggregate for the two fiscal years ending June 30, 1973, and June 30, 1974, and thereafter such sums as may be necessary.

(b) Appropriations made pursuant to the authority provided in subsection (a) shall remain available for obligation, for expenditure, or for obligation and expenditure for such period or periods as may be specified in the chapter making such appropriations. (Oct. 13, 1972, Pub. L. 92–484, § 12, 86 Stat. 803.)

Chapter 16.—CONGRESSIONAL STANDARDS AND CONDUCT

399.35 § 502. Select Committee on Standards and Conduct of the Senate.[1] 399.35

(a) Advisory opinions or consultations respecting franked mail for persons entitled to franking privilege; franking privilege regulations

The Select Committee on Standards and Conduct of the Senate shall provide guidance, assistance, advice and counsel, through advisory opinions or consultations, in connection with the mailing or contemplated mailing of franked mail under section 3210, 3211, 3212, 3213(2), 3218, or 3219, and in connection with the operation of section 3215, of title 39 upon the request of any Member of the Senate or Member-elect, surviving spouse of any of the foregoing, or other Senate official, entitled to send mail as franked mail under any of those sections. The select committee shall prescribe regulations governing the proper use of the franking privilege under those sections by such persons.

(b) Complaint of franked mail violations; investigation; notice and hearing; decision of select committee; enforcement

Any complaint filed by any person with the select committee that a violation of any section of title 39 referred to in subsection (a) of this section is about to occur or has occurred within the immediately preceding period of one year, by any person referred to in such subsection (a), shall contain pertinent factual material and shall conform

[1] Name changed to Select Committee on Ethics by section 102 of S. Res. 4, 95th Congress, agreed to February 4 (legislative day, February 1), 1977. Senate Manual section **79**.

to regulations prescribed by the select committee. The select committee, if it determines there is reasonable justification for the complaint, shall conduct an investigation of the matter, including an investigaton of reports and statements filed by the complainant with respect to the matter which is the subject of the complaint. The committee shall afford to the person who is the subject of the complaint due notice and, if it determines that there is substantial reason to believe that such violation has occurred or is about to occur, opportunity for all parties to participate in a hearing before the select committee. The select committee shall issue a written decision on each complaint under this subsection not later than thirty days after such a complaint has been filed or, if a hearing is held, not later than thirty days after the conclusion of such hearing. Such decision shall be based on written findings of fact in the case by the select committee. If the select committee finds, in its written decision, that a violation has occurred or is about to occur, the committee may take such action and enforcement as it considers appropriate in accordance with applicable rules, precedents, and standing orders of the Senate, and such other standards as may be prescribed by such committee.

(c) Administrative or judicial jurisdiction of civil actions respecting franking law violations or abuses of franking privilege dependent on filing of complaint with select committee and rendition of decision by such committee

Notwithstanding any other provision of law, no court or administrative body in the United States or in any territory thereof shall have jurisdiction to entertain any civil action of any character concerning or related to a violation of the franking laws or an abuse of the franking privilege by any person listed under subsection (a) of this section as entitled to send mail as franked mail, until a complaint has been filed with the select committee and the committee has rendered a decision under subsection (b) of this section.

(d) Administrative procedure regulations

The select committee shall prescribe regulations for the holding of investigations and hearings, the conduct of proceedings, and the rendering of decisions under this subsection providing for equitable procedures and the protection of individual, public, and Government interests. The regulations shall, insofar as practicable, contain the substance of the administrative procedure provisions of sections 551–559 and 701–706, of title 5. These regulations shall govern matters under this subsection subject to judicial review thereof.

(e) Property of Senate; records of select committee; voting record; location of records, data, and files

The select committee shall keep a complete record of all its actions, including a record of the votes on any question on which a record vote is demanded. All records, data, and files of the select committee shall be the property of the Senate and shall be kept in the offices of the select committee or such other places as the committee may direct. (Dec. 18, 1973, Pub. L. 93–191, § 6, 87 Stat. 744; amended Mar. 27, 1974, Pub. L. 93–255, § 3(b), 88 Stat. 52.)

Chapter 17.—CONGRESSIONAL BUDGET OFFICE

399.36 § 601. Establishment. 399.36

(a) In general

(1) There is established an office of the Congress to be known as the Congressional Budget Office (hereinafter in this chapter referred to as the "Office"). The Office shall be headed by a Director; and there shall be a Deputy Director who shall perform such duties as may be assigned to him by the Director and, during the absence or incapacity of the Director or during a vacancy in that office, shall act as Director.

(2) The Director shall be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate after considering recommendations received from the Committees on the Budget of the House and the Senate, without regard to political affiliation and solely on the basis of his fitness to perform his duties. The Deputy Director shall be appointed by the Director.

(3) The term of office of the Director shall be 4 years and shall expire on January 3 of the year preceding each Presidential election. Any individual appointed as Director to fill a vacancy prior to the expiration of a term shall serve only for the unexpired portion of that term. An individual serving as Director at the expiration of a term may continue to serve until his successor is appointed. Any Deputy Director shall serve until the expiration of the term of office of the Director who appointed him (and until his successor is appointed), unless sooner removed by the Director.

(4) The Director may be removed by either House by resolution.

(5) (A) The Director shall receive compensation at an annual rate of pay that is equal to the lower of—

(i) the highest annual rate of compensation of any officer of the Senate; or

(ii) the highest annual rate of compensation of any officer of the House of Representatives.

(B) The Deputy Director shall receive compensation at an annual rate of pay that is $1,000 less than the annual rate of pay received by the Director, as determined under subparagraph (A).

(b) Personnel

The Director shall appoint and fix the compensation of such personnel as may be necessary to carry out the duties and functions of the Office. All personnel of the Office shall be appointed without regard to political affiliation and solely on the basis of their fitness to perform their duties. The Director may prescribe the duties and responsibilities of the personnel of the Office, and delegate to them authority to perform any of the duties, powers, and functions imposed on the Office or on the Director. For purposes of pay (other than pay of the Director and Deputy Director) and employment benefits, rights, and privileges, all personnel of the Office shall be treated as if they were employees of the House of Representatives.

(c) Experts and consultants

In carrying out the duties and functions of the Office, the Director may procure the temporary (not to exceed one year) or intermittent services of experts or consultants or organizations thereof by contract as independent contractors, or, in the case of individual experts or con-

sultants, by employment at rates of pay not in excess of the daily equivalent of the highest rate of basic pay payable under the General Schedule of section 5332 of title 5.

(d) Relationship to executive branch

The Director is authorized to secure information, data, estimates, and statistics directly from the various departments, agencies, and establishments of the executive branch of Government and the regulatory agencies and commissions of the Government. All such departments, agencies, establishments, and regulatory agencies and commissions shall furnish the Director any available material which he determines to be necessary in the performance of his duties and functions (other than material the disclosure of which would be a violation of law). The Director is also authorized, upon agreement with the head of any such department, agency, establishment, or regulatory agency or commission, to utilize its services, facilities, and personnel with or without reimbursement; and the head of each such department, agency, establishment, or regulatory agency or commission is authorized to provide the Office such services, facilities, and personnel.

(e) Relationship to other agencies of Congress

In carrying out the duties and functions of the Office, and for the purpose of coordinating the operations of the Office with those of other congressional agencies with a view to utilizing most effectively the information, services, and capabilities of all such agencies in carrying out the various responsibilities assigned to each, the Director is authorized to obtain information, data, estimates, and statistics developed by the General Accounting Office, and the Library of Congress, and (upon agreement with them) to utilize their services, facilities, and personnel with or without reimbursement. The Comptroller General, and the Librarian of Congress, are authorized to provide the Office with the information, data, estimates, and statistics, and the services, facilities, and personnel, referred to in the preceding sentence.

(f) Revenue estimates

For the purposes of revenue legislation which is income, estate and gift, excise, and payroll taxes (i.e., Social Security), considered or enacted in any session of Congress, the Congressional Budget Office shall use exclusively during that session of Congress revenue estimates provided to it by the Joint Committee on Taxation. During that session of Congress such revenue estimates shall be transmitted by the Congressional Budget Office to any committee of the House of Representatives or the Senate requesting such estimates, and shall be used by such Committees in determining such estimates. The Budget Committees of the Senate and House shall determine all estimates with respect to scoring points of order and with respect to the execution of the purposes of this Act.

(g) Authorization of appropriations

There are authorized to be appropriated to the Office for each fiscal year such sums as may be necessary to enable it to carry out its duties and functions. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding 12 months following the effective date of this subsection, the expenses of the Office shall be paid from the contingent fund of the Senate, in accordance with

section 68 of this title, and upon vouchers approved by the Director. (Pub. L. 93–344, Title II, § 201, July 12, 1974, 88 Stat. 302; Pub. L. 99–177, Title II, § 273, Dec. 12, 1985, 99 Stat. 1098; Pub. L. 101–508, Title XIII, § 13202, Nov. 5, 1990, 104 Stat. 1388–615; Pub. L. 105–33, Title X, § 10102, Aug. 5, 1997, 111 Stat. 678; Pub. L. 106–113, div. B, § 1000(a)(5), Nov. 29, 1999, 113 Stat. 1536, 1501A–299.)

399.37 § 602. Duties and functions. **399.37**

(a) Assistance to budget committees

It shall be the primary duty and function of the Office to provide to the Committees on the Budget of both Houses information which will assist such committees in the discharge of all matters within their jurisdictions, including (1) information with respect to the budget, appropriation bills, and other bills authorizing or providing new budget authority or tax expenditures, (2) information with respect to revenues, receipts, estimated future revenues and receipts, and changing revenue conditions, and (3) such related information as such Committee may request.

(b) Assistance to Committees on Appropriations, Ways and Means, and Finance

At the request of the Committee on Appropriations of either House, the Committee on Ways and Means of the House of Representatives, or the Committee on Finance of the Senate, the Office shall provide to such Committee any information which will assist it in the discharge of matters within its jurisdiction, including information described in clauses (1) and (2) of subsection (a) of this section and such related information as the Committee may request.

(c) Assistance to other committees and members

(1) At the request of any other committee of the House of Representatives or the Senate or any joint committee of the Congress, the Office shall provide to such committee or joint committee any information compiled in carrying out clauses (1) and (2) of subsection (a) of this section, and, to the extent practicable, such additional information related to the foregoing as may be requested.

(2) At the request of any committee of the Senate or the House of Representatives, the Office shall, to the extent practicable, consult with and assist such committee in analyzing the budgetary or financial impact of any proposed legislation that may have—

(A) a significant budgetary impact on State, local, or tribal governments;

(B) a significant financial impact on the private sector; or

(C) a significant employment impact on the private sector.

(3) At the request of any Member of the House or Senate, the Office shall provide to such Member any information compiled in carrying out clauses (1) and (2) of subsection (a) of this section, and, to the extent available, such additional information related to the foregoing as may be requested.

(d) Assignment of office personnel to committees and joint committees

At the request of the Committee on the Budget of either House, personnel of the Office shall be assigned, on a temporary basis, to assist

such committee. At the request of any other committee of either House or any joint committee of the Congress, personnel of the Office may be assigned, on a temporary basis, to assist such committee or joint committee with respect to matters directly related to the applicable provisions of subsection (b) or (c) of this section.

(e) Reports to budget committees

(1) On or before February 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report, for the fiscal year commencing on October 1 of that year, with respect to fiscal policy, including (A) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits), (B) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for such fiscal year. Such report shall also include a discussion of national budget priorities, including alternative ways of allocating new budget authority and budget outlays for such fiscal year among major programs or functional categories, taking into account how such alternative allocations will meet major national needs and affect balanced growth and development of the United States, and (C) a statement of the levels of budget authority and outlays for each program assumed to be extended in the baseline, as provided in section 257(b)(2)(A) and for excise taxes assumed to be extended under section 257(b)(2)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985. Such report shall also include a discussion of national budget priorities, including alternative ways of allocating new budget authority and budget outlays for such fiscal year among major programs or functional categories, taking into account how such alternative allocations will meet major national needs and affect balanced growth and development of the United States.

(2) The Director shall from time to time submit to the Committees on the Budget of the House of Representatives and the Senate such further reports (including reports revising the report required by paragraph (1)) as may be necessary or appropriate to provide such Committees with information, data, and analyses for the performance of their duties and functions.

(3) On or before January 15 of each year, the Director, after consultation with the appropriate committees of the House of Representatives and Senate, shall submit to the Congress a report listing (A) all programs and activities funded during the fiscal year ending September 30 of that calendar year for which authorizations for appropriations have not been enacted for that fiscal year, and (B) all programs and activities for which authorizations for appropriations have been enacted for the fiscal year ending September 30 of that calendar year, but for which no authorizations for appropriations have been enacted for the fiscal year beginning October 1 of that calendar year.

(f) Use of computers and other techniques

The Director may equip the Office with up-to-date computer capability (upon approval of the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate), obtain the services of experts and consultants in computer

technology, and develop techniques for the evaluation of budgetary requirements.

(g) Studies

(1) Continuing studies

The Director of the Congressional Budget Office shall conduct continuing studies to enhance comparisons of budget outlays, credit authority, and tax expenditures.

(2) Federal mandate studies

(A) At the request of any Chairman or ranking member of the minority of a Committee of the Senate or the House of Representatives, the Director shall, to the extent practicable, conduct a study of a legislative proposal containing a Federal mandate.

(B) In conducting a study on intergovernmental mandates under subparagraph (A), the Director shall—

(i) solicit and consider information or comments from elected officials (including their designated representatives) of State, local, or tribal governments as may provide helpful information or comments;

(ii) consider establishing advisory panels of elected officials or their designated representatives, of State, local, or tribal governments if the Director determines that such advisory panels would be helpful in performing responsibilities of the Director under this section; and

(iii) if, and to the extent that the Director determines that accurate estimates are reasonably feasible, include estimates of—

(I) the future direct cost of the Federal mandate to the extent that such costs significantly differ from or extend beyond the 5-year period after the mandate is first effective; and

(II) any disproportionate budgetary effects of Federal mandates upon particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities, as appropriate.

(C) In conducting a study on private sector mandates under subparagraph (A), the Director shall provide estimates, if and to the extent that the Director determines that such estimates are reasonably feasible, of—

(i) future costs of Federal private sector mandates to the extent that such mandates differ significantly from or extend beyond the 5-year time period referred to in subparagraph (B)(iii)(I);

(ii) any disproportionate financial effects of Federal private sector mandates and of any Federal financial assistance in the bill or joint resolution upon any particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities; and

(iii) the effect of Federal private sector mandates in the bill or joint resolution on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services. (Pub. L. 93–344, Title II, § 202(a)–(e)(1), (f), (g), July 12, 1974, 88 Stat. 304, 305; Pub. L. 99–

177, Title II, § 221, Dec. 12, 1985, 99 Stat. 1060; Pub. L. 101–508, Title XIII, § 13112(a)(3), Nov. 5, 1990, 104 Stat. 1388–608; Pub. L. 104–4, Title I, § 102(1), Mar. 22, 1995, 109 Stat. 60; Pub. L. 104–186, Title II, § 213, Aug. 20, 1996, 110 Stat. 1745; Pub. L. 105–33, Title X, § 10103, Aug. 5, 1997, 111 Stat. 678.)

399.38 § 603. Public access to budget data. **399.38**

(a) Right to copy

Except as provided in subsections (c) and (d) of this section, the Director shall make all information, data, estimates, and statistics obtained under section 601(d) and (e) of this title available for public copying during normal business hours, subject to reasonable rules and regulations, and shall to the extent practicable, at the request of any person, furnish a copy of any such information, data, estimates, or statistics upon payment by such person of the cost of making and furnishing such copy.

(b) Index

The Director shall develop and maintain filing, coding, and indexing systems that identify the information, data, estimates, and statistics to which subsection (a) of this section applies and shall make such systems available for public use during normal business hours.

(c) Exceptions

Subsection (a) of this section shall not apply to information, data, estimates, and statistics—

(1) which are specifically exempted from disclosure by law; or

(2) which the Director determines will disclose—

(A) matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) information relating to trade secrets or financial or commercial information pertaining specifically to a given person if the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(C) personnel or medical data or similar data the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

unless the portions containing such matters, information, or data have been excised.

(d) Information obtained for committees and members

Subsection (a) of this section shall apply to any information, data, estimates, and statistics obtained at the request of any committee, joint committee, or Member unless such committee, joint committee, or Member has instructed the Director not to make such information, data, estimates, or statistics available for public copying. (Pub. L. 93–344, Title II, § 203, July 12, 1974, 88 Stat. 305.)

EFFECTIVE DATE

Section effective on the day on which the first Director of the Congressional Budget Office is appointed under section 601(a) of this title, see section 905(b) of Pub. L. 93–344, set out as a note under section 621 of this title.

399.38a § 604. Omitted. 399.38a

CODIFICATION

Section, Pub. L. 94–440, Title V, Sec. 500, Oct. 1, 1976, 90 Stat. 1452, the Legislative Appropriation Act, 1977, which authorized the Congressional Budget Office to contract without regard to section 5 of Title 41, Public Contracts, applied to fiscal year 1977 and was not repeated in subsequent appropriation acts.

399.38b § 605. Sale or lease of property, supplies, or services. 399.38b

(a) Any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease to the Congress subject to section 903 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 111b).

(b) Subsection (a) shall apply with respect to fiscal years beginning after September 30, 1996. (Pub. L. 104–197, Title I, § 104, Sept. 16, 1996, 110 Stat. 2404.)

CODIFICATION

Section was enacted as part of the appropriation act cited as the credit to this section, and not as part of title II of the Congressional Budget and Impoundment Control Act of 1974 which comprises this chapter.

399.38c § 606. Disposition of surplus or obsolete personal property. 399.38c

(a) The Director of the Congressional Budget Office shall have the authority, within the limits of available appropriations, to dispose of surplus or obsolete personal property by inter-agency transfer, donation, or discarding.

(b) Subsection (a) shall apply with respect to fiscal years beginning after September 30, 1996. (Pub. L. 104–197, Title I, § 105, Sept. 16, 1996, 110 Stat. 2404.)

CODIFICATION

Section was enacted as part of the appropriation act cited as the credit to this section, and not as part of title II of the Congressional Budget and Impoundment Control Act of 1974 which comprises this chapter.

399.38d § 607. Lump-sum payments to separated employees for unused annual leave. 399.38d

(a) The Director of the Congressional Budget Office shall have the authority to make lump-sum payments to separated employees of the Congressional Budget Office for unused annual leave.

(b) Subsection (a) shall apply with respect to fiscal years beginning after September 30, 1996. (Pub. L. 104–197, Title I, § 106, Sept. 16, 1996, 110 Stat. 2404.)

CODIFICATION

Section was enacted as part of the appropriation act cited as the credit to this section, and not as part of Title II of the Congressional Budget and Impoundment Control Act of 1974 which comprises this chapter.

Chapter 17A.—CONGRESSIONAL BUDGET AND FISCAL OPERATIONS

399.39–1

§ 621. Congressional declaration of purpose. 399.39–1

The Congress declares that it is essential—

(1) to assure effective congressional control over the budgetary process;

(2) to provide for the congressional determination each year of the appropriate level of Federal revenues and expenditures;

(3) to provide a system of impoundment control;

(4) to establish national budget priorities; and

(5) to provide for the furnishing of information by the executive branch in a manner that will assist the Congress in discharging its duties. (Pub. L. 93–344, § 2, July 12, 1974, 88 Stat. 298.)

CODIFICATION

This section was formerly classified to section 1301 of title 31 prior to the general revision and enactment of title 31, Money and Finance by Pub. L. 97–258, § 1, Sept. 13, 1982, 96 Stat. 877.

399.39–2

§ 622. Definitions. 399.39–2

For purposes of this Act—

(1) The terms "budget outlays" and "outlays" mean, with respect to any fiscal year, expenditures and net lending of funds under budget authority during such year.

(2) Budget authority and new budget authority

(A) In general

The term "budget authority" means the authority provided by Federal law to incur financial obligations, as follows:

(i) provisions of law that make funds available for obligation and expenditure (other than borrowing authority), including the authority to obligate and expend the proceeds of offsetting receipts and collections;

(ii) borrowing authority, which means authority granted to a Federal entity to borrow and obligate and expend the borrowed funds, including through the issuance of promissory notes or other monetary credits;

(iii) contract authority, which means the making of funds available for obligation but not for expenditure; and

(iv) offsetting receipts and collections as negative budget authority, and the reduction thereof as positive budget authority.

(B) Limitations on budget authority

With respect to the Federal Hospital Insurance Trust Fund, the Supplementary Medical Insurance Trust Fund, the Unemployment Trust Fund, and the railroad retirement account, any amount that is precluded from obligation in a fiscal year by

a provision of law (such as a limitation or a benefit formula) shall not be budget authority in that year.

(C) New budget authority

The term "new budget authority" means, with respect to a fiscal year—

(i) budget authority that first becomes available for obligation in that year, including budget authority that becomes available in that year's[1] a result of a reappropriation; or

(ii) a change in any account in the availability of unobligated balances of budget authority carried over from a prior year, resulting from a provision of law first effective in that year;

and includes a change in the estimated level of new budget authority provided in indefinite amounts by existing law.

(3) The term "tax expenditures" means those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability; and the term "tax expenditures budget" means an enumeration of such tax expenditures.

(4) The term "concurrent resolution on the budget" means—

(A) a concurrent resolution setting forth the congressional budget for the United States Government for a fiscal year as provided in section 632 of this title; and

(B) any other concurrent resolution revising the congressional budget for the United States Government for a fiscal year as described in section 635 of this title.

(5) The term "appropriation Act" means an Act referred to in section 105 of title 1.

(6) The term "deficit" means, with respect to a fiscal year, the amount by which outlays exceeds receipts during that year.

(7) The term "surplus" means, with respect to a fiscal year, the amount by which receipts exceeds outlays during that year.

(8) The term "government-sponsored enterprise" means a corporate entity created by a law of the United States that—

(A)(i) has a Federal charter authorized by law;

(ii) is privately owned, as evidenced by capital stock owned by private entities or individuals;

(iii) is under the direction of a board of directors, a majority of which is elected by private owners;

(iv) is a financial institution with power to—

(I) make loans or loan guarantees for limited purposes such as to provide credit for specific borrowers or one sector; and

(II) raise funds by borrowing (which does not carry the full faith and credit of the Federal Government) or to guarantee the debt of others in unlimited amounts; and

(B)(i) does not exercise powers that are reserved to the Government as sovereign (such as the power to tax or to regulate interstate commerce);

[1] So in original. Probably should be "as".

(ii) does not have the power to commit the Government financially (but it may be a recipient of a loan guarantee commitment made by the Government); and

(iii) has employees whose salaries and expenses are paid by the enterprise and are not Federal employees subject to title 5 of the United States Code.

(9) The term "entitlement authority" means—

(A) the authority to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing that authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by that law; and

(B) the food stamp program.

(10) The term "credit authority" means authority to incur direct loan obligations or to incur primary loan guarantee commitments. (Pub. L. 93–344, § 3, July 12, 1974, 88 Stat. 299; Aug. 1, 1946, ch. 724, Title I, § 302(c), as added Aug. 30, 1954, ch. 1073, § 1, as added Pub. L. 95–110, § 1, Sept. 20, 1977, 91 Stat. 884; Pub. L. 99–177, Title II, §§ 201(a), 232(b), Dec. 12, 1985, 99 Stat. 1039, 1062; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–119, Title I, § 106(a), Sept. 29, 1987, 101 Stat. 780; Pub. L. 100–203, Title VIII, § 8003(c), Dec. 22, 1987, 101 Stat. 1330–282; Pub. L. 101–508, Title XIII, §§ 13112(a)(2), 13201(b)(1), 13211(a), Nov. 5, 1990, 104 Stat. 1388–607, §§ 1388–614, 1388–620; Pub. L. 102–486, Title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 105–33, Title X, § 10101, Aug. 5, 1997, 111 Stat. 678.)

399.39–3 § 623. Continuing study of additional budget reform proposals. 399.39–3

(a) The Committees on the Budget of the House of Representatives and the Senate shall study on a continuing basis proposals designed to improve and facilitate methods of congressional budgetmaking. The proposals to be studied shall include, but are not limited to, proposals for—

(1) improving the information base required for determining the effectiveness of new programs by such means as pilot testing survey research, and other experimental and analytical techniques;

(2) improving analytical and systematic evaluation of the effectiveness of existing programs;

(3) establishing maximum and minimum time limitations for program authorization; and

(4) developing techniques of human resource accounting and other means of providing noneconomic as well as economic evaluation measures.

(b) The Committee on the Budget of each House shall, from time to time, report to its House the results of the study carried on by it under subsection (a) of this section, together with its recommendations.

(c) Nothing in this section shall preclude studies to improve the budgetary process by any other committee of the House of Representatives or the Senate or any joint committee of the Congress. (Pub. L. 93–344, Title VII, § 703, July 12, 1974, 88 Stat. 326.)

Subchapter I.—Congressional Budget Process

399.39–4 § 631. Timetable. 399.39–4

The timetable with respect to the congressional budget process for any fiscal year is as follows:

On or before:	Action to be completed:
First Monday in February	President submits his budget.
February 15	Congressional Budget Office submits report to Budget Committees.
Not later than 6 weeks after President submits Budget.	Committees submit views and estimates to Budget Committees.
April 1	Senate Budget Committee reports concurrent resolution on the budget.
April 15	Congress completes action on concurrent resolution on the budget.
May 15	Annual appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last annual appropriation bill.
June 15	Congress completes action on reconciliation legislation.
June 30	House completes action on annual appropriation bills.
October 1	Fiscal year begins.

(Pub. L. 93–344, Title III, § 300, July 12, 1974, 88 Stat. 306; Pub. L. 99–177, Title II, § 201(b), Dec. 12, 1985, 99 Stat. 1040; Pub. L. 101–508, Title XIII, 13112(a)(4), Nov. 5, 1990, 104 Stat. 1388–608; Pub. L. 105–33, Title X, § 10104(a), Aug. 5, 1997, 111 Stat. 679.)

399.39–5 § 632. Annual adoption of concurrent resolution on the budget. 399.39–5

(a) Content of concurrent resolution on the budget

On or before April 15 of each year, the Congress shall complete action on a concurrent resolution on the budget for the fiscal year beginning on October 1 of such year. The concurrent resolution shall set forth appropriate levels for the fiscal year beginning on October 1 of such year and for at least each of the 4 ensuing fiscal years for the following—

(1) totals of new budget authority and outlays;

(2) total Federal revenues and the amount, if any, by which the aggregate level of Federal revenues should be increased or decreased by bills and resolutions to be reported by the appropriate committees;

(3) the surplus or deficit in the budget;

(4) new budget authority and outlays for each major functional category, based on allocations of the total levels set forth pursuant to paragraph (1);

(5) the public debt;

(6) For[1] purposes of Senate enforcement under this subchapter, outlays of the old-age, survivors, and disability insurance program established under title II of the Social Security Act [42 U.S.C. 401

[1] So in original. Probably should be "for".

et seq.] for the fiscal year of the resolution and for each of the 4 succeeding fiscal years; and

(7) For[1] purposes of Senate enforcement under this subchapter, revenues of the old-age, survivors, and disability insurance program established under title II of the Social Security Act (and the related provisions of title 26) for the fiscal year of the resolution and for each of the 4 succeeding fiscal years.

The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act [42 U.S.C. 401 et seq.] or the related provisions of title 26 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this subchapter.

(b) Additional matters in concurrent resolution

The concurrent resolution on the budget may—

(1) set forth, if required by subsection (f) of this section, the calendar year in which, in the opinion of the Congress, the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 [15 U.S.C. 1022a(b)] should be achieved;

(2) include reconciliation directives described in section 641 of this title;

(3) require a procedure under which all or certain bills or resolutions providing new budget authority or new entitlement authority for such fiscal year shall not be enrolled until the Congress has completed action on any reconciliation bill or reconciliation resolution or both required by such concurrent resolution to be reported in accordance with section 641(b) of this title;

(4) set forth such other matters, and require such other procedures, relating to the budget, as may be appropriate to carry out the purposes of this Act;

(5) include a heading entitled "Debt Increase as Measure of Deficit" in which the concurrent resolution shall set forth the amounts by which the debt subject to limit (in section 3101 of title 31) has increased or would increase in each of the relevant fiscal years;

(6) include a heading entitled "Display of Federal Retirement Trust Fund Balances" in which the concurrent resolution shall set forth the balances of the Federal retirement trust funds.

(7) set forth procedures in the Senate whereby committee allocations, aggregates, and other levels can be revised for legislation if that legislation would not increase the deficit, or would not increase the deficit when taken with other legislation enacted after the adoption of the resolution, for the first fiscal year or the total period of fiscal years covered by the resolution;

(8) set forth procedures to effectuate pay-as-you-go in the House of Representatives; and

(9) set forth direct loan obligation and primary loan guarantee commitment levels.

[1] So in original. Probably should be "for".

(c) Consideration of procedures or matters which have effect of changing any rule of House

If the Committee on the Budget of the House of Representatives reports any concurrent resolution on the budget which includes any procedure or matter which has the effect of changing any rule of the House of Representatives, such concurrent resolution shall then be referred to the Committee on Rules with instructions to report it within five calendar days (not counting any day on which the House is not in session). The Committee on Rules shall have jurisdiction to report any concurrent resolution referred to it under this paragraph with an amendment or amendments changing or striking out any such procedure or matter.

(d) Views and estimates of other committees

Within 6 weeks after the President submits a budget under section 1105(a) of title 31, or at such time as may be requested by the Committee on the Budget, each committee of the House of Representatives having legislative jurisdiction shall submit to the Committee on the Budget of the House and each committee of the Senate having legislative jurisdiction shall submit to the Committee on the Budget of the Senate its views and estimates (as determined by the committee making such submission) with respect to all matters set forth in subsections (a) and (b) of this section which relate to matters within the jurisdiction or functions of such committee. The Joint Economic Committee shall submit to the Committees on the Budget of both Houses its recommendations as to the fiscal policy appropriate to the goals of the Employment Act of 1946 [15 U.S.C. 1021 et seq.]. Any other committee of the House of Representatives or the Senate may submit to the Committee on the Budget of its House, and any joint committee of the Congress may submit to the Committees on the Budget of both Houses, its views and estimates with respect to all matters set forth in subsections (a) and (b) of this section which relate to matters within its jurisdiction or functions. Any Committee of the House of Representatives or the Senate that anticipates that the committee will consider any proposed legislation establishing, amending, or reauthorizing any Federal program likely to have a significant budgetary impact on any State, local, or tribal government, or likely to have a significant financial impact on the private sector, including any legislative proposal submitted by the executive branch likely to have such a budgetary or financial impact, shall include its views and estimates on that proposal to the Committee on the Budget of the applicable House.

(e) Hearings and report

(1) In general

In developing the concurrent resolution on the budget referred to in subsection (a) of this section for each fiscal year, the Committee on the Budget of each House shall hold hearings and shall receive testimony from Members of Congress and such appropriate representatives of Federal departments and agencies, the general public, and national organizations as the committee deems desirable. Each of the recommendations as to short-term and medium-term goals set forth in the report submitted by the members of the Joint Economic Committee under subsection (d) of this section may be considered by the Committee on the Budget of each House as part

of its consideration of such concurrent resolution, and its report may reflect its views thereon, including its views on how the estimates of revenues and levels of budget authority and outlays set forth in such concurrent resolution are designed to achieve any goals it is recommending.

(2) Required contents of report

The report accompanying the resolution shall include—

(A) a comparison of the levels of total new budget authority, total outlays, total revenues, and the surplus or deficit for each fiscal year set forth in the resolution with those requested in the budget submitted by the President;

(B) with respect to each major functional category, an estimate of total new budget authority and total outlays, with the estimates divided between discretionary and mandatory amounts;

(C) the economic assumptions that underlie each of the matters set forth in the resolution and any alternative economic assumptions and objectives the committee considered;

(D) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the resolution;

(E) the estimated levels of tax expenditures (the tax expenditures budget) by major items and functional categories for the President's budget and in the resolution; and

(F) allocations described in section 633(a) of this title.

(3) Additional contents of report

The report accompanying the resolution may include—

(A) a statement of any significant changes in the proposed levels of Federal assistance to State and local governments;

(B) an allocation of the level of Federal revenues recommended in the resolution among the major sources of such revenues;

(C) information, data, and comparisons on the share of total Federal budget outlays and of gross domestic product devoted to investment in the budget submitted by the President and in the resolution;

(D) the assumed levels of budget authority and outlays for public buildings, with a division between amounts for construction and repair and for rental payments; and

(E) other matters, relating to the budget and to fiscal policy, that the committee deems appropriate.

(f) Achievement of goals for reducing unemployment

(1) If, pursuant to section 4(c) of the Employment Act of 1946 [15 U.S.C. 1022a(c)], the President recommends in the Economic Report that the goals for reducing unemployment set forth in section 4(b) of such Act [15 U.S.C. 1022a(b)] be achieved in a year after the close of the five-year period prescribed by such subsection, the concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

(2) After the Congress has expressed its opinion pursuant to paragraph (1) as to the year in which the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 [15 U.S.C. 1022a(b)] can be achieved, if, pursuant to section 4(e) of such Act [15 U.S.C.

1022a(e)], the President recommends in the Economic Report that such goals be achieved in a year which is different from the year in which the Congress has expressed its opinion that such goals should be achieved, either in its action pursuant to paragraph (1) or in its most recent action pursuant to this paragraph, the concurrent resolution on the budget for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

(3) It shall be in order to amend the provision of such resolution setting forth such year only if the amendment thereto also proposes to alter the estimates, amounts, and levels (as described in subsection (a) of this section) set forth in such resolution in germane fashion in order to be consistent with the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946 [15 U.S.C. 1022(a)(2), 1022a(b)]) which such amendment proposes can be achieved by the year specified in such amendment.

(g) Economic assumptions

(1) It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year, or any amendment thereto, or any conference report thereon, that sets forth amounts and levels that are determined on the basis of more than one set of economic and technical assumptions.

(2) The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall set forth the common economic assumptions upon which such joint statement and conference report are based, or upon which any amendment contained in the joint explanatory statement to be proposed by the conferees in the case of technical disagreement, is based.

(3) Subject to periodic reestimation based on changed economic conditions or technical estimates, determinations under titles III and IV of the Congressional Budget Act of 1974 shall be based upon such common economic and technical assumptions.

(h) Budget Committee's consultation with committees

The Committee on the Budget of the House of Representatives shall consult with the committees of its House having legislative jurisdiction during the preparation, consideration, and enforcement of the concurrent resolution on the budget with respect to all matters which relate to the jurisdiction or functions of such committees.

(i) Social security point of order

It shall not be in order in the Senate to consider any concurrent resolution on the budget (or amendment, motion, or conference report on the resolution) that would decrease the excess of social security revenues over social security outlays in any of the fiscal years covered by the concurrent resolution. No change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues unless such provision changes the income tax treatment of social security benefits. (Pub. L. 93–344, Title III, § 301, July 12, 1974, 88 Stat. 306; Pub. L. 95–523, Title III, §§ 303(a), 304, Oct. 27, 1978, 92 Stat. 1905, 1906; Pub. L. 99–177, Title II, § 201(b), Dec. 12, 1985, 99 Stat. 1040; Pub. L. 100–119, Title I, § 106(d), Title II, § 208(a), Sept. 29, 1987, 101 Stat. 781, 786; Pub. L. 100–418, Title

V, § 5302, Aug. 23, 1988, 102 Stat. 1462; Pub. L. 101–508, Title XIII, § 13112(a)(5), 13203, 13204, 13301(b), 13303(a), (b), Nov. 5, 1990, 104 Stat. 1388–608, 1388–615, 1388–616, 1388–623, 1388–625; Pub. L. 104–4, Title I, § 102(2), Mar. 22, 1995, 109 Stat. 62; Pub. L. 105–33, Title X, § 10105(a)–(f)(1), Aug. 5, 1997, 111 Stat. 679.)

399.39–6 § 633. Committee allocations. **399.39–6**

(a) Committee spending allocations

(1) Allocation among committees

The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall include an allocation, consistent with the resolution recommended in the conference report, of the levels for the first fiscal year of the resolution, for at least each of the ensuing 4 fiscal years, and a total for that period of fiscal years (except in the case of the Committee on Appropriations only for the fiscal year of that resolution) of—

(A) total new budget authority; and

(B) total outlays;

among each committee of the House of Representatives or the Senate that has jurisdiction over legislation providing or creating such amounts.

(2) No double counting

In the House of Representatives, any item allocated to one committee may not be allocated to another committee.

(3) Further division of amounts

(A) In the Senate

In the Senate, the amount allocated to the Committee on Appropriations shall be further divided among the categories specified in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 900(c)(4)] and shall not exceed the limits for each category set forth in section 251(c) of that Act [2 U.S.C. 901(c)].

(B) In the House

In the House of Representatives, the amounts allocated to each committee for each fiscal year, other than the Committee on Appropriations, shall be further divided between amounts provided or required by law on the date of filing of that conference report and amounts not so provided or required. The amounts allocated to the Committee on Appropriations shall be further divided—

(i) between discretionary and mandatory amounts or programs, as appropriate; and

(ii) consistent with the categories specified in section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 900(c)(4)].

(4) Amounts not allocated

In the House of Representatives or the Senate, if a committee receives no allocation of new budget authority or outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority or outlays.

(5) Adjusting allocation of discretionary spending in the House of Representatives

(A) If a concurrent resolution on the budget is not adopted by April 15, the chairman of the Committee on the Budget of the

House of Representatives shall submit to the House, as soon as practicable, an allocation under paragraph (1) to the Committee on Appropriations consistent with the discretionary spending levels in the most recently agreed to concurrent resolution on the budget for the appropriate fiscal year covered by that resolution.

(B) As soon as practicable after an allocation under paragraph (1) is submitted under this section, the Committee on Appropriations shall make suballocations and report those suballocations to the House of Representatives.

(b) Suballocations by Appropriations Committees

As soon as practicable after a concurrent resolution on the budget is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under subsection (a) of this section among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this subsection. The Committee on Appropriations of the House of Representatives shall further divide among its subcommittees the divisions made under subsection (a)(3)(B) of this section and promptly report those divisions to the House.

(c) Point of order

After the Committee on Appropriations has received an allocation pursuant to subsection (a) of this section for a fiscal year, it shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report within the jurisdiction of that committee providing new budget authority for that fiscal year, until that committee makes the suballocations required by subsection (b) of this section.

(d) Subsequent concurrent resolutions

In the case of a concurrent resolution on the budget referred to in section 635 of this title, the allocations under subsection (a) of this section and the subdivisions under subsection (b) of this section shall be required only to the extent necessary to take into account revisions made in the most recently agreed to concurrent resolution on the budget.

(e) Alteration of allocations

At any time after a committee reports the allocations required to be made under subsection (b) of this section, such committee may report to its House an alteration of such allocations. Any alteration of such allocations must be consistent with any actions already taken by its House on legislation within the committee's jurisdiction.

(f) Legislation subject to point of order

(1) In the House of Representatives

After the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in the House of Representatives to consider any bill, joint resolution, or amendment providing new budget authority for any fiscal year, or any conference report on any such bill or joint resolution, if—

(A) the enactment of such bill or resolution as reported;

(B) the adoption and enactment of such amendment; or

(C) the enactment of such bill or resolution in the form recommended in such conference report,

would cause the applicable allocation of new budget authority made under subsection (a) or (b) of this section for the first fiscal year or the total of fiscal years to be exceeded.

(2) In the Senate

After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause—

(A) in the case of any committee except the Committee on Appropriations, the applicable allocation of new budget authority or outlays under subsection (a) of this section for the first fiscal year or the total of fiscal years to be exceeded; or

(B) in the case of the Committee on Appropriations, the applicable suballocation of new budget authority or outlays under subsection (b) of this section to be exceeded.

(g) Pay-as-you-go exception in the House

(1) In general

(A) Subsection (f)(1) of this section and, after April 15, section 634(a) of this title shall not apply to any bill or joint resolution, as reported, amendment thereto, or conference report thereon if, for each fiscal year covered by the most recently agreed to concurrent resolution on the budget—

(i) the enactment of that bill or resolution as reported;

(ii) the adoption and enactment of that amendment; or

(iii) the enactment of that bill or resolution in the form recommended in that conference report,

would not increase the deficit, and, if the sum of any revenue increases provided in legislation already enacted during the current session (when added to revenue increases, if any, in excess of any outlay increase provided by the legislation proposed for consideration) is at least as great as the sum of the amount, if any, by which the aggregate level of Federal revenues should be increased as set forth in that concurrent resolution and the amount, if any, by which revenues are to be increased pursuant to pay-as-you-go procedures under section 632(b)(8) of this title, if included in that concurrent resolution.

(B) Section 642(a) of this title, as that section applies to revenues, shall not apply to any bill, joint resolution, amendment thereto, or conference report thereon if, for each fiscal year covered by the most recently agreed to concurrent resolution on the budget—

(i) the enactment of that bill or resolution as reported;

(ii) the adoption and enactment of that amendment; or

(iii) the enactment of that bill or resolution in the form recommended in that conference report,

would not increase the deficit, and, if the sum of any outlay reductions provided in legislation already enacted during the current session (when added to outlay reductions, if any, in excess of any revenue reduction provided by the legislation proposed for consideration) is at least as great as the sum of the amount, if any, by which the aggregate level of Federal outlays should be reduced as required by that concurrent resolution and the amount, if any, by which outlays are to be reduced pursuant to pay-as-you-go procedures under section 632(b)(8) of this title, if included in that concurrent resolution.

(2) Revised allocations

(A) As soon as practicable after Congress agrees to a bill or joint resolution that would have been subject to a point of order under subsection (f)(1) of this section but for the exception provided in paragraph (1)(A) or would have been subject to a point of order under section 642(a) of this title but for the exception provided in paragraph (1)(B), the chairman of the committee on the Budget of the House of Representatives shall file with the House appropriately revised allocations under section 633(a) of this title and revised functional levels and budget aggregates to reflect that bill.

(B) Such revised allocations, functional levels, and budget aggregates shall be considered for the purposes of this Act as allocations, functional levels, and budget aggregates contained in the most recently agreed to concurrent resolution on the budget. (Pub. L. 93–344, Title III, § 302, July 12, 1974, 88 Stat. 308; Pub. L. 99–177, Title II, § 201(b), Dec. 12, 1985, 99 Stat. 1044; Pub. L. 101–508, Title XIII, §§ 13112(a)(6), (7), 13201(b)(2), (3), 13207(a)(1)(A), (B), (2), 13303(c), Nov. 5, 1990, 104 Stat. 1388–608, 1388–614, 1388–617, 1388–618, 1388–625; Pub. L. 105–33, Title X, § 10106, Aug. 5, 1997, 111 Stat. 680.)

399.39–7 § 634. Concurrent resolution on the budget must be adopted before budget-related legislation is considered. 399.39–7

(a) In general

Until the concurrent resolution on the budget for a fiscal year has been agreed to, it shall not be in order in the House of Representatives, with respect to the first fiscal year covered by that resolution, or the Senate, with respect to any fiscal year covered by that resolution, to consider any bill or joint resolution, amendment or motion thereto, or conference report thereon that—

(1) first provides new budget authority for that fiscal year;

(2) first provides an increase or decrease in revenues during that fiscal year;

(3) provides an increase or decrease in the public debt limit to become effective during that fiscal year;

(4) in the Senate only, first provides new entitlement authority for that fiscal year; or

(5) in the Senate only, first provides for an increase or decrease in outlays for that fiscal year.

(b) Exceptions in the House

In the House of Representatives, subsection (a) of this section does not apply—

(1)(A) to any bill or joint resolution, as reported, providing advance discretionary new budget authority that first becomes available for the first or second fiscal year after the budget year; or

(B) to any bill or joint resolution, as reported, first increasing or decreasing revenues in a fiscal year following the fiscal year to which the concurrent resolution applies;

(2) after May 15, to any general appropriation bill or amendment thereto; or

(3) to any bill or joint resolution unless it is reported by a committee.

(c) Application to appropriation measures in the Senate

(1) In general

Until the concurrent resolution on the budget for a fiscal year has been agreed to and an allocation has been made to the Committee on Appropriations of the Senate under section 633(a) of this title for that year, it shall not be in order in the Senate to consider any appropriation bill or joint resolution, amendment or motion thereto, or conference report thereon for that year or any subsequent year.

(2) Exception

Paragraph (1) does not apply to appropriations legislation making advance appropriations for the first or second fiscal year after the year the allocation referred to in that paragraph is made. (Pub. L. 93–344, Title III, § 303, July 12, 1974, 88 Stat. 309; Pub. L. 99–177, Title II, § 201(b), Dec. 12, 1985, 99 Stat. 1046; Pub. L. 101–508, Title XIII, §§ 13205, 13207(a)(1)(C), Nov. 5, 1990, 104 Stat. 1388–616, 1388–617; Pub. L. 105–33, Title X, § 10107(a), Aug. 5, 1997, 111 Stat. 683.)

399.39–8 § 635. Permissible revisions of concurrent resolutions on the budget. **399.39–8**

At any time after the concurrent resolution on the budget for a fiscal year has been agreed to pursuant to section 632 of this title, and before the end of such fiscal year, the two Houses may adopt a concurrent resolution on the budget which revises or reaffirms the concurrent resolution on the budget for such fiscal year most recently agreed to. (Pub. L. 93–344, Title III, § 304, July 12, 1974, 88 Stat. 310; Pub. L. 99–177, Title II, § 201(b), Dec. 12, 1985, 99 Stat. 1047; Pub. L. 100–119, Title II, § 208(b), Sept. 29, 1987, 101 Stat. 786; Pub. L. 101–508, Title XIII, § 13112(a)(8), Nov. 5, 1990, 104 Stat. 1388–608; Pub. L. 105–33, Title X, § 10108, Aug. 5, 1997, 111 Stat. 684.)

399.39–9 § 636. Provisions relating to consideration of concurrent resolutions on the budget. **399.39–9**

(a) Procedure in House after report of Committee; debate

(1) When a concurrent resolution on the budget has been reported by the Committee on the Budget of the House of Representatives and has been referred to the appropriate calendar of the House, it shall be in order on any day thereafter, subject to clause 2(l)(6) of rule XI of the Rules of the House of Representatives, to move to proceed to the consideration of the concurrent resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) General debate on any concurrent resolution on the budget in the House of Representatives shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority parties, plus such additional hours of debate as are consumed pursuant to paragraph (3). A motion further to limit debate is not debatable. A motion to recommit the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to.

(3) Following the presentation of opening statements on the concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the House, there shall be a period of up to four hours for debate on economic goals and policies.

(4) Only if a concurrent resolution on the budget reported by the Committee on the Budget of the House sets forth the economic goals (as described in sections 1022(a)(2) and 1022a(b) of title 15) which the estimates, amounts, and levels (as described in section 632(a) of this title) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

(5) Consideration of any concurrent resolution on the budget by the House of Representatives shall be in the Committee of the Whole, and the resolution shall be considered for amendment under the five-minute rule in accordance with the applicable provisions of rule XXIII[1] of the Rules of the House of Representatives. After the Committee rises and reports the resolution back to the House, the previous question shall be considered as ordered on the resolution and any amendments thereto to final passage without intervening motion; except that it shall be in order at any time prior to final passage (notwithstanding any other rule or provision of law) to adopt an amendment (or a series of amendments) changing any figure or figures in the resolution as so reported to the extent necessary to achieve mathematical consistency.

(6) Debate in the House of Representatives on the conference report on any concurrent resolution on the budget shall be limited to not more than 5 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

(7) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any concurrent resolution on the budget shall be decided without debate.

(b) Procedure in Senate after report of Committee; debate; amendments

(1) Debate in the Senate on any concurrent resolution on the budget, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 50 hours, except that with respect to any concurrent resolution referred to in section 635(a) of this title all such debate shall be limited to not more than 15 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(2) Debate in the Senate on any amendment to a concurrent resolution on the budget shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 1 hour, to be equally divided between,

[1] Recodified at the beginning of the 106th Congress as rule XVIII.

and controlled by, the mover and the manager of the concurrent resolution, except that in the event the manager of the concurrent resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of such concurrent resolution shall be received. Such leaders, or either of them, may, from the time under their control on the passage of the concurrent resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(3) Following the presentation of opening statements on the concurrent resolution on the budget for a fiscal year by the chairman and ranking minority member of the Committee on the Budget of the Senate, there shall be a period of up to four hours for debate on economic goals and policies.

(4) Subject to the other limitations of this Act, only if a concurrent resolution on the budget reported by the Committee on the Budget of the Senate sets forth the economic goals (as described in sections 1022(a)(2) and 1022a(b) of title 15) which the estimates, amounts, and levels (as described in section 632(a) of this title) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

(5) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution.

(6) Notwithstanding any other rule, an amendment or series of amendments to a concurrent resolution on the budget proposed in the Senate shall always be in order if such amendment or series of amendments proposes to change any figure or figures then contained in such concurrent resolution so as to make such concurrent resolution mathematically consistent or so as to maintain such consistency.

(c) Action on conference reports in Senate

(1) A motion to proceed to the consideration of the conference report on any concurrent resolution on the budget (or a reconciliation bill or resolution) may be made even though a previous motion to the same effect has been disagreed to.

(2) During the consideration in the Senate of the conference report (or a message between Houses) on any concurrent resolution on the budget, and all amendments in disagreement, and all amendments thereto, and debatable motions and appeals in connection therewith, debate shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report (or a message between Houses) shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(3) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to one–half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(4) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

(d) Concurrent resolution must be consistent in Senate

It shall not be in order in the Senate to vote on the question of agreeing to—

(1) a concurrent resolution on the budget unless the figures then contained in such resolution are mathematically consistent; or

(2) a conference report on a concurrent resolution on the budget unless the figures contained in such resolution, as recommended in such conference report, are mathematically consistent. (Pub. L. 93–344, Title III, § 305, July 12, 1974, 88 Stat. 310; Pub. L. 95–523, Title III, § 303(b), (c), Oct. 27, 1978, 92 Stat. 1905, 1906; Pub. L. 99–177, Title II, § 201(b), Dec. 12, 1985, 99 Stat. 1047; Pub. L. 100–119, Title II, § 209, Sept. 29, 1987, 101 Stat. 787; Pub. L. 100–203 Title VIII, § 8003(d), Dec. 22, 1987, 101 Stat. 1330–282; Pub. L. 101–508, Title XIII, § 13209, 13210(1), Nov. 5, 1990, 104 Stat. 1388–619, 1388–620; Pub. L. 105–33, Title X, § 10109(a), Aug. 5, 1997, 111 Stat. 684.)

399.39–10 § 637. Legislation dealing with Congressional budget must be handled by Budget Committees 399.39–10

No bill, resolution, amendment, motion, or conference report, dealing with any matter which is within the jurisdiction of the committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution. (Pub. L. 93–344, Title III, § 306, July 12, 1974, 88 Stat. 313; Pub. L. 99–177, Title II, § 201(b), Dec. 12, 1985, 99 Stat. 1050; Pub. L. 101–508, Title XIII, § 13207(a)(1)(D), Nov. 5, 1990, 104 Stat. 1388–617.)

399.39–11 § 638. House committee action on all appropriation bills to be completed by June 10. 399.39–11

On or before June 10 of each year, the Committee on Appropriations of the House of Representatives shall report annual appropriation bills providing new budget authority under the jurisdiction of all of its sub-

committees for the fiscal year which begins on October 1 of that year. (Pub. L. 93–344, Title III, § 307, July 12, 1974, 88 Stat. 313; Pub. L. 99–177, Title II, § 201(b), Dec. 12, 1985, 99 Stat. 1051.)

399.39–12 § 639. Reports, summaries, and projections of Congressional budget actions. 399.39–12

(a) Reports on legislation providing new budget authority or providing increase or decrease in revenues or tax expenditures

(1) Whenever a committee of either House reports to its House a bill or joint resolution, or committee amendment thereto, providing new budget authority (other than continuing appropriations) or providing an increase or decrease in revenues or tax expenditures for a fiscal year (or fiscal years), the report accompanying that bill or joint resolution shall contain a statement, or the committee shall make available such a statement in the case of an approved committee amendment which is not reported to its House, prepared after consultation with the Director of the Congressional Budget Office—

(A) comparing the levels in such measure to the appropriate allocations in the reports submitted under section 633(b) of this title for the most recently agreed to concurrent resolution on the budget for such fiscal year (or fiscal years);

(B) containing a projection by the Congressional Budget Office of how such measure will affect the levels of such budget authority, budget outlays, revenues, or tax expenditures under existing law for such fiscal year (or fiscal years) and each of the four ensuing fiscal years, if timely submitted before such report is filed; and

(C) containing an estimate by the Congressional Budget Office of the level of new budget authority for assistance to State and local governments provided by such measure, if timely submitted before such report is filed.

(2) Whenever a conference report is filed in either House and such conference report or any amendment reported in disagreement or any amendment contained in the joint statement of managers to be proposed by the conferees in the case of technical disagreement on such bill or joint resolution provides new budget authority (other than continuing appropriations) or provides an increase or decrease in revenues for a fiscal year (or fiscal years), the statement of managers accompanying such conference report shall contain the information described in paragraph (1), if available on a timely basis. If such information is not available when the conference report is filed, the committee shall make such information available to Members as soon as practicable prior to the consideration of such conference report.

(b) Up-to-date tabulations of Congressional budget action

(1) The Director of the Congressional Budget Office shall issue to the committees of the House of Representatives and the Senate reports on at least a monthly basis detailing and tabulating the progress of congressional action on bills and joint resolutions providing new budget authority or providing an increase or decrease in revenues or tax expenditures for each fiscal year covered by a concurrent resolution on the budget. Such reports shall include but are not limited to an up-to-date tabulation comparing the appropriate aggregate and functional levels (including outlays) included in the most recently adopted concurrent resolution on the budget with the levels provided in bills and joint

resolutions reported by committees or adopted by either House or by the Congress, and with the levels provided by law for the fiscal year preceding the first fiscal year covered by the appropriate concurrent resolution.

(2) The Committee on the Budget of each House shall make available to Members of its House summary budget scorekeeping reports. Such reports—

(A) shall be made available on at least a monthly basis, but in any case frequently enough to provide Members of each House an accurate representation of the current status of congressional consideration of the budget;

(B) shall include, but are not limited to, summaries of tabulations provided under subsection (b)(1) of this section; and

(C) shall be based on information provided under subsection (b)(1) of this section without substantive revision.

The chairman of the Committee on the Budget of the House of Representatives shall submit such reports to the Speaker.

(c) Five-year projection of Congressional budget action

As soon as practicable after the beginning of each fiscal year, the Director of the Congressional Budget Office shall issue a report projecting for the period of 5 fiscal years beginning with such fiscal year—

(1) total new budget authority and total budget outlays for each fiscal year in such period;

(2) revenues to be received and the major sources thereof, and the surplus or deficit, if any, for each fiscal year in such period;

(3) tax expenditures for each fiscal year in such period; and

(4) entitlement authority for each fiscal year in such period. (Pub. L. 93–444, Title III, § 308, July 12, 1974, 88 Stat. 31–313; Pub. L. 99–177, Title II, § 201(b), Dec. 12, 1985, 99 Stat. 1051; Pub. L. 101–508, Title XIII, § 13206, Nov. 5, 1990, 104 Stat. 1388–617; Pub. L. 105–33, Title X, § 10110, Aug. 5, 1997, 111 Stat. 685.)

399.39–13 § 640. House approval of regular appropriation bills. **399.39–13**

It shall not be in order in the House of Representatives to consider any resolution providing for an adjournment period of more than three calendar days during the month of July until the House of Representatives has approved annual appropriation bills providing new budget authority under the jurisdiction of all the subcommittees of the Committee on Appropriations for the fiscal year beginning on October 1 of such year. For purposes of this section, the chairman of the Committee on Appropriations of the House of Representatives shall periodically advise the Speaker as to changes in jurisdiction among its various subcommittees. (Pub. L. 93–344, Title III, § 309, July 12, 1974, 88 Stat. 314; Pub. L. 99–177, Title II, § 201(b), Dec. 12, 1985, 99 Stat. 1052.)

399.39–14 § 641. Reconciliation. **399.39–14**

(a) Inclusion of reconciliation directives in concurrent resolutions on the budget.

A concurrent resolution on the budget for any fiscal year, to the extent necessary to effectuate the provisions and requirements of such resolution, shall—

(1) specify the total amount by which—

(A) new budget authority for such fiscal year;

(B) budget authority initially provided for prior fiscal years;

(C) new entitlement authority which is to become effective during such fiscal year; and—

(D) credit authority for such fiscal year, contained in laws, bills, and resolutions within the jurisdiction of a committee, is to be changed and direct that committee to determine and recommend changes to accomplish a change of such total amount;

(2) specify the total amount by which revenues are to be changed and direct that the committees having jurisdiction to determine and recommend changes in the revenue laws, bills, and resolutions to accomplish a change of such total amount;

(3) specify the amounts by which the statutory limit on the public debt is to be changed and direct the committee having jurisdiction to recommend such change; or

(4) specify and direct any combination of the matters described in paragraphs (1), (2), and (3) (including a direction to achieve deficit reduction).

(b) Legislative procedure

If a concurrent resolution containing directives to one or more committees to determine and recommend changes in laws, bills, or resolutions is agreed to in accordance with subsection (a) of this section, and—

(1) only one committee of the House or the Senate is directed to determine and recommend changes, that committee shall promptly make such determination and recommendations and report to its House reconciliation legislation containing such recommendations; or

(2) more than one committee of the House or the Senate is directed to determine and recommend changes, each such committee so directed shall promptly make such determination and recommendations and submit such recommendations to the Committee on the Budget of its House, which, upon receiving all such recommendations, shall report to its House reconciliation legislation carrying out all such recommendations without any substantive revision.

For purposes of this subsection, a reconciliation resolution is a concurrent resolution directing the Clerk of the House of Representatives or the Secretary of the Senate, as the case may be, to make specified changes in bills and resolutions which have not been enrolled.

(c) Compliance with reconciliation directions

(1) Any committee of the House of Representatives or the Senate that is directed, pursuant to a concurrent resolution on the budget, to determine and recommend changes of the type described in paragraphs (1) and (2) of subsection (a) of this section with respect to laws within its jurisdiction, shall be deemed to have complied with such directions—

(A) if—

(i) the amount of the changes of the type described in paragraph (1) of such subsection recommended by such committee do not exceed or fall below the amount of the changes such committee was directed by such concurrent resolution to recommend under such paragraph by more than

(I) in the Senate, 20 percent of the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection; or

(II) in the House of Representatives, 20 percent of the sum of the absolute value of the changes the committee was directed to make under paragraph (1) and the absolute value of the changes the committee was directed to make under paragraph (2); and

(ii) the amount of the changes of the type described in paragraph (2) of such subsection recommended by such committee do not exceed or fall below the amount of the changes such committee was directed by such concurrent resolution to recommend under that paragraph by more than

(I) in the Senate, 20 percent of the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection; or

(II) in the House of Representatives, 20 percent of the sum of the absolute value of the changes the committee was directed to make under paragraph (1) and the absolute value of the changes the committee was directed to make under paragraph (2); and

(B) if the total amount of the changes recommended by such committee is not less than the total of the amounts of the changes such committee was directed to make under paragraphs (1) and (2) of such subsection.

(2)(A) Upon the reporting to the Committee on the Budget of the Senate of a recommendation that shall be deemed to have complied with such directions solely by virtue of this subsection, the chairman of that committee may file with the Senate appropriately revised allocations under section 633(a) of this title and revised functional levels and aggregates to carry out this subsection.

(B) Upon the submission to the Senate of a conference report recommending a reconciliation bill or resolution in which a committee shall be deemed to have complied with such directions solely by virtue of this subsection, the chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 633(a) of this title and revised functional levels and aggregates to carry out this subsection.

(C) Allocations, functional levels, and aggregates revised pursuant to this paragraph shall be considered to be allocations, functional levels, and aggregates contained in the concurrent resolution on the budget pursuant to section 632 of this title.

(D) Upon the filing of revised allocations pursuant to this paragraph, the reporting committee shall report revised allocations pursuant to section 633(b) of this title to carry out this subsection.

(d) Limitation on amendments to reconciliation bills and resolutions

(1) It shall not be in order in the House of Representatives to consider any amendment to a reconciliation bill or reconciliation resolution if such amendment would have the effect of increasing any specific budget outlays above the level of such outlays provided in the bill or resolution (for the fiscal years covered by the reconciliation instructions set forth in the most recently agreed to concurrent resolution on the budget),

or would have the effect of reducing any specific Federal revenues below the level of such revenues provided in the bill or resolution (for such fiscal years), unless such amendment makes at least an equivalent reduction in other specific budget outlays, an equivalent increase in other specific Federal revenues, or an equivalent combination thereof (for such fiscal years), except that a motion to strike a provision providing new budget authority or new entitlement authority may be in order.

(2) It shall not be in order in the Senate to consider any amendment to a reconciliation bill or reconciliation resolution if such amendment would have the effect of decreasing any specific budget outlay reductions below the level of such outlay reductions provided (for the fiscal years covered) in the reconciliation instructions which relate to such bill or resolution set forth in a resolution providing for reconciliation, or would have the effect of reducing Federal revenue increases below the level of such revenue increases provided (for such fiscal years) in such instructions relating to such bill or resolution, unless such amendment makes a reduction in other specific budget outlays, an increase in other specific Federal revenues, or a combination thereof (for such fiscal years) at least equivalent to any increase in outlays or decrease in revenues provided by such amendment, except that a motion to strike a provision shall always be in order.

(3) Paragraphs (1) and (2) shall not apply if a declaration of war by the Congress is in effect.

(4) For purposes of this section, the levels of budget outlays and Federal revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or of the Senate, as the case may be.

(5) The Committee on Rules of the House of Representatives may make in order amendments to achieve changes specified by reconciliation directives contained in a concurrent resolution on the budget if a committee or committees of the House fail to submit recommended changes to its Committee on the Budget pursuant to its instruction.

(e) Procedure in Senate

(1) Except as provided in paragraph (2), the provisions of section 636 of this title for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration in the Senate of reconciliation bills reported under subsection (b) of this section and conference reports thereon.

(2) Debate in the Senate on any reconciliation bill reported under subsection (b) of this section, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours.

(f) Completion of reconciliation process

It shall not be in order in the House of Representatives to consider any resolution providing for an adjournment period of more than three calendar days during the month of July until the House of Representatives has completed action on the reconciliation legislation for the fiscal year beginning on October 1 of the calendar year to which the adjournment resolution pertains, if reconciliation legislation is required to be reported by the concurrent resolution on the budget for such fiscal year.

(g) Limitation on changes to Social Security Act

Notwithstanding any other provision of law, it shall not be in order in the Senate or the House of Representatives to consider any reconciliation bill or reconciliation resolution reported pursuant to a concurrent resolution on the budget agreed to under section 632 or 635 of this title, or a joint resolution pursuant to section 907d of this title, or any amendment thereto or conference report thereon, that contains recommendations with respect to the old-age, survivors, and disability insurance program established under Title II of the Social Security Act [42 U.S.C. 401 et seq.]. (Pub. L. 93–344, Title III, § 310, July 12, 1974, 88 Stat. 315; Pub. L. 99–177, Title II, § 201(b), Dec. 12, 1985, 99 Stat. 1053; Pub. L. 101–508, Title XIII, §§ 13112(a)(9), 13207(c), (d), 13210(2), Nov. 5, 1990, 104 Stat. 1388–608, 1388–618, 1388–619, 1388–620; Pub. L. 105–33, Title X, § 10111, Aug. 5, 1997, 111 Stat. 685.)

399.39–15 § 642. Budget-related legislation must be within appropriate levels. 399.39–15

(a) Enforcement of budget aggregates

(1) In the House of Representatives

Except as provided by subsection (c) of this section, after the Congress has completed action on a concurrent resolution on the budget for a fiscal year, it shall not be in order in the House of Representatives to consider any bill, joint resolution, amendment, motion, or conference report providing new budget authority or reducing revenues, if—

(A) the enactment of that bill or resolution as reported;

(B) the adoption and enactment of that amendment; or

(C) the enactment of that bill or resolution in the form recommended in that conference report;

would cause the level of total new budget authority or total outlays set forth in the applicable concurrent resolution on the budget for the first fiscal year to be exceeded, or would cause revenues to be less than the level of total revenues set forth in that concurrent resolution for the first fiscal year or for the total of that first fiscal year and the ensuing fiscal years for which allocations are provided under section 633(a) of this title, except when a declaration of war by the Congress is in effect.

(2) In the Senate

After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that—

(A) would cause the level of total new budget authority or total outlays set forth for the first fiscal year in the applicable resolution to be exceeded; or

(B) would cause revenues to be less than the level of total revenues set forth for that first fiscal year or for the total of that first fiscal year and the ensuing fiscal years in the applicable resolution for which allocations are provided under section 633(a) of this title.

(3) Enforcement of social security levels in the Senate

After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause a de-

crease in social security surpluses or an increase in social security deficits relative to the levels set forth in the applicable resolution for the first fiscal year or for the total of that fiscal year and the ensuing fiscal years for which allocations are provided under section 633(a) of this title.

(b) Social security levels

(1) In general

For purposes of subsection (a)(3) of this section, social security surpluses equal the excess of social security revenues over social security outlays in a fiscal year or years with such an excess and social security deficits equal the excess of social security outlays over social security revenues in a fiscal year or years with such an excess.

(2) Tax treatment

For purposes of subsection (a)(3) of this section, no provision of any legislation involving a change in chapter I of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues or outlays unless that provision changes the income tax treatment of social security benefits.

(c) Exception in the House of Representatives

Subsection (a)(1) of this section shall not apply in the House of Representatives to any bill, joint resolution, or amendment that provides new budget authority for a fiscal year or to any conference report on any such bill or resolution, if—

(1) the enactment of that bill or resolution as reported;

(2) the adoption and enactment of that amendment; or

(3) the enactment of that bill or resolution in the form recommended in that conference report;

would not cause the appropriate allocation of new budget authority made pursuant to section 633(a) of this title for that fiscal year to be exceeded. (Pub. L. 93–344, Title III, § 311, July 12, 1974, 88 Stat. 316; Pub. L. 99–177, Title II, § 201(b), Dec. 12, 1985, 99 Stat. 1055; Pub. L. 100–119, Title I, § 106(e)(1), Sept. 29, 1987, 101 Stat. 781; Pub. L. 101–508, Title XIII, §§ 13112(a)(10), 13207(a)(1)(E), 13303(d), Nov. 5, 1990, 104 Stat. 1388–608, 1388–617, 1388–626; Pub. L. 105–33, Title X, § 10112(a), Aug. 5, 1997, 111 Stat. 686.)

399.39–15a § 643. Determinations and points of order. **399.39–15a**

(a) Budget Committee determinations

For purposes of this subchapter and subchapter II of this chapter, the levels of new budget authority, outlays, direct spending, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as applicable.

(b) Discretionary spending point of order in the Senate

(1) In general

Except as otherwise provided in this subsection, it shall not be in order in the Senate to consider any bill or resolution (or amendment, motion, or conference report on that bill or resolution) that would exceed any of the discretionary spending limits in section 901(c) of this title.

(2) Exceptions

This subsection shall not apply if a declaration of war by the Congress is in effect or if a joint resolution pursuant to section 907a of this title has been enacted.

(c) Maximum deficit amount point of order in the Senate

It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year, or to consider any amendment to that concurrent resolution, or to consider a conference report on that concurrent resolution, if—

(1) the level of total outlays for the first fiscal year set forth in that concurrent resolution or conference report exceeds; or

(2) the adoption of that amendment would result in a level of total outlays for that fiscal year that exceeds;

the recommended level of Federal revenues for that fiscal year, by an amount that is greater than the maximum deficit amount, if any, specified in the Balanced Budget and Emergency Deficit Control Act of 1985 for that fiscal year.

(d) Timing of points of order in the Senate

A point of order under this Act may not be raised against a bill, resolution, amendment, motion, or conference report while an amendment or motion, the adoption of which would remedy the violation of this Act, is pending before the Senate.

(e) Points of order in the Senate against amendments between the Houses

Each provision of this Act that establishes a point of order against an amendment also establishes a point of order in the Senate against an amendment between the Houses. If a point of order under this Act is raised in the Senate against an amendment between the Houses and the point of order is sustained, the effect shall be the same as if the Senate had disagreed to the amendment.

(f) Effect of a point of order in the Senate

In the Senate, if a point of order under this Act against a bill or resolution is sustained, the Presiding Officer shall then recommit the bill or resolution to the committee of appropriate jurisdiction for further consideration. (Pub. L. 93–344, Title III, § 312, as added Pub. L. 101–508, Title XIII, § 13207(b)(1), Nov. 5, 1990, 104 Stat. 1388–618, and amended Pub. L. 105–33, Title X, § 10113(a), Aug. 5, 1997, 111 Stat. 687.)

399.39–15b § 644. Extraneous matter in reconciliation legislation. **399.39–15b**

(a) In general

When the Senate is considering a reconciliation bill or a reconciliation resolution pursuant to section 641 of this title (whether that bill or resolution originated in the Senate or the House) or section 907d of this title, upon a point of order being made by any Senator against material extraneous to the instructions to a committee which is contained in any title or provision of the bill or resolution or offered as an amendment to the bill or resolution, and the point of order is sustained by the Chair, any part of said title or provision that contains material extraneous to the instructions to said Committee as defined

in subsection (b) of this section shall be deemed stricken from the bill and may not be offered as an amendment from the floor.

(b) Extraneous provisions

(1)(A) Except as provided in paragraph (2), a provision of a reconciliation bill or reconciliation resolution considered pursuant to section 641 of this title shall be considered extraneous if such provision does not produce a change in outlays or revenues, including changes in outlays and revenues brought about by changes in the terms and conditions under which outlays are made or revenues are required to be collected (but a provision in which outlay decreases or revenue increases exactly offset outlay increases or revenue decreases shall not be considered extraneous by virtue of this subparagraph);

(B) any provision producing an increase in outlays or decrease in revenues shall be considered extraneous if the net effect of provisions reported by the Committee reporting the title containing the provision is that the Committee fails to achieve its reconciliation instructions;

(C) a provision that is not in the jurisdiction of the Committee with jurisdiction over said title or provision shall be considered extraneous;

(D) a provision shall be considered extraneous if it produces changes in outlays or revenues which are merely incidental to the non-budgetary components of the provision;

(E) a provision shall be considered to be extraneous if it increases, or would increase, net outlays, or if it decreases, or would decrease, revenues during a fiscal year after the fiscal years covered by such reconciliation bill or reconciliation resolution, and such increases or decreases are greater than outlay reductions or revenue increases resulting from other provisions in such title in such year; and

(F) a provision shall be considered extraneous if it violates section 641(g) of this title.

(2) A Senate-originated provision shall not be considered extraneous under paragraph (1)(A) if the Chairman and Ranking Minority Member of the Committee on the Budget and the Chairman and Ranking Minority Member of the Committee which reported the provision certify that:

(A) the provision mitigates the direct effects clearly attributable to a provision changing outlays or revenues and both provisions together produce a net reduction in the deficit;

(B) the provision will result in a substantial reduction in outlays or a substantial increase in revenues during fiscal years after the fiscal years covered by the reconciliation bill or reconciliation resolution;

(C) a reduction of outlays or an increase in revenues is likely to occur as a result of the provision, in the event of new regulations authorized by the provision or likely to be proposed, court rulings on pending litigation, or relationships between economic indices and stipulated statutory triggers pertaining to the provision, other than the regulations, court rulings or relationships currently projected by the Congressional Budget Office for scorekeeping purposes; or

(D) such provision will be likely to produce a significant reduction in outlays or increase in revenues but, due to insufficient data, such reduction or increase cannot be reliably estimated.

(3) A provision reported by a committee shall not be considered extraneous under paragraph (1)(C) if (A) the provision is an integral part of a provision or title, which if introduced as a bill or resolution would

be referred to such committee, and the provision sets forth the procedure to carry out or implement the substantive provisions that were reported and which fall within the jurisdiction of such committee; or (B) the provision states an exception to, or a special application of, the general provision or title of which it is a part and such general provision or title if introduced as a bill or resolution would be referred to such committee.

(c) Extraneous materials

Upon the reporting or discharge of a reconciliation bill or resolution pursuant to section 641 of this title in the Senate, and again upon the submission of a conference report on such a reconciliation bill or resolution, the Committee on the Budget of the Senate shall submit for the record a list of material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of this section to the instructions of a committee as provided in this section. The inclusion or exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

(d) Conference reports

When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a reconciliation bill or reconciliation resolution pursuant to section 641 of this title, upon—

(1) a point of order being made by any Senator against extraneous material meeting the definition of subsections (b)(1)(A), (b)(1)(B), (b)(1)(D), (b)(l)(E), or (b)(l)(F) of this section, and

(2) such point of order being sustained,

such material contained in such conference report or amendment shall be deemed stricken, and the Senate shall proceed, without intervening action or motion, to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable for two hours. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(e) General point of order

Notwithstanding any other law or rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions (including provisions of an amendment, motion, or conference report) against which the Senator raised the point of order, then only those provisions (including provisions of an amendment, motion, or conference report) against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as

it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled. (Pub. L. 93–344, Title III, § 313, as added and amended Pub. L. 101–508, Title XIII, § 13214(a)–(b)(4), Nov. 5, 1990, 104 Stat. 1388–621, 1388–622; Pub. L. 105–33, Title X, § 10113(b)(1), Aug. 5, 1997, 111 Stat. 688.)

399.39–15c § 645. Adjustments. **399.39–15c**

(a) Adjustments

(1) In general

After the reporting of a bill or joint resolution, the offering of an amendment thereto, or the submission of a conference report thereon, the chairman of the Committee on the Budget of the House of Representatives or the Senate shall make the adjustments set forth in paragraph (2) for the amount of new budget authority in that measure (if that measure meets the requirements set forth in subsection (b) of this section) and the outlays flowing from that budget authority.

(2) Matters to be adjusted

The adjustments referred to in paragraph (1) are to be made to—

(A) the discretionary spending limits, if any, set forth in the appropriate concurrent resolution on the budget;

(B) the allocations made pursuant to the appropriate concurrent resolution on the budget pursuant to section 633(a) of this title; and

(C) the budgetary aggregates as set forth in the appropriate concurrent resolution on the budget.

(b) Amounts of adjustments

The adjustment referred to in subsection (a) of this section shall be—

(1) an amount provided and designated as an emergency requirement pursuant to section 901(b)(2)(A) or 902(e) of this title;

(2) an amount provided for continuing disability reviews subject to the limitations in section 901(b)(2)(C) of this title;

(3) for any fiscal year through 2002, an amount provided that is the dollar equivalent of the Special Drawing Rights with respect to—

(A) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

(B) any increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreements Act, as amended from time to time (New Arrangements to Borrow);

(4) an amount provided not to exceed $1,884,000,000 for the period of fiscal years 1998 through 2000 for arrearages for international organizations, international peacekeeping, and multilateral development banks;

(5) an amount provided for an earned income tax credit compliance initiative but not to exceed—

(A) with respect to fiscal year 1998, $138,000,000 in new budget authority;

(B) with respect to fiscal year 1999, $143,000,000 in new budget authority;

(C) with respect to fiscal year 2000, $144,000,000 in new budget authority;

(D) with respect to fiscal year 2001, $145,000,000 in new budget authority; and

(E) with respect to fiscal year 2002, $146,000,000 in new budget authority; or

(6) in the case of an amount for adoption incentive payments (as defined in section 901(b)(2)(G) of this title) for fiscal year 1999, 2000, 2001, 2002, or 2003 for the Department of Health and Human Services, an amount not to exceed $20,000,000.

(c) Application of adjustments

The adjustments made pursuant to subsection (a) of this section for legislation shall—

(1) apply while that legislation is under consideration;

(2) take effect upon the enactment of that legislation; and

(3) be published in the Congressional Record as soon as practicable.

(d) Reporting revised suballocations

Following any adjustment made under subsection (a) of this section, the Committees on Appropriations of the Senate and the House of Representatives may report appropriately revised suballocations under section 633(b) of this title to carry out this section.

(e) Definitions for CDRs

As used in subsection (b)(2) of this section—

(1) the term "continuing disability reviews" shall have the same meaning as provided in section 901(b)(2)(C)(ii) of this title; and

(2) the term "new budget authority" shall have the same meaning as the term "additional new budget authority" and the term "out lays" shall have the same meaning as "additional outlays" in that section. (Pub. L. 934–344, Title III, § 314, as added Pub. L. 105–33, Title X, § 10114(a), Aug. 5, 1997, 111 Stat. 688, and amended Pub. L. 105–89, Title II, § 201(b)(2), Nov. 19, 1997, 111 Stat. 2125.)

399.39–15d § 645a. Effect of adoption of a special order of business in the House of Representatives. 399.39–15d

For purposes of a reported bill or joint resolution considered in the House of Representatives pursuant to a special order of business, the term "as reported" in this subchapter or subchapter II of this chapter shall be considered to refer to the text made in order as an original bill or joint resolution for the purpose of amendment or to the text on which the previous question is ordered directly to passage, as the case may be. (Pub. L. 93–344, Title III, § 315, as added Pub. L. 105–33, Title X, § 10115(a), Aug. 5, 1997, 111 Stat. 690.)

Subchapter II.—Fiscal Procedures

Part A.—General Provisions

399.39–16 § 651. Budget-related legislation not subject to appropriations. 399.39–16

(a) Controls on certain budget-related legislation not subject to appropriations

It shall not be in order in either the House of Representatives or the Senate to consider any bill or joint resolution (in the House of Representatives only, as reported), amendment, motion, or conference report that provides—

(1) new authority to enter into contracts under which the United States is obligated to make outlays;

(2) new authority to incur indebtedness (other than indebtedness incurred under chapter 31 of title 31 of the United States Code) for the repayment of which the United States is liable; or

(3) new credit authority;

unless that bill, joint resolution, amendment, motion, or conference report also provides that the new authority is to be effective for any fiscal year only to the extent or in the amounts provided in advance in appropriation Acts.

(b) Legislation providing new entitlement authority

(1) Point of order

It shall not be in order in either the House of Representatives or the Senate to consider any bill or joint resolution (in the House of Representatives only, as reported), amendment, motion, or conference report that provides new entitlement authority that is to become effective during the current fiscal year.

(2) If any committee of the House of Representatives or the Senate reports any bill or resolution which provides new entitlement authority which is to become effective during a fiscal year and the amount of new budget authority which will be required for such fiscal year if such bill or resolution is enacted as so reported exceeds the appropriate allocation of new budget authority reported under section 633(b) of this title in connection with the most recently agreed to concurrent resolution on the budget for such fiscal year, such bill or resolution shall then be referred to the Committee on Appropriations of the Senate or may then be referred to the Committee on Appropriations of the House, as the case may be, with instructions to report it, with the committee's recommendations, within 15 calendar days (not counting any day on which that House is not in session) beginning with the day following the day on which it is so referred. If the Committee on Appropriations of either House fails to report a bill or resolution referred to it under this paragraph within such 15-day period, the committee shall automatically be discharged from further consideration of such bill or resolution and such bill or resolution shall be placed on the appropriate calendar.

(3) The Committee on Appropriations of each House shall have jurisdiction to report any bill or resolution referred to it under paragraph (2) with an amendment which limits the total amount of new spending authority provided in such bill or resolution.

(c) Exceptions

(1) Subsections (a) and (b) of this section shall not apply to new authority described in those subsections if outlays from that new authority will flow—

(A) from a trust fund established by the Social Security Act (as in effect on July 12, 1974) [42 U.S.C. 301 et seq.]; or

(B) from any other trust fund, 90 percent or more of the receipts of which consist or will consist of amounts (transferred from the general fund of the Treasury) equivalent to amounts of taxes (related to the purposes for which such outlays are or will be made) received in the Treasury under specified provisions of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.].

(2) Subsections (a) and (b) of this section shall not apply to new authority described in those subsections to the extent that—

(A) the outlays resulting therefrom are made by an organization which is (i) a mixed-ownership Government corporation (as defined in section 9101(2) of title 31), or (ii) a wholly owned Government corporation (as defined in section 9101(3) of title 31) which is specifically exempted by law from compliance with any or all of the provisions of chapter 91 of title 31, as of December 12, 1985; or

(B) the outlays resulting therefrom consist exclusively of the proceeds of gifts or bequests made to the United States for a specific purpose. (Pub. L. 93–344, Title IV, § 401, July 12 1974, 88 Stat. 317; Pub. L. 99–177, Title II, § 211, Dec. 12, 1985, 99 Stat. § 1056; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101–508, Title XIII, § 13207(a)(1)(F), (G), Nov, 5, 1990, 104 Stat. 1388–617, 1388–618; Pub. L. 105–33, Title X, § 10116(a)(1)–(5), Aug. 5, 1997, 111 Stat. 690.)

399.39–17 § 652. Repealed. Pub. L. 105–33, Title X, Sec. 10116(b), Aug. 5, 1997, 111 Stat. 692. **399.39–17**

Section, Pub. L. 93–344, Title IV, § 402, July 12, 1974, 88 Stat. 318; Pub. L. 99–177, Title II, § 212, Dec. 12, 1985, 99 Stat. 1058; Pub. L. 101–508, Title XIII, § 13207(a)(1)(H), Nov. 5, 1990, 104 Stat. 1388–618, related to legislation providing new credit authority.

399.39–18 § 653. Analysis by Congressional Budget Office. **399.39–18**

The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

(1) an estimate of the costs which would be incurred in carrying out such bill or resolution in the fiscal year in which it is to become effective and in each of the 4 fiscal years following such fiscal year, together with the basis for each such estimate;

(2) a comparison of the estimates of costs described in paragraph (1) with any available estimates of costs made by such committee or by any Federal agency; and

(3) a description of each method for establishing a Federal financial commitment contained in such bill or resolution.

The estimates, comparison, and description so submitted shall be included in the report accompanying such bill or resolution if timely submitted to such committee before such report is filed. (Pub. L. 93–344,

Title IV, § 402, formerly § 403, July 12, 1974, 88 Stat. 320; Pub. L. 97–108, § 2(a), Dec. 23, 1981, 95 Stat. 1510; Pub. L. 99–177, Title II, § 213, Dec. 12, 1985, 99 Stat. 1059; Pub. L. 104–4, Title I, § 104, Mar. 22, 1995, 109 Stat. 62; renumbered § 402, Pub. L. 105–33, Title X, § 10116(c)(1), Aug. 5, 1997, 111 Stat. 692.)

399.39–19 § 654. Study by General Accounting Office of forms of Federal financial commitment not reviewed annually by Congress. 399.39–19

The General Accounting Office shall study those provisions of law which provide mandatory spending and report to the Congress its recommendations for the appropriate form of financing for activities or programs financed by such provisions not later than eighteen months after December 12, 1985. Such report shall be revised from time to time. (Pub. L. 93–344, Title IV, § 404, formerly § 405, as added, Pub. L. 99–177, Title II, § 214, Dec. 12, 1985, 99 Stat. 1059; renumbered § 404 and amended Pub. L. 105–33, Title X, § 10116(c)(1), (2), Aug. 5, 1997, 111 Stat. 692.)

399.39–20 § 655. Off-budget agencies, programs, and activities. 399.39–20

(a) Notwithstanding any other provision of law, budget authority, credit authority, and estimates of outlays and receipts for activities of the Federal budget which are off-budget immediately prior to December 12, 1985, not including activities of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, shall be included in a budget submitted pursuant to section 1105 of title 31 and in a concurrent resolution on the budget reported pursuant to section 632 or section 635 of this title and shall be considered, for purposes of this Act, budget authority, outlays, and spending authority in accordance with definitions set forth in this Act.

(b) All receipts and disbursements of the Federal Financing Bank with respect to any obligations which are issued, sold, or guaranteed by a Federal agency shall be treated as a means of financing such agency for purposes of section 1105 of title 31 and for purposes of this Act. (Pub. L. 93–344, Title IV, § 405, formerly § 406, as added Pub. L. 99–177, Title II, § 214, Dec. 12, 1985, 99 Stat. 1059, renumbered § 405, Pub. L. 105–33, Title X, § 10116(c)(1), Aug. 5, 1997, 111 Stat. 692.)

399.39–20a § 656. Member User Group. 399.39–20a

The Speaker of the House of Representatives, after consulting with the Minority Leader of the House, may appoint a Member User Group for the purpose of reviewing budgetary scorekeeping rules and practices of the House and advising the Speaker from time to time on the effect and impact of such rules and practices. (Pub. L. 93–344, Title IV, § 406, formerly § 407, as added Pub. L. 99–177, Title II, § 214, Dec. 12, 1985, 99 Stat. 1060, renumbered § 406, Pub. L. 105–33, Title X, § 10116(c)(1), Aug. 5, 1997, 111 Stat. 692.)

Part B.—Federal Mandates

399.39–21 § 658. Definitions. 399.39–21

For purposes of this part:

(1) Agency

The term "agency" has the same meaning as defined in section 551(1) of title 5, but does not include independent regulatory agencies.

(2) Amount

The term "amount", with respect to an authorization of appropriations for Federal financial assistance, means the amount of budget authority for any Federal grant assistance program or any Federal program providing loan guarantees or direct loans.

(3) Direct costs

The term "direct costs"—

(A)(i) in the case of a Federal intergovernmental mandate, means the aggregate estimated amounts that all State, local, and tribal governments would be required to spend or would be prohibited from raising in revenues in order to comply with the Federal intergovernmental mandate; or

(ii) in the case of a provision referred to in paragraph (5)(A)(ii), means the amount of Federal financial assistance eliminated or reduced;

(B) in the case of a Federal private sector mandate, means the aggregate estimated amounts that the private sector will be required to spend in order to comply with the Federal private sector mandate;

(C) shall be determined on the assumption that—

(i) State, local, and tribal governments, and the private sector will take all reasonable steps necessary to mitigate the costs resulting from the Federal mandate, and will comply with applicable standards of practice and conduct established by recognized professional or trade associations; and

(ii) reasonable steps to mitigate the costs shall not include increases in State, local, or tribal taxes or fees; and

(D) shall not include—

(i) estimated amounts that the State, local, and tribal governments (in the case of a Federal intergovernmental mandate) or the private sector (in the case of a Federal private sector mandate) would spend—

(I) to comply with or carry out all applicable Federal, State, local, and tribal laws and regulations in effect at the time of the adoption of the Federal mandate for the same activity as is affected by that Federal mandate; or

(II) to comply with or carry out State, local, and tribal governmental programs, or private-sector business or other activities in effect at the time of the adoption of the Federal mandate for the same activity as is affected by that mandate; or

(ii) expenditures to the extent that such expenditures will be offset by any direct savings to the State, local, and tribal governments, or by the private sector, as a result of—

(I) compliance with the Federal mandate; or

(II) other changes in Federal law or regulation that are enacted or adopted in the same bill or joint resolution or proposed or final Federal regulation and that

govern the same activity as is affected by the Federal mandate.

(4) Direct savings

The term "direct savings", when used with respect to the result of compliance with the Federal mandate—

(A) in the case of a Federal intergovernmental mandate, means the aggregate estimated reduction in costs to any State, local, or tribal government as a result of compliance with the Federal intergovernmental mandate; and

(B) in the case of a Federal private sector mandate, means the aggregate estimated reduction in costs to the private sector as a result of compliance with the Federal private sector mandate.

(5) Federal intergovernmental mandate

The term "Federal intergovernmental mandate" means—

(A) any provision in legislation, statute, or regulation that—

(i) would impose an enforceable duty upon State, local, or tribal governments, except—

(I) a condition of Federal assistance; or

(II) a duty arising from participation in a voluntary Federal program, except as provided in subparagraph (B)); or

(ii) would reduce or eliminate the amount of authorization of appropriations for—

(I) Federal financial assistance that would be provided to State, local, or tribal governments for the purpose of complying with any such previously imposed duty unless such duty is reduced or eliminated by a corresponding amount; or

(II) the control of borders by the Federal Government; or reimbursement to State, local, or tribal governments for the net cost associated with illegal, deportable, and excludable aliens, including court-mandated expenses related to emergency health care, education or criminal justice; when such a reduction or elimination would result in increased net costs to State, local, or tribal governments in providing education or emergency health care to, or incarceration of, illegal aliens; except that this subclause shall not be in effect with respect to a State, local, or tribal government, to the extent that such government has not fully cooperated in the efforts of the Federal Government to locate, apprehend, and deport illegal aliens;

(B) any provision in legislation, statute, or regulation that relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority, if the provision—

(i)(I) would increase the stringency of conditions of assistance to State, local, or tribal governments under the program; or

(II) would place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding to State, local, or tribal governments under the program; and

(ii) the State, local, or tribal governments that participate in the Federal program lack authority under that program to amend their financial or programmatic responsibilities to continue providing required services that are affected by the legislation, statute, or regulation.

(6) Federal mandate

The term "Federal mandate" means a Federal intergovernmental mandate or a Federal private sector mandate, as defined in paragraphs (5) and (7).

(7) Federal private sector mandate

The term "Federal private sector mandate" means any provision in legislation, statute, or regulation that—

(A) would impose an enforceable duty upon the private sector except—

(i) a condition of Federal assistance; or

(ii) a duty arising from participation in a voluntary Federal program; or

(B) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that will be provided to the private sector for the purposes of ensuring compliance with such duty.

(8) Local government

The term "local government" has the same meaning as defined in section 6501(6) of title 31.

(9) Private sector

The term "private sector" means all persons or entities in the United States, including individuals, partnerships, associations, corporations, and educational and nonprofit institutions, but shall not include State, local, or tribal governments.

(10) Regulation; rule

The term "regulation" or "rule" (except with respect to a rule of either House of the Congress) has the meaning of "rule" as defined in section 601(2) of title 5.

(11) Small government

The term "small government" means any small governmental jurisdictions defined in section 601(5) of title 5, and any tribal government.

(12) State

The term "State" has the same meaning as defined in section 6501(9) of title 31.

(13) Tribal government

The term "tribal government" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601 et seq.) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians. (Pub. L. 93–344, Title IV, § 421, as added Pub. L. 104–4, Title I, § 101(a)(2), Mar. 22, 1995, 109 Stat. 50.)

399.39–21a § 658a. Exclusions. **399.39–21a**

This part shall not apply to any provision in a bill, joint resolution, amendment, motion, or conference report before Congress that—

(1) enforces constitutional rights of individuals;

(2) establishes or enforces any statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability;

(3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Federal Government;

(4) provides for emergency assistance or relief at the request of any State, local, or tribal government or any official of a State, local, or tribal government;

(5) is necessary for the national security or the ratification or implementation of international treaty obligations;

(6) the President designates as emergency legislation and that the Congress so designates in statute; or

(7) relates to the old-age, survivors, and disability insurance program under subchapter II of chapter 7 of title 42 (including taxes imposed by sections 3101(a) and 3111(a) of title 26 (relating to old-age, survivors, and disability insurance)). (Pub. L. 93–344, Title IV, § 422, as added Pub. L. 104–4, Title I, § 101(a)(2), Mar. 22, 1995, 109 Stat. 53.)

399.39–21b § 658b. Duties of congressional committees. **399.39–21b**

(a) In general

When a committee of authorization of the Senate or the House of Representatives reports a bill or joint resolution of public character that includes any Federal mandate, the report of the committee accompanying the bill or joint resolution shall contain the information required by subsections (c) and (d) of this section.

(b) Submission of bills to the Director

When a committee of authorization of the Senate or the House of Representatives orders reported a bill or joint resolution of a public character, the committee shall promptly provide the bill or joint resolution to the Director of the Congressional Budget Office and shall identify to the Director any Federal mandates contained in the bill or resolution.

(c) Reports on Federal mandates

Each report described under subsection (a) of this section shall contain—

(1) an identification and description of any Federal mandates in the bill or joint resolution, including the direct costs to State, local, and tribal governments, and to the private sector, required to comply with the Federal mandates;

(2) a qualitative, and if practicable, a quantitative assessment of costs and benefits anticipated from the Federal mandates (including the effects on health and safety and the protection of the natural environment); and

(3) a statement of the degree to which a Federal mandate affects both the public and private sectors and the extent to which Federal payment of public sector costs or the modification or termination

of the Federal mandate as provided under section 658d(a)(2) of this title would affect the competitive balance between State, local, or tribal governments and the private sector including a description of the actions, if any, taken by the committee to avoid any adverse impact on the private sector or the competitive balance between the public sector and the private sector.

(d) Intergovernmental mandates

If any of the Federal mandates in the bill or joint resolution are Federal intergovernmental mandates, the report required under subsection (a) of this section shall also contain—

(1)(A) a statement of the amount, if any, of increase or decrease in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable for activities of State, local, or tribal governments subject to the Federal intergovernmental mandates;

(B) a statement of whether the committee intends that the Federal intergovernmental mandates be partly or entirely unfunded, and if so, the reasons for that intention; and

(C) if funded in whole or in part, a statement of whether and how the committee has created a mechanism to allocate the funding in a manner that is reasonably consistent with the expected direct costs among and between the respective levels of State, local, and tribal government; and

(2) any existing sources of Federal assistance in addition to those identified in paragraph (1) that may assist State, local, and tribal governments in meeting the direct costs of the Federal intergovemmental mandates; and

(3) if the bill or joint resolution would make the reduction specified in section 658(5)(B)(i)(II) of this title, a statement of how the committee specifically intends the States to implement the reduction and to what extent the legislation provides additional flexibility, if any, to offset the reduction.

(e) Preemption clarification and information

When a committee of authorization of the Senate or the House of Representatives reports a bill or joint resolution of public character, the committee report accompanying the bill or joint resolution shall contain, if relevant to the bill or joint resolution, an explicit statement on the extent to which the bill or joint resolution is intended to preempt any State, local, or tribal law, and, if so, an explanation of the effect of such preemption.

(f) Publication of statement from the Director

(1) In general

Upon receiving a statement from the Director under section 658c of this title, a committee of the Senate or the House of Representatives shall publish the statement in the committee report accompanying the bill or joint resolution to which the statement relates if the statement is available at the time the report is printed.

(2) Other publication of statement of Director

If the statement is not published in the report, or if the bill or joint resolution to which the statement relates is expected to

be considered by the Senate or the House of Representatives before the report is published, the committee shall cause the statement, or a summary thereof, to be published in the Congressional Record in advance of floor consideration of the bill or joint resolution.

(Pub. L. 93–344, Title IV, § 423, as added Pub. L. 104–4, Title I, § 101(a)(2), Mar. 22, 1995, 109 Stat. 53; amended Pub. L. 106–141, § 2(a), Dec. 7, 1999, 113 Stat. 1699.)

399.39–21c § 658c. Duties of the Director, statements on bills and joint resolutions other than appropriations bills and joint resolutions. 399.39–21c

(a) Federal intergovernmental mandates in reported bills and resolutions

For each bill or joint resolution of a public character reported by any committee of authorization of the Senate or the House of Representatives, the Director of the Congressional Budget Office shall prepare and submit to the committee a statement as follows:

(1) Contents

If the Director estimates that the direct cost of all Federal intergovernmental mandates in the bill or joint resolution will equal or exceed $50,000,000 (adjusted annually for inflation) in the fiscal year in which any Federal intergovernmental mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

(2) Estimates

Estimates required under paragraph (1) shall include estimates (and brief explanations of the basis of the estimates) of—

(A) the total amount of direct cost of complying with the Federal intergovernmental mandates in the bill or joint resolution;

(B) if the bill or resolution contains an authorization of appropriations under section 658d(a)(2)(B) of this title, the amount of new budget authority for each fiscal year for a period not to exceed 10 years beyond the effective date necessary for the direct cost of the intergovernmental mandate; and

(C) the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable by State, local, or tribal governments for activities subject to the Federal intergovernmental mandates.

(3) Additional flexibility information

The Director shall include in the statement submitted under this subsection, in the case of legislation that makes changes as described in section 658(5)(B)(i)(II) of this title—

(A) if no additional flexibility is provided in the legislation, a description of whether and how the States can offset the reduction under existing law; or

(B) if additional flexibility is provided in the legislation, whether the resulting savings would offset the reductions in that program assuming the States fully implement that additional flexibility.

(4) Estimate not feasible

If the Director determines that it is not feasible to make a reasonable estimate that would be required under paragraphs (1) and (2), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement. If such determination is made by the Director, a point of order under this part shall lie only under section 658d(a)(1) of this title and as if the requirement of section 658d(a)(1) of this title had not been met.

(b) Federal private sector mandates in reported bills and joint resolutions

For each bill or joint resolution of a public character reported by any committee of authorization of the Senate or the House of Representatives, the Director of the Congressional Budget Office shall prepare and submit to the committee a statement as follows:

(1) Contents

If the Director estimates that the direct cost of an Federal private sector mandates in the bill or joint resolution will equal or exceed $100,000,000 (adjusted annually for inflation) in the fiscal year in which any Federal private sector mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

(2) Estimates

Estimates required under paragraph (1) shall include estimates (and a brief explanation of the basis of the estimates) of—

(A) the total amount of direct costs of complying with the Federal private sector mandates in the bill or joint resolution; and

(B) the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution usable by the private sector for the activities subject to the Federal private sector mandates.

(3) Estimate not feasible

If the Director determines that it is not feasible to make a reasonable estimate that would be required under paragraphs (1) and (2), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement.

(c) Legislation failing below the direct costs thresholds

If the Director estimates that the direct costs of a Federal mandate will not equal or exceed the thresholds specified in subsections (a) and

(b) of this section, the Director shall so state and shall briefly explain the basis of the estimate.

(d) Amended bills and joint resolutions; conference reports

If a bill or joint resolution is passed in an amended form (including if passed by one House as an amendment in the nature of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in amended form, and the amended form contains a Federal mandate not previously considered by either House or which contains an increase in the direct cost of a previously considered Federal mandate, then the committee of conference shall ensure, to the greatest extent practicable, that the Director shall prepare a statement as provided in this subsection or a supplemental statement for the bill or joint resolution in that amended form. (Pub. L. 93–344, Title IV, § 424, as added Pub. L. 104–4, Title I, § 101(a)(2), Mar. 22, 1995, 109 Stat. 55; amended Pub. L. 106–41, § 2(b) Dec. 7, 1999, 113 Stat. 1699.)

399.39–21d § 658d. Legislation subject to point of order. **399.39–21d**

(a) In general

It shall not be in order in the Senate or the House of Representatives to consider—

(1) any bill or joint resolution that is reported by a committee unless the committee has published a statement of the Director on the direct costs of Federal mandates in accordance with section 658b(f) of this title before such consideration, except this paragraph shall not apply to any supplemental statement prepared by the Director under section 658c(d) of this title; and

(2) any bill, joint resolution, amendment, motion, or conference report that would increase the direct costs of Federal intergovernmental mandates by an amount that causes the thresholds specified in section 658c(a)(1) of this title to be exceeded, unless—

(A) the bill, joint resolution, amendment, motion, or conference report provides new budget authority or new entitlement authority in the House of Representatives or direct spending authority in the Senate for each fiscal year for such mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount equal to or exceeding the direct costs of such mandate; or

(B) the bill, joint resolution, amendment, motion, or conference report includes an authorization for appropriations in an amount equal to or exceeding the direct costs of such mandate, and—

(i) identifies a specific dollar amount of the direct costs of such mandate for each year up to 10 years during which such mandate shall be in effect under the bill, joint resolution, amendment, motion or conference report, and such estimate is consistent with the estimate determined under subsection (e) of this section for each fiscal year;

(ii) identifies any appropriation bill that is expected to provide for Federal funding of the direct cost referred to under clause (i); and

(iii)(I) provides that for any fiscal year the responsible Federal agency shall determine whether there are insufficient appropriations for that fiscal year to provide for the

direct costs under clause (i) of such mandate, and shall (no later than 30 days after the beginning of the fiscal year) notify the appropriate authorizing committees of Congress of the determination and submit either—

(aa) a statement that the agency has determined, based on a re-estimate of the direct costs of such mandate, after consultation with State, local, and tribal governments, that the amount appropriated is sufficient to pay for the direct costs of such mandate; or

(bb) legislative recommendations for either implementing a less costly mandate or making such mandate ineffective for the fiscal year;

(II) provides for expedited procedures for the consideration of the statement or legislative recommendations referred to in subclause (I) by Congress no later than 30 days after the statement or recommendations are submitted to Congress; and

(III) provides that such mandate shall—

(aa) in the case of a statement referred to in subclause (I)(aa), cease to be effective 60 days after the statement is submitted unless Congress has approved the agency's determination by joint resolution during the 60-day period;

(bb) cease to be effective 60 days after the date the legislative recommendations of the responsible Federal agency are submitted to Congress under subclause (I)(bb) unless Congress provides otherwise by law; or

(cc) in the case that such mandate that has not yet taken effect, continue not to be effective unless Congress provides otherwise by law.

(b) Rule of construction

The provisions of subsection (a)(2)(B)(iii) of this section shall not be construed to prohibit or otherwise restrict a State, local, or tribal government from voluntarily electing to remain subject to the original Federal intergovernmental mandate, complying with the programmatic or financial responsibilities of the original Federal intergovernmental mandate and providing the funding necessary consistent with the costs of Federal agency assistance, monitoring, and enforcement.

(c) Committee on Appropriations

(1) Application

The provisions of subsection (a) of section—

(A) shall not apply to any bill or resolution reported by the Committee on Appropriations of the Senate or the House of Representatives; except

(B) shall apply to—

(i) any legislative provision increasing direct costs of a Federal intergovernmental mandate contained in any bill or resolution reported by the Committee on Appropriations of the Senate or House of Representatives;

(ii) any legislative provision increasing direct costs of a Federal intergovernmental mandate contained in any amendment offered to a bill or resolution reported by the

Committee on Appropriations of the Senate or House of Representatives;

(iii) any legislative provision increasing direct costs of a Federal intergovernmental mandate in a conference report accompanying a bill or resolution reported by the Committee on Appropriations of the Senate or House of Representatives; and

(iv) any legislative provision increasing direct costs of a Federal intergovernmental mandate contained in any amendments in disagreement between the two Houses to any bill or resolution reported by the Committee on Appropriations in the Senate or House of Representatives.

(2) Certain provisions stricken in Senate.

Upon a point of order being made by any Senator against any provision listed in paragraph (1)(B), and the point of order being sustained by the Chair, such specific provision shall be deemed stricken from the bill, resolution, amendment, amendment in disagreement, or conference report and may not be offered as an amendment from the floor.

(d) Determinations of applicability to pending legislation

For purposes of this section, in the Senate, the presiding officer of the Senate shall consult with the Committee on Governmental Affairs, to the extent practicable, on questions concerning the applicability of this part to a pending bill, joint resolution, amendment, motion, or conference report.

(e) Determinations of Federal mandate levels

For purposes of this section, in the Senate, the levels of Federal mandates for a fiscal year shall be determined based on the estimates made by the Committee on the Budget. (Pub. L. 93–344, Title IV, § 425, as added Pub. L. 104–4, Title I, § 101(a)(2), Mar. 22, 1995, 109 Stat. 56.)

399.39–21e § 658e. Provisions relating to the House of Representatives. **399.39–21e**

(a) Enforcement in the House of Representatives

It shall not be in order in the House of Representatives to consider a rule or order that waives the application of section 658d of this title.

(b) Disposition of points of order

(1) Application to the House of Representatives

This subsection shall apply only to the House of Representatives.

(2) Threshold burden

In order to be cognizable by the Chair, a point of order under section 658d of this title or subsection (a) of this section must specify the precise language on which it is premised.

(3) Question of consideration

As disposition of points of order under section 658d of this title or subsection (a) of this section, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order.

(4) Debate and intervening motions

A question of consideration under this section shall be debatable for 10 minutes by each Member initiating a point of order and

for 10 minutes by an opponent on each point of order, but shall otherwise be decided without intervening motion except one that the House adjourn or that the Committee of the Whole rise, as the case may be.

(5) Effect on amendment in order as original text

The disposition of the question of consideration under this subsection with respect to a bill or joint resolution shall be considered also to determine the question of consideration under this subsection with respect to an amendment made in order as original text. (Pub. L. 93–344, Title IV, § 426, as added Pub. L. 104–4, Title I, § 101(a)(2), Mar. 22, 1995, 109 Stat. 59.)

399.39–21f § 658f. Requests to the Congressional Budget Office from Senators. 399.39–21f

At the written request of a Senator, the Director shall, to the extent practicable, prepare an estimate of the direct costs of a Federal intergovernmental mandate contained in an amendment of such Senator. (Pub. L. 93–344, Title IV, § 427, as added Pub. L. 104–4, Title I, § 101(a)(2), Mar. 22, 1995, 109 Stat. 59.)

399.39–21g § 658g. Clarification of application. 399.39–21g

(a) In general

This part applies to any bill, joint resolution, amendment, motion, or conference report that reauthorizes appropriations, or that amends existing authorizations of appropriations, to carry out any statute, or that otherwise amends any statute, only if enactment of the bill, joint resolution, amendment, motion, or conference report—

(1) would result in a net reduction in or elimination of authorization of appropriations for Federal financial assistance that would be provided to State, local, or tribal governments for use for the purpose of complying with any Federal intergovernmental mandate, or to the private sector for use to comply with any Federal private sector mandate, and would not eliminate or reduce duties established by the Federal mandate by a corresponding amount; or

(2) would result in a net increase in the aggregate amount of direct costs of Federal intergovernmental mandates or Federal private sector mandates other than as described in paragraph (1).

(b) Direct costs

(1) In general

For purposes of this part, the direct cost of the Federal mandates in a bill, joint resolution, amendment, motion, or conference report that reauthorizes appropriations, or that amends existing authorizations of appropriations, to carry out a statute, or that otherwise amends any statute, means the net increase, resulting from enactment of the bill, joint resolution, amendment, motion, or conference report, in the amount described under paragraph (2)(A) over the amount described under paragraph (2)(B).

(2) Amounts

The amounts referred to under paragraph (1) are—

(A) the aggregate amount of direct costs of Federal mandates that would result under the statute if the bill, joint resolution, amendment, motion, or conference report is enacted; and

(B) the aggregate amount of direct costs of Federal mandates that would result under the statute if the bill, joint resolution, amendment, motion, or conference report were not enacted.

(3) Extension of authorization of appropriations

For purposes of this section, in the case of legislation to extend authorization of appropriations, the authorization level that would be provided by the extension shall be compared to the authorization level for the last year in which authorization of appropriations is already provided. (Pub. L. 93–344, Title IV, § 428, as added Pub. L. 104–4, Title I, § 101(a)(2), Mar. 22, 1995, 109 Stat. 59.)

Subchapter III.—Credit Reform

399.39–22 § 661. Purposes. 399.39–22

The purposes of this subchapter are to—

(1) measure more accurately the costs of Federal credit programs;

(2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;

(3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries; and

(4) improve the allocation of resources among credit programs and between credit and other spending programs. (Pub L. 93–344, Title V, § 501, as added Pub. L. 101–508, Title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388–610.)

399.39–22a § 661a. Definitions. 399.39–22a

For purposes of this subchapter—

(1) The term "direct loan" means a disbursement of funds by the Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a government asset on credit terms. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation.

(2) The term "direct loan obligation" means a binding agreement by a Federal agency to make a direct loan when specified conditions are fulfilled by the borrower.

(3) The term "loan guarantee" means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

(4) The term "loan guarantee commitment" means a binding agreement by a Federal agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

(5)(A) The term "cost" means the estimated long-term cost to the Government of a direct loan or loan guarantee or modification thereof, calculated on a net present basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

(B) The cost of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following estimated cash flows:

(i) loan disbursements;

(ii) repayments of principal; and

(iii) payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries;

including the effects of changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.

(C) The cost of a loan guarantee shall be the net present value, at the time when the guaranteed loan is disbursed, of the following estimated cash flows:

(i) payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments; and

(ii) payments to the Government including origination and other fees, penalties and recoveries;

including the effects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

(D) The cost of a modification is the difference between the current estimate of the net present value of the remaining cash flows under the terms of a direct loan or loan guarantee contract, and the current estimate of the net present value of the remaining cash flows under the terms of the contract, as modified.

(E) In estimating net present values, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the cash flows of the direct loan or loan guarantee for which the estimate is being made.

(F) When funds are obligated for a direct loan or loan guarantee, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

(6) The term "credit program account" means the budget account into which an appropriation to cover the cost of a direct loan or loan guarantee program is made and from which such cost is disbursed to the financing account.

(7) The term "financing account" means the non-budget account or accounts associated with each credit program account which holds balances, receives the cost payment from the credit program account, and also includes all other cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made on or after October 1, 1991.

(8) The term "liquidating account" means the budget account that includes all cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991.

These accounts shall be shown in the budget on a cash basis.

(9) The term "modification" means any Government action that alters the estimated cost of an outstanding direct loan (or direct loan obligation) or an outstanding loan guarantee (or loan guarantee

commitment) from the current estimate of cash flows. This includes the sale of loan assets, with or without recourse, and the purchase of guaranteed loans. This also includes any action resulting from new legislation, or from the exercise of administrative discretion under existing law, that directly or indirectly alters the estimated cost of outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) such as a change in collection procedures.

(10) The term "current" has the same meaning as in section 900(c)(9) of this title.

(11) The term "Director" means the Director of the Office of Management and Budget. (Pub. L. 93–344, Title V, § 502, as added Pub. L. 101–508, Title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388–610, and amended Pub. L. 105–33, Title X, § 10117(a), Aug. 5, 1997, 111 Stat. 692.)

399.39–22b § 661b. OMB and CBO analysis, coordination, and review. **399.39–22b**

(a) In general

For the executive branch, the Director shall be responsible for coordinating the estimates required by this subchapter. The Director shall consult with the agencies that administer direct loan or loan guarantee programs.

(b) Delegation

The Director may delegate to agencies authority to make estimates of costs. The delegation of authority shall be based upon written guidelines, regulations, or criteria consistent with the definitions in this subchapter.

(c) Coordination with the Congressional Budget Office

In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the Director shall consult with the Director of the Congressional Budget Office.

(d) Improving cost estimates

The Director and the Director of the Congressional Budget Office shall coordinate the development of more accurate data on historical performance of direct loan and loan guarantee programs. They shall annually review the performance of outstanding direct loans and loan guarantees to improve estimates of costs. The Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate the development and improvement of estimates of costs.

(e) Historical credit program costs

The Director shall review, to the extent possible, historical data and develop the best possible estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

(f) Administrative costs

The Director and the Director of the Congressional Budget Office shall each analyze and report to Congress on differences in long-term administrative costs for credit programs versus grant programs by January 31, 1992. Their reports shall recommend to Congress any changes, if necessary, in the treatment of administrative costs under credit reform

accounting. (Pub. L. 93–344, Title V, § 503, as added Pub. L. 101–508, Title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388–611.)

399.39–22c § 661c. Budgetary treatment. 399.39–22c

(a) President's budget

Beginning with fiscal year 1992, the President's budget shall reflect the costs of direct loan and loan guarantee programs. The budget shall also include the planned level of new direct loan obligations or loan guarantee commitments associated with each appropriations request.

(b) Appropriations required

Notwithstanding any other provision of law, new direct loan obligations may be incurred and new loan guarantee commitments may be made for fiscal year 1992 and thereafter only to the extent that—

(1) new budget authority to cover their costs is provided in advance in an appropriations Act;

(2) a limitation on the use of funds otherwise available for the cost of a direct loan or loan guarantee program has been provided in advance in an appropriations Act; or

(3) authority is otherwise provided in appropriation Acts.

(c) Exemption for mandatory programs

Subsections (b) and (e) of this section shall not apply to a direct loan or loan guarantee program that—

(1) constitutes an entitlement (such as the guaranteed student loan program or the veterans' home loan guaranty program); or

(2) all existing credit programs of the Commodity Credit Corporation on November 5, 1990.

(d) Budget accounting

(1) The authority to incur new direct loan obligations, make new loan guarantee commitments, or modify outstanding direct loans (or direct loan obligations) or loan guarantees (or loan guarantee commitments) shall constitute new budget authority in an amount equal to the cost of the direct loan or loan guarantee in the fiscal year in which definite authority becomes available or indefinite authority is used. Such budget authority shall constitute an obligation of the credit program account to pay to the financing account.

(2) The outlays resulting from new budget authority for the cost of direct loans or loan guarantees described in paragraph (1) shall be paid from the credit program account into the financing account and recorded in the fiscal year in which the direct loan or the guaranteed loan is disbursed or its costs altered.

(3) All collections and payments of the financing accounts shall be a means of financing.

(e) Modifications

An outstanding direct loan (or direct loan obligation) or loan guarantee (or loan guarantee commitment) shall not be modified in a manner that increases its costs unless budget authority for the additional cost has been provided in advance in an appropriations Act.

(f) Reestimates

When the estimated cost for a group of direct loans or loan guarantees for a given credit program made in a single fiscal year is reestimated in a subsequent year, the difference between the reestimated cost and the previous cost estimate shall be displayed as a distinct and separately identified subaccount in the credit program account as a change in program costs and a change in net interest. There is hereby provided permanent indefinite authority for these reestimates.

(g) Administrative expenses

All funding for an agency's administration of a direct loan or loan guarantee program shall be displayed as distinct and separately identified subaccounts within the same budget account as the program's cost. (Pub. L. 93–344, Title V, § 504, as added Pub. L. 101–508, Title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388–612, and amended Pub. L. 105–33, Title X, § 10117(b), Aug. 5, 1997, 111 Stat. 693.)

399.39–22d § 661d. Authorizations. **399.39–22d**

(a) Authorization of appropriations for costs

There are authorized to be appropriated to each Federal agency authorized to make direct loan obligations or loan guarantee commitments, such sums as may be necessary to pay the cost associated with such direct loan obligations or loan guarantee commitments.

(b) Authorization for financing accounts

In order to implement the accounting required by this subchapter, the President is authorized to establish such non-budgetary accounts as may be appropriate.

(c) Treasury transactions with the financing accounts

The Secretary of the Treasury shall borrow from, receive from, lend to, or pay to the financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described above, except that the rate of interest charged by the Secretary on lending to financing accounts (including amounts treated as lending to financing accounts by the Federal Financing Bank (hereinafter in this subsection referred to as the "Bank") pursuant to section 655(b) of this title) and the rate of interest paid to financing accounts on uninvested balances in financing accounts shall be the same as the rate determined pursuant to section 661a(5)(E) of this title. For guaranteed loans financed by the Bank and treated as direct loans by a Federal agency pursuant to section 655(b) of this title, any fee or interest surcharge (the amount by which the interest rate charged exceeds the rate determined pursuant to section 661a(5)(E) of this title) that the Bank charges to a private borrower pursuant to section 6(c) of the Federal Financing Bank Act of 1973 shall be considered a cash flow to the Government for the purposes of determining the cost of the direct loan pursuant to section 661a(5) of this title. All such amounts shall be credited to the appropriate financing account. The Bank is authorized to require reimbursement from a Federal agency to cover the administrative expenses of the Bank that are attributable to the direct loans financed for that agency. All such payments by an agency shall be considered administrative expenses subject to section 661c(g) of this title. This sub-

section shall apply to transactions related to direct loan obligations or loan guarantee commitments made on or after October 1, 1991. The authorities described above shall not be construed to supersede or override the authority of the head of a Federal agency to administer and operate a direct loan or loan guarantee program. All of the transactions provided in this subsection shall be subject to the provisions of subchapter II of chapter 15 of title 31 [31 U.S.C. 1511 et seq.]. Cash balances of the financing accounts in excess of current requirements shall be maintained in a form of uninvested funds and the Secretary of the Treasury shall pay interest on these funds.

(d) Authorization for liquidating accounts

(1) Amounts in liquidating accounts shall be available only for payments resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991, for—

(A) interest payments and principal repayments to the Treasury or the Federal Financing Bank for amounts borrowed;

(B) disbursements of loans;

(C) default and other guarantee claim payments;

(D) interest supplement payments;

(E) payments for the costs of foreclosing, managing, and selling collateral that are capitalized or routinely deducted from the proceeds of sales;

(F) payments to financing accounts when required for modifications;

(G) administrative expenses, if—

(i) amounts credited to the liquidating account would have been available for administrative expenses under a provision of law in effect prior to October 1, 1991; and

(ii) no direct loan obligation or loan guarantee commitment has been made, or any modification of a direct loan or loan guarantee has been made, since September 30, 1991; or

(H) such other payments as are necessary for the liquidation of such direct loan obligations and loan guarantee commitments.

(2) Amounts credited to liquidating accounts in any year shall be available only for payments required in that year. Any unobligated balances in liquidating accounts at the end of a fiscal year shall be transferred to miscellaneous receipts as soon as practicable after the end of the fiscal year.

(3) If funds in liquidating accounts are insufficient to satisfy obligations and commitments of such accounts, there is hereby provided permanent, indefinite authority to make any payments required to be made on such obligations and commitments.

(e) Authorization of appropriations for implementation expenses

There are authorized to be appropriated to existing accounts such sums as may be necessary for salaries and expenses to carry out the responsibilities under this subchapter.

(f) Reinsurance

Nothing in this subchapter shall be construed as authorizing or requiring the purchase of insurance or reinsurance on a direct loan or loan guarantee from private insurers. If any such reinsurance for a direct loan or loan guarantee is authorized, the cost of such insurance and

any recoveries to the Government shall be included in the calculation of the cost.

(g) Eligibility and assistance

Nothing in this subchapter shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan or a loan guarantee. (Pub. L. 93–344, Title V, § 505, as added Pub. L. 101–508, Title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388–613, and amended Pub. L. 105–33, Title X, § 10117(c), Aug. 5, 1997, 111 Stat. 694.)

399.39–22e § 661e. Treatment of deposit insurance and agencies and other insurance programs. 399.39–22e

(a) In general

This subchapter shall not apply to the credit or insurance activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, National Insurance Development Fund, Crop Insurance, or Tennessee Valley Authority.

(b) Study

The Director and the Director of the Congressional Budget Office shall each study whether the accounting for Federal deposit insurance programs should be on a cash basis on the same basis as loan guarantees, or on a different basis. Each Director shall report findings and recommendations to the President and the Congress on or before May 31, 1991.

(c) Access to data

For the purposes of subsection (b) of this section, the Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate these studies. (Pub. L. 93–344, Title V, § 506, as added Pub. L. 101–508, Title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388–614, and amended Pub. L. 105–33, Title X, § 10117(d), Aug. 5, 1997, 111 Stat. 695.)

399.39–22f § 661f. Effect on other laws. 399.39–22f

(a) Effect on other laws

This subchapter shall supersede, modify, or repeal any provision of law enacted prior to November 5, 1990 to the extent such provision is inconsistent with this subchapter. Nothing in this subchapter shall be construed to establish a credit limitation on any Federal loan or loan guarantee program.

(b) Crediting of collections

Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Amounts so credited shall be available, to the same extent that they were available prior to November 5, 1990, to liquidate obligations arising from such direct loans obligated or loan guarantees committed prior to October 1, 1991, including repayment of any obligations held by the Secretary of the Treasury or the Federal Financing Bank. The unobligated balances of such accounts that are

in excess of current needs shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time but, at least once each year. (Pub. L. 93–344, Title V, § 507, as added Pub. L. 101–508, Title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388–614.)

Subchapter IV.—Budget Agreement Enforcement Provisions

399.39–23 **§ 665. Repealed.** Pub. L. 105–33, Title X, § 10118(a), Aug. 5, 1997, 111 Stat. 695. **399.39–23**

399.39–23a **§ 665a. Repealed.** Pub. L. 105–33, Title X, § 10118(a), Aug. 5, 1997, 111 Stat. 695. **399.39–23a**

399.39–23b **§ 665b. Repealed.** Pub. L. 105–33, Title X, § 10118(a), Aug. 5, 1997, 111 Stat. 695. **399.39–23b**

399.39–23c **§ 665c. Repealed.** Pub. L. 105–33, Title X, § 10118(a), Aug. 5, 1997, 111 Stat. 695. **399.39–23c**

399.39–23d **§ 665d. Repealed.** Pub. L. 105–33, Title X, § 10118(a), Aug. 5, 1997, 111 Stat. 695. **399.39–23d**

399.39–23e **§ 665e. Repealed.** Pub. L. 105–33, Title X, § 10118(a), Aug. 5, 1997, 111 Stat. 695. **399.39–23e**

Chapter 17B.—IMPOUNDMENT CONTROL AND LINE ITEM VETO

399.39–24 **§ 681. Disclaimer.** **399.99–24**

Nothing contained in this Act, or in any amendments made by this Act, shall be construed as—

(1) asserting or conceding the constitutional powers or limitations of either the Congress or the President;

(2) ratifying or approving any impoundment heretofore or hereafter executed or approved by the President or any other Federal officer or employee, except insofar as pursuant to statutory authorization then in effect;

(3) affecting in any way the claims or defenses of any party to litigation concerning any impoundment; or

(4) superseding any provision of law which requires the obligation of budget authority or the making of outlays thereunder. (Pub. L. 93–344, Title X, § 1001, July 12, 1974, 88 Stat. 332.)

399.39–24a **§ 682. Definitions.** **399.39–24a**

For purposes of sections 682 to 688 of this title—

(1) "deferral of budget authority" includes—

(A) withholding or delaying the obligation or expenditure of budget authority (whether by establishing reserves or otherwise) provided for projects or activities; or

(B) any other type of Executive action or inaction which effectively precludes the obligation or expenditure of budget authority, including authority to obligate by contract in advance of appropriations as specifically authorized by law;

(2) "Comptroller General" means the Comptroller General of the United States;

(3) "rescission bill" means a bill or joint resolution which only rescinds, in whole or in part, budget authority proposed to be rescinded in a special message transmitted by the President under

section 683 of this title, and upon which the Congress completes action before the end of the first period of 45 calendar days of continuous session of the Congress after the date on which the President's message is received by the Congress;

(4) "impoundment resolution" means a resolution of the House of Representatives or the Senate which only expresses its disapproval of a proposed deferral of budget authority set forth in a special message transmitted by the President under section 684 of this title; and

(5) continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 45-day period referred to in paragraph (3) of this section and in section 683 of this title, and the 25-day periods referred to in sections 687 and 688(b)(1) of this title. If a special message is transmitted under section 683 of this title during any Congress and the last session of such Congress adjourns sine die before the expiration of 45 calendar days of continuous session (or a special message is so transmitted after the last session of the Congress adjourns sine die), the message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the 45-day period referred to in paragraph (3) of this section and in section 683 of this title (with respect to such message) shall commence on the day after such first day. (Pub. L. 93–344, Title X, § 1011, July 12, 1974, 88 Stat. 333.)

399.39–24b § 683. Rescission of budget authority. **399.39–24b**

(a) Transmittal of special message

Whenever the President determines that all or part of any budget authority will not be required to carry out the full objectives or scope of programs for which it is provided or that such budget authority should be rescinded for fiscal policy or other reasons (including the termination of authorized projects or activities for which budget authority has been provided), or whenever all or part of budget authority provided for only one fiscal year is to be reserved from obligation for such fiscal year, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority which he proposes to be rescinded or which is to be so reserved;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons why the budget authority should be rescinded or is to be so reserved;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed rescission or of the reservation; and

(5) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission or the reservation and the decision to effect the proposed rescission or the reservation, and to the maximum extent practicable, the estimated effect of the proposed rescis-

sion or the reservation upon the objects, purposes, and programs for which the budget authority is provided.

(b) Requirement to make available for obligation

Any amount of budget authority proposed to be rescinded or that is to be reserved as set forth in such special message shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved. Funds made available for obligation under this procedure may not be proposed for rescission again.

(Pub. L. 93–344, Title X, § 1012, July 12, 1974, 88 Stat. 333; Pub. L. 100–119, Title II, § 207, Sept. 29, 1987, 101 Stat. 786.)

399.39–25 § 684. Proposed deferrals of budget authority. **399.39–25**

(a) Transmittal of special message

Whenever the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States proposes to defer any budget authority provided for a specific purpose or project, the President shall transmit to the House of Representatives and the Senate a special message specifying—

(1) the amount of the budget authority proposed to be deferred;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific projects or governmental functions involved;

(3) the period of time during which the budget authority is proposed to be deferred;

(4) the reasons for the proposed deferral, including any legal authority invoked to justify the proposed deferral;

(5) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed deferral; and

(6) all facts, circumstances, and considerations relating to or bearing upon the proposed deferral and the decision to effect the proposed deferral, including an analysis of such facts, circumstances, and considerations in terms of their application to any legal authority, including specific elements of legal authority, invoked to justify such proposed deferral, and to the maximum extent practicable, the estimated effect of the proposed deferral upon the objects, purposes, and programs for which the budget authority is provided.

A special message may include one or more proposed deferrals of budget authority. A deferral may not be proposed for any period of time extending beyond the end of the fiscal year in which the special message proposing the deferral is transmitted to the House and the Senate.

(b) Consistency with legislative policy

Deferrals shall be permissible only—

(1) to provide for contingencies;

(2) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or

(3) as specifically provided by law.

No officer or employee of the United States may defer any budget authority for any other purpose.

(c) Exception

The provisions of this section do not apply to any budget authority proposed to be rescinded or that is to be reserved as set forth in a special message required to be transmitted under section 683 of this title. (Pub. L. 93–344, Title X, § 1013, July 12, 1974, 88 Stat. 334; Pub. L. 100–119, Title II, § 206(a), Sept. 29, 1987, 101 Stat. 785.)

399.39–26 § 685. Transmission of messages; publication. **399.39–26**

(a) Delivery to House and Senate

Each special message transmitted under section 683 or 684 of this title shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committee of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(b) Delivery to Comptroller General

A copy of each special message transmitted under section 683 or 684 of this title, shall be transmitted to the Comptroller General on the same day it is transmitted to the House of Representatives and the Senate. In order to assist the Congress in the exercise of its functions under section 683 or 684 of this title, the Comptroller General shall review each such message and inform the House of Representatives and the Senate as promptly as practicable with respect to—

(1) in the case of a special message transmitted under section 683 of this title, the facts surrounding the proposed rescission or the reservation of budget authority (including the probable effects thereof); and

(2) in the case of a special message transmitted under section 684 of this title, (A) the facts surrounding each proposed deferral of budget authority (including the probable effects thereof) and (B) whether or not (or to what extent), in his judgment, such proposed deferral is in accordance with existing statutory authority.

(c) Transmission of supplementary messages

If any information contained in a special message transmitted under section 683 or 684 of this title is subsequently revised, the President shall transmit to both Houses of Congress and the Comptroller General a supplementary message stating and explaining such revision. Any such supplementary message shall be delivered, referred, and printed as provided in subsection (a) of this section. The Comptroller General shall promptly notify the House of Representatives and the Senate of any changes in the information submitted by him under subsection (b) of this section which may be necessitated by such revision.

(d) Printing in Federal Register

Any special message transmitted under section 683 or 684 of this title, and any supplementary message transmitted under subsection (c) of this section, shall be printed in the first issue of the Federal Register published after such transmittal.

(e) Cumulative reports of proposed rescissions, reservations, and deferrals of budget authority

(1) The President shall submit a report to the House of Representatives and the Senate, not later than the 10th day of each month during a fiscal year, listing all budget authority for that fiscal year with respect to which, as of the first day of such month—

(A) he has transmitted a special message under section 683 of this title with respect to a proposed rescission or a reservation; and

(B) he has transmitted a special message under section 684 of this title proposing a deferral.

Such report shall also contain, with respect to each such proposed rescission or deferral, or each such reservation, the information required to be submitted in the special message with respect thereto under section 683 or 684 of this title.

(2) Each report submitted under paragraph (1) shall be printed in the first issue of the Federal Register published after its submission. (Pub. L. 93–344, Title X, § 1014, July 12, 1974, 88 Stat. 335.)

399.39–27 § 686. Reports by Comptroller General. **399.39–27**

(a) Failure to transmit special message

If the Comptroller General finds that the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any other officer or employee of the United States—

(1) is to establish a reserve or proposes to defer budget authority with respect to which the President is required to transmit a special message under section 683 or 684 of this title; or

(2) has ordered, permitted, or approved the establishment of such a reserve or a deferral of budget authority;

and that the President has failed to transmit a special message with respect to such reserve or deferral, the Comptroller General shall make a report on such reserve or deferral and any available information concerning it to both Houses of Congress. The provisions of sections 682 to 688 of this title shall apply with respect to such reserve or deferral in the same manner and with the same effect as if such report of the Comptroller General were a special message transmitted by the President under section 683 or 684 of this title, and, for purposes of sections 682 to 688 of this title, such report shall be considered a special message transmitted under section 683 or 684 of this title.

(b) Incorrect classification of special message

If the President has transmitted a special message to both Houses of Congress in accordance with section 683 or 684 of this title, and the Comptroller General believes that the President so transmitted the special message in accordance with one of those sections when the special message should have been transmitted in accordance with the other of those sections, the Comptroller General shall make a report to both Houses of the Congress setting forth his reasons. (Pub. L. 93–344, Title X, § 1015, July 12, 1974, 88 Stat. 336.)

399.39–28 § 687. Suits by Comptroller General. **399.39–28**

If, under this chapter, budget authority is required to be made available for obligation and such budget authority is not made available for obligation, the Comptroller General is hereby expressly empowered, through attorneys of his own selection, to bring a civil action in the United States District Court for the District of Columbia to require such budget authority to be made available for obligation, and such court is hereby expressly empowered to enter in such civil action, against any department, agency, officer, or employee of the United States, any decree, judgment, or order which may be necessary or appropriate to make such budget authority available for obligation. No civil action shall be brought by the Comptroller General under this section until the expiration of 25 calendar days of continuous session of the Congress following the date on which an explanatory statement by the Comptroller General of the circumstances giving rise to the action contemplated has been filed with the Speaker of the House of Representatives and the President of the Senate. (Pub. L. 93–344, Title X, § 1016, July 12, 1974, 88 Stat. 336; Pub. L. 98–620, Title IV, § 402(35), Nov. 8, 1984, 98 Stat. 3360; Pub. L. 100–119, Title II, § 206(b), Sept. 29, 1987, 101 Stat. 786.)

399.39–29 § 688. Procedure in House of Representatives and Senate. **399.39–29**

(a) Referral

Any rescission bill introduced with respect to a special message or impoundment resolution introduced with respect to a proposed deferral of budget authority shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be.

(b) Discharge of committee

(1) If the committee to which a rescission bill or impoundment resolution has been referred has not reported it at the end of 25 calendar days of continuous session of the Congress after its introduction, it is in order to move either to discharge the committee from further consideration of the bill or resolution or to discharge the committee from further consideration of any other rescission bill with respect to the same special message or impoundment resolution with respect to the same proposed deferral, as the case may be, which has been referred to the committee.

(2) A motion to discharge may be made only by an individual favoring the bill or resolution, may be made only if supported by one-fifth of the Members of the House involved (a quorum being present), and is highly privileged in the House and privileged in the Senate (except that it may not be made after the committee has reported a bill or resolution with respect to the same special message or the same proposed deferral, as the case may be); and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the bill or resolution, and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(c) Floor consideration in the House

(1) When the committee of the House of Representatives has reported, or has been discharged from further consideration of, a rescission bill or impoundment resolution, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the bill or resolution. The motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on a rescission bill or impoundment resolution shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to limit debate shall not be debatable. In the case of an impoundment resolution, no amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to move to reconsider the vote by which a rescission bill or impoundment resolution is agreed to or disagreed to.

(3) Motions to postpone, made with respect to the consideration of a rescission bill or impoundment resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any rescission bill or impoundment resolution shall be decided without debate.

(5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any rescission bill or impoundment resolution and amendments thereto (or any conference report thereon) shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions, amendments, and conference reports in similar circumstances.

(d) Floor consideration in the Senate

(1) Debate in the Senate on any rescission bill or impoundment resolution, and all amendments thereto (in the case of a rescission bill) and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(2) Debate in the Senate on any amendment to a rescission bill shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the bill. Debate on any amendment to an amendment, to such a bill, and debate on any debatable motion or appeal in connection with such a bill or an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or resolution, except that in the event the manager of the bill or resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of a rescission bill shall be received. Such leaders, or either of them, may, from the time under their control on the passage of a rescission bill or impoundment resolution, allot

additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(3) A motion to further limit debate is not debatable. In the case of a rescission bill, a motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to one hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution. In the case of an impoundment resolution, no amendment or motion to recommit is in order.

(4) The conference report on any rescission bill shall be in order in the Senate at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which such a conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

(5) During the consideration in the Senate of the conference report on any rescission bill, debate shall be limited to 2 hours to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(6) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to one hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(7) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received. (Pub. L. 93–344, Title X, § 1017, July 12, 1974, 88 Stat. 337.)

399.39–30 Exercise of rulemaking powers. **399.39–30**

(a) The provisions of this title and of titles I, III, IV, and V and the provisions of sections 701, 703, and 1017 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.

(b) Any provision of title III or IV may be waived or suspended in the Senate by a majority vote of the Members voting, a quorum being present, or by the unanimous consent of the Senate.

(c) WAIVERS.—

(1) PERMANENT.—Sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) TEMPORARY.—Sections 301(i), 302(c), 302(f), 310(g), 311(a), 312(b), and 312(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(I)[1], 258B(f)(1), 258B(h)(1), 258(h)(3)[2], 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(d) APPEALS.—

(1) PROCEDURE.—Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV or section 1017 shall, except as otherwise provided therein, be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, concurrent resolution, reconciliation bill, or rescission bill, as the case may be.

(2) PERMANENT.—An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 305(b)(2), 305(c)(4), 306, 310(d)(2), 313, 904(c), and 904(d) of this Act.

(3) TEMPORARY.—An affirmative vote of three-fifths of the Members, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 301(i), 302(c), 302(f), 310(g), 311(a), 312(b), and 312(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(I)[1], 258B(f)(1), 258B(h)(1), 258(h)(3)[2], 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(e) EXPIRATION OF CERTAIN SUPERMAJORITY VOTING REQUIREMENTS.—Subsections (c)(2) and (d)(3) shall expire on September 30, 2002.

399.39–32 Referral of matters dealing with rescissions and deferrals. 399.39–32

On January 30, 1975, the Senate agreed to the following resolution, which provides for the referral of matters dealing with rescissions and deferrals:

Resolved (1) That messages received pursuant to title X of the Congressional Budget and Impoundment Control Act 12 U.S.C. 681–2 U.S.C.

[1] So in law. Probably should read "258A(b)(3)(C)(i)".
[1] So in law. Probably should read "258B(h)(3)".

688] be referred concurrently to the Appropriations Committee, to the Budget Committee, and to any other appropriate authorizing committee.

(2) That bills, resolutions, and joint resolutions introduced with respect to rescissions and deferrals shall be referred to the Appropriations Committee, the Budget Committee, and pending implementation of section 410 of the Congressional Budget Impoundment Control act [should be section 401, 2 U.S.C. 651] and subject to section 401(d) [2 U.S.C. 651(d)], to any other committee exercising jurisdiction over contract and borrowing authority programs as defined by section 401(c)(2) (A) and (B) [2 U.S.C. 651(c)(2) (A) and (B)]. The Budget Committee and such other Committees shall report their views, if any, to the Appropriations Committee within 20 days following referral of such bills, resolutions, or joint resolutions. The Budget Committee's consideration shall extend only to macroeconomic implications, impact on priorities and aggregate spending levels, and the legality of the President's use of the deferral and rescisions mechanism under title X. The Appropriations and authorizing committees shall exercise their normal responsibilities over programs and priorities.

(3) If any Committee to which a bill or resolution has been referred recommends its passage, the Appropriations Committee shall report that bill or resolution together with its views and reports of the Budget and any appropriate authorizing committees to the Senate within:

(A) the time remaining under the Act in the case of recisions, or

(B) within 20 days in the case of deferrals.

(4) The 20 days period referred to herein means 20 calendar days; and for the purposes of computing the 20 days, recesses or adjournments of the Senate for more than 3 days to a day certain shall not be counted; and for recesses and adjournments of more than 30 calendar days, continuous duration or the sine die adjournment of a session, the 20 day period shall begin anew on the day following the reconvening of the Senate. (S. Res. 45, 94–1, Jan 30, 1975, 121 Cong. Rec. 1917, amended by unanimous consent, Apr. 11, 1986, Cong. Rec., p. 4157, daily ed).

399.39–33 Joint referral of legislation affecting the budget process. **399.39–33**

On August 4, 1977, the Senate agreed to an order providing that legislation affecting the congressional budget process be referred jointly to the Committee on the Budget and the Committee on Governmental Affairs and that, if one committee reports a jointly referred measure, the other must act on the measure within 30 calendar days of continuous possession or be automatically discharged from further consideration of the measure:

Legislative proposals affecting the congressional budget process to which this order applies are:

First. The functions, duties, and powers of the Budget Committee—as described in title I of the . . . [Congressional Budget and Impoundment Control Act of 1974];

Second. The functions, duties, and powers of the Congressional Budget Office—as described in title II and IV of the act [2 U.S.C. 601–603; 2 U.S.C. 651–653];

Third. The process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof. That process includes the establishment of: mandatory ceilings on spending and appropriations;

a floor on revenues; timetables for congressional action on concurrent resolutions, on the reporting of authorization bills, and on the enactment of appropriation bills; and enforcement mechanisms for the limits and timetables, all as described in title III and IV of the act [2 U.S.C. 631–641; 2 U.S.C. 651–653].

Fourth. The limiting of backdoor spending devices—as described in title IV of the act [2 U.S.C. 651–653];

Fifth. The timetables for Presidential submission of appropriations and authorization requests—as described in title VI of the act [repealed, with portions being codified in sections 1105, 1109, and 1110 of title 31, United States Code];

Sixth. The definitions of what constitutes impoundment—such as "rescissions" and "deferrals," as provided in the Impoundment Control Act, title X [2 U.S.C. 681–688];

Seventh. The process and determination by which impoundments must be reported to and considered by Congress—as provided in the Impoundment Control Act, title X [2 U.S.C. 681–688];

Eighth. The mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X [2 U.S.C. 681–688]—such as GAO review and lawsuits; and

Ninth. The provisions which affect the content or determination of amounts included in or excluded from the congressional budget or the calculation of such amounts, including the definition of terms provided by the Budget Act—as set forth in title I thereof [2 U.S.C. 622]. (By unanimous consent, Aug. 4, 1977; Cong. Rec., p. S13553, daily ed.)

CONSTITUTIONALITY OF LINE ITEM VETO

The United States Supreme Court, in Clinton v. City of New York, U.S. Dist. Col. 1998, 118 S.Ct. 2091, 141 L.Ed. 2d 393, found that the Line Item Veto Act of 1996, Pub. L. 104–130, April 9, 1996, 110 Stat. 1200, which is classified generally to Subchapter III of Chapter 17B (section 691 et seq.) of Title 2 was unconstitutional as a violation of the Presentment Clause of the United States Constitution (USCA Const. Art. I § 7, cl. 2).

399.39–34 § 691. Line item veto authority. **399.39–34**

(a) In general

Notwithstanding the provisions of subchapters I and II of this chapter, and subject to the provisions of this subchapter, the President may, with respect to any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States, cancel in whole—

(1) any dollar amount of discretionary budget authority.

(2) any item of new direct spending; or

(3) any limited tax benefit;

if the President—

(A) determines that such cancellation will—

(i) reduce the Federal budget deficit;

(ii) not impair any essential Government functions; and

(iii) not harm the national interest; and

(B) notifies the Congress of such cancellation by transmitting a special message, in accordance with section 691a of this title, within five calendar days (excluding Sundays) after the enactment of the

law providing the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit that was canceled.

(b) Identification of cancellations

In identifying dollar amounts of discretionary budget authority, items of new direct spending, and limited tax benefits for cancellation, the President shall—

(1) consider the legislative history, construction, and purposes of the law which contains such dollar amounts, items, or benefits;

(2) consider any specific sources of information referenced in such law or, in the absence of specific sources of information, the best available information; and

(3) use the definitions contained in section 691e of this title in applying this part to the specific provisions of such law.

(c) Exception for disapproval bills

The authority granted by subsection (a) of this section shall not apply to any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit contained in any law that is a disapproval bill as defined in section 691e of this title. (Pub. L. 93–344, Title X, § 1021, as added Pub. L. 104–130, § 2(a), Apr. 9, 1996, 110 Stat. 1200.)

399.39–34a § 691a. Special messages. **399.39–34a**

(a) In general

For each law from which a cancellation has been made under this subchapter, the President shall transmit a single special message to the Congress.

(b) Contents

(1) The special message shall specify—

(A) the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit which has been canceled, and provide a corresponding reference number for each cancellation;

(B) the determinations required under section 691(a) of this title, together with any supporting material;

(C) the reasons for the cancellation;

(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the cancellation;

(E) all facts, circumstances and considerations relating to or bearing upon the cancellation, and to the maximum extent practicable, the estimated effect of the cancellation upon the objects, purposes and programs for which the canceled authority was provided; and

(F) include the adjustments that will be made pursuant to section 691c of this title to the discretionary spending limits under section 901(c) of this title and an evaluation of the effects of those adjustments upon the sequestration procedures of section 901 of this title.

(2) In the case of a cancellation of any dollar amount of discretionary budget authority or item of new direct spending, the special message shall also include, if applicable—

(A) any account, department, or establishment of the Government for which such budget authority was to have been available for obligation and the specific project or governmental functions involved;

(B) the specific States and congressional districts, if any, affected by the cancellation; and

(C) the total number of cancellations imposed during the current session of Congress on States and congressional districts identified in subparagraph (B).

(c) Transmission of special messages to House and Senate

(1) The President shall transmit to the Congress each special message under this subchapter within five calendar days (excluding Sundays) after enactment of the law to which the cancellation applies. Each special message shall be transmitted to the House of Representatives and the Senate on the same calendar day. Such special message shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session.

(2) Any special message transmitted under this subchapter shall be printed in the first issue of the Federal Register published after such transmittal. (Pub. L. 93–344, Title X, § 1022, as added Pub. L. 104–130, § 2(a), Apr. 9, 1996, 110 Stat. 1201, and amended Pub. L. 105–33, Title X, § 10121(a), Aug. 5, 1997, 111 Stat. 696.)

399.39–34b § 691b. Cancellation effective unless disapproved. **399.39–34b**

(a) In general

The cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect upon receipt in the House of Representatives and the Senate of the special message notifying the Congress of the cancellation. If a disapproval bill for such special message is enacted into law, then all cancellations disapproved in that law shall be null and void and any such dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall be effective as of the original date provided in the law to which the cancellation applied.

(b) Commensurate reductions in discretionary budget authority

Upon the cancellation of a dollar amount of discretionary budget authority under subsection (a) of this section, the total appropriation for each relevant account of which that dollar amount is a part shall be simultaneously reduced by the dollar amount of that cancellation. (Pub. L. 93–344, Title X, § 1023, as added Pub. L. 104–130, § 2(a), Apr. 9, 1996, 110 Stat. 1202.)

399.39–34c § 691c. Deficit reduction. **399.39–34c**

(a) In general

(1) Discretionary budget authority

OMB shall, for each dollar amount of discretionary budget authority and for each item of new direct spending canceled from an appropriation law under section 691(a) of this title—

(A) reflect the reduction that results from such cancellation in the estimates required by section 901(a)(7) of this title in accordance with that Act, including an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear; and

(B) include a reduction to the discretionary spending limits for budget authority and outlays in accordance with the Bal-

anced Budget and Emergency Deficit Control Act of 1985 for each applicable fiscal year set forth in section 901(c) of this title by amounts equal to the amounts for each fiscal year estimated pursuant to subparagraph (A).

(2) Direct spending and limited tax benefits

(A) OMB shall, for each item of new direct spending or limited tax benefit canceled from a law under section 691(a) of this title, estimate the deficit decrease caused by the cancellation of such item or benefit in that law and include such estimate as a separate entry in the report prepared pursuant to section 902(d) of this title.

(B) OMB shall not include any change in the deficit resulting from a cancellation of any item of new direct spending or limited tax benefit, or the enactment of a disapproval bill for any such cancellation, under this part in the estimates and reports required by sections 902(b) and 904 of this title.

(b) Adjustments to spending limits

After ten calendar days (excluding Sundays) after the expiration of the time period in section 691d(b)(l) of this title for expedited congressional consideration of a disapproval bill for a special message containing a cancellation of discretionary budget authority, OMB shall make the reduction included in subsection (a)(1)(B) of this section as part of the next sequester report required by section 904 of this title.

(c) Exception

Subsection (b) of this section shall not apply to a cancellation if a disapproval bill or other law that disapproves that cancellation is enacted into law prior to 10 calendar days (excluding Sundays) after the expiration of the time period set forth in section 691d(b)(1) of this title.

(d) Congressional Budget Office estimates

As soon as practicable after the President makes a cancellation from a law under section 691(a) of this title, the Director of the Congressional Budget Office shall provide the Committees on the Budget of the House of Representatives and the Senate with an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear. (Pub. L. 93–344, Title X, § 1024, as added Pub. L. 104–130, § 2(a), Apr. 9, 1996, 110 Stat. 1202, and amended Pub. L. 105–33, Title X, § 10121(b), Aug. 5, 1997, 111 Stat. 696.)

399.39–34d § 691d. Expedited congressional consideration of disapproval bills. 399.39–34d

(a) Receipt and referral of special message

Each special message transmitted under this subchapter shall be referred to the Committee on the Budget and the appropriate committee or committees of the Senate and the Committee on the Budget and the appropriate committee or committees of the House of Representatives. Each such message shall be printed as a document of the House of Representatives.

(b) Time period for expedited procedures

(1) There shall be a congressional review period of 30 calendar days of session, beginning on the first calendar day of session after the date

on which the special message is received in the House of Representatives and the Senate, during which the procedures contained in this section shall apply to both Houses of Congress.

(2) In the House of Representatives the procedures set forth in this section shall not apply after the end of the period described in paragraph (1).

(3) If Congress adjourns at the end of a Congress prior to the expiration of the period described in paragraph (1) and a disapproval bill was then pending in either House of Congress or a committee thereof (including a conference committee of the two Houses of Congress), or was pending before the President, a disapproval bill for the same special message may be introduced within the first five calendar days of session of the next Congress and shall be treated as a disapproval bill under this subchapter, and the time period described in paragraph (1) shall commence on the day of introduction of that disapproval bill.

(c) Introduction of disapproval bills

(1) In order for a disapproval bill to be considered under the procedures set forth in this section, the bill must meet the definition of a disapproval bill and must be introduced no later than the fifth calendar day of session following the beginning of the period described in subsection (b)(1) of this section.

(2) In the case of a disapproval bill introduced in the House of Representatives, such bill shall include in the first blank space referred to in section 691e(6)(C) of this title a list of the reference numbers for all cancellations made by the President in the special message to which such disapproval bill relates.

(d) Consideration in the House of Representatives

(1) Any committee of the House of Representatives to which a disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the seventh calendar day of session after the date of its introduction. If any committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill, except that such a motion may not be made after the committee has reported a disapproval bill with respect to the same special message. A motion to discharge may be made only by a Member favoring the bill (but only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a disapproval bill is reported or a committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. If reported and the report has been available for at least one calendar day, all points of order against the bill and against consideration of the bill are waived. If discharged, all points of order against the bill and against consideration

of the bill are waived. The motion is highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed, shall be confined to the bill, and shall not exceed one hour equally divided and controlled by a proponent and an opponent of the bill. The bill shall be considered as read for amendment under the five-minute rule. Only one motion to rise shall be in order, except if offered by the manager. No amendment to the bill is in order, except any Member if supported by 49 other Members (a quorum being present) may offer an amendment striking the reference number or numbers of a cancellation or cancellations from the bill. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

(3) Appeals from decisions of the Chair regarding application of the rules of the House of Representatives to the procedure relating to a disapproval bill shall be decided without debate.

(4) It shall not be in order to consider under this subsection more than one disapproval bill for the same special message except for consideration of a similar Senate bill (unless the House has already rejected a disapproval bill for the same special message) or more than one motion to discharge described in paragraph (1) with respect to a disapproval bill for that special message.

(e) Consideration in the Senate

(1) Referral and reporting

Any disapproval bill introduced in the Senate shall be referred to the appropriate committee or committees. A committee to which a disapproval bill has been referred shall report the bill not later than the seventh day of session following the date of introduction of that bill. If any committee fails to report the bill within that period, that committee shall be automatically discharged from further consideration of the bill and the bill shall be placed on the Calendar.

(2) Disapproval bill from House

When the Senate receives from the House of Representatives a disapproval bill, such bill shall not be referred to committee and shall be placed on the Calendar.

(3) Consideration of single disapproval bill

After the Senate has proceeded to the consideration of a disapproval bill for a special message, then no other disapproval bill originating in that same House relating to that same message shall be subject to the procedures set forth in this subsection.

(4) Amendments

(A) Amendments in order

The only amendments in order to a disapproval bill are—

(i) an amendment that strikes the reference number of a cancellation from the disapproval bill; and

(ii) an amendment that only inserts the reference number of a cancellation included in the special message to which the disapproval bill relates that is not already contained in such bill.

(B) Waiver or appeal

An affirmative vote of three-fifths of the Senators, duly chosen and sworn, shall be required in the Senate—

(i) to waive or suspend this paragraph; or

(ii) to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

(5) Motion nondebatable

A motion to proceed to consideration of a disapproval bill under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

(6) Limit on consideration

(A) After no more than 10 hours of consideration of a disapproval bill, the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or to table.

(B) A single motion to extend the time for consideration under subparagraph (A) for no more than an additional five hours is in order prior to the expiration of such time and shall be decided without debate.

(C) The time for debate on the disapproval bill shall be equally divided between the Majority Leader and the Minority Leader or their designees.

(7) Debate on amendments

Debate on any amendment to a disapproval bill shall be limited to one hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.

(8) No motion to recommit

A motion to recommit a disapproval bill shall not be in order.

(9) Disposition of Senate disapproval bill

If the Senate has read for the third time a disapproval bill that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of a disapproval bill for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate disapproval bill, agree to the Senate amendment, and vote on final disposition of the House disapproval bill, all without any intervening action or debate.

(10) Consideration of House message

Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Rep-

resentatives on a disapproval bill shall be limited to not more than four hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

(f) Consideration in conference

(1) Convening of conference

In the case of disagreement between the two Houses of Congress with respect to a disapproval bill passed by both Houses, conferees should be promptly appointed and a conference promptly convened, if necessary.

(2) House consideration

(A) Notwithstanding any other rule of the House of Representatives, it shall be in order to consider the report of a committee of conference relating to a disapproval bill provided such report has been available for one calendar day (excluding Saturdays, Sundays, or legal holidays, unless the House is in session on such a day) and the accompanying statement shall have been filed in the House.

(B) Debate in the House of Representatives on the conference report and any amendments in disagreement on any disapproval bill shall each be limited to not more than one hour equally divided and controlled by a proponent and an opponent. A motion to further limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

(3) Senate consideration

Consideration in the Senate of the conference report and any amendments in disagreement on a disapproval bill shall be limited to not more than four hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

(4) Limits on scope

(A) When a disagreement to an amendment in the nature of a substitute has been referred to a conference, the conferees shall report those cancellations that were included in both the bill and the amendment, and may report a cancellation included in either the bill or the amendment, but shall not include any other matter.

(B) When a disagreement on an amendment or amendments of one House to the disapproval bill of the other House has been referred to a committee of conference, the conferees shall report those cancellations upon which both Houses agree and may report any or all of those cancellations upon which there is disagreement, but shall not include any other matter.

(Pub. L. 93–344, Title X, § 1025, as added Pub. L. 104–130, § 2(a), Apr. 9, 1996, 110 Stat. 1203.)

399.39–34e § 691e. Definitions. **399.39–34e**

As used in this subchapter:

(1) Appropriation law

The term "appropriation law" means an Act referred to in section 105 of title 1, including any general or special appropriation Act, or any Act making supplemental, deficiency, or continuing appropriations, that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States.

(2) Calendar day

The term "calendar day" means a standard 24-hour period beginning at midnight.

(3) Calendar days of session

The term "calendar days of session" shall mean only those days on which both Houses of Congress are in session.

(4) Cancel

The term "cancel" or "cancellation" means—

(A) with respect to any dollar amount of discretionary budget authority, to rescind;

(B) with respect to any item of new direct spending—

(i) that is budget authority provided by law (other than an appropriation law), to prevent such budget authority from having legal force or effect;

(ii) that is entitlement authority, to prevent the specific legal obligation of the United States from having legal force or effect; or

(iii) through the food stamp program, to prevent the specific provision of law that results in an increase in budget authority or outlays for that program from having legal force or effect; and

(C) with respect to a limited tax benefit, to prevent the specific provision of law that provides such benefit from having legal force or effect.

(5) Direct spending

The term "direct spending" means—

(A) budget authority provided by law (other than an appropriation law);

(B) entitlement authority; and

(C) the food stamp program.

(6) Disapproval bill

The term "disapproval bill" means a bill or joint resolution which only disapproves one or more cancellations of dollar amounts of discretionary budget authority, items of new direct spending, or limited tax benefits in a special message transmitted by the President under this subchapter and—

(A) the title of which is as follows: "A bill disapproving the cancellations transmitted by the President on ____", the blank space being filled in with the date of transmission of the relevant special message and the public law number to which the message relates;

(B) which does not have a preamble; and

(C) which provides only the following after the enacting clause: "That Congress disapproves of cancellations ____", the blank space being filled in with a list by reference

number of one or more cancellations contained in the President's special message, "as transmitted by the President in a special message on ____", the blank space being filled in with the appropriate date, "regarding ____.", the blank space being filled in with the public law number to which the special message relates.

(7) Dollar amount of discretionary budget authority

(A) Except as provided in subparagraph (B), the term "dollar amount of discretionary budget authority" means the entire dollar amount of budget authority—

(i) specified in an appropriation law, or the entire dollar amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included;

(ii) represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law;

(iii) required to be allocated for a specific program, project, or activity in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law;

(iv) represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law; or

(v) represented by the product of the estimated procurement cost and the total quantity of items required to be provided in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law.

(B) The term "dollar amount of discretionary budget authority" does not include—

(i) direct spending;

(ii) budget authority in an appropriation law which funds direct spending provided for in other law;

(iii) any existing budget authority rescinded or canceled in an appropriation law; or

(iv) any restriction, condition, or limitation in an appropriation law or the accompanying statement of managers or committee reports on the expenditure of budget authority for an account, program, project, or activity, or on activities involving such expenditure.

(8) Item of new direct spending

The term "item of new direct spending" means any specific provision of law that is estimated to result in an increase in budget authority or outlays for direct spending relative to the most recent levels calculated pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(9) Limited tax benefit

(A) The term "limited tax benefit" means—

(i) any revenue-losing provision which provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries under title 26 in any fiscal year for which the provision is in effect; and

(ii) any Federal tax provision which provides temporary or permanent transitional relief for 10 or fewer beneficiaries in any fiscal year from a change to title 26.

(B) A provision shall not be treated as described in subparagraph (A)(i) if the effect of that provision is that—

(i) all persons in the same industry or engaged in the same type of activity receive the same treatment;

(ii) all persons owning the same type of property, or issuing the same type of investment, receive the same treatment; or

(iii) any difference in the treatment of persons is based solely on—

(I) in the case of businesses and associations, the size or form of the business or association involved;

(II) in the case of individuals, general demographic conditions, such as income, marital status, number of dependents, or tax return filing status;

(III) the amount involved; or

(IV) a generally-available election under title 26.

(C) A provision shall not be treated as described in subparagraph (A)(ii) if—

(i) it provides for the retention of prior law with respect to all binding contracts or other legally enforceable obligations in existence on a date contemporaneous with congressional action specifying such date; or

(ii) it is a technical correction to previously enacted legislation that is estimated to have no revenue effect.

(D) For purposes of subparagraph (A)—

(i) all businesses and associations which are related within the meaning of sections 707(b) and 1563(a) of title 26 shall be treated as a single beneficiary;

(ii) all qualified plans of an employer shall be treated as a single beneficiary;

(iii) all holders of the same bond issue shall be treated as a single beneficiary; and

(iv) if a corporation, partnership, association, trust or estate is the beneficiary of a provision, the shareholders of the corporation, the partners of the partnership, the members of the association, or the beneficiaries of the trust or estate shall not also be treated as beneficiaries of such provision.

(E) For purposes of this paragraph, the term "revenue-losing provision" means any provision which results in a reduction in Federal tax revenues for any one of the two following periods—

(i) the first fiscal year for which the provision is effective; or

(ii) the period of the 5 fiscal years beginning with the first fiscal year for which the provision is effective.

(F) The terms used in this paragraph shall have the same meaning as those terms have generally in title 26, unless otherwise expressly provided.

(10) OMB

The term "OMB" means the Director of the Office of Management and Budget. (Pub. L. 93–344, Title X, § 1026, as added Pub. L. 104–130, § 2(a), Apr. 9, 1996, 110 Stat. 1207, and amended Pub. L. 105–33, Title X, § 10122, Aug. 5, 1997, 111 Stat. 697.)

399.39–34f § 691f. Identification of limited tax benefits. **399.39–34f**

(a) Statement by Joint Tax Committee

The Joint Committee on Taxation shall review any revenue or reconciliation bill or joint resolution which includes any amendment to title 26 that is being prepared for filing by a committee of conference of the two Houses, and shall identify whether such bill or joint resolution contains any limited tax benefits. The Joint Committee on Taxation shall provide to the committee of conference a statement identifying any such limited tax benefits or declaring that the bill or joint resolution does not contain any limited tax benefits. Any such statement shall be made available to any Member of Congress by the Joint Committee on Taxation immediately upon request.

(b) Statement included in legislation

(1) Notwithstanding any other rule of the House of Representatives or any rule or precedent of the Senate, any revenue or reconciliation bill or joint resolution which includes any amendment to title 26 reported by a committee of conference of the two Houses may include, as a separate section of such bill or joint resolution, the information contained in the statement of the Joint Committee on Taxation, but only in the manner set forth in paragraph (2).

(2) The separate section permitted under paragraph (1) shall read as follows: "Section 1021(a)(3) of the Congressional Budget and Impoundment Control Act of 1974 [7 U.S.C. 691(a)(3)] shall ____ apply to ____.", with the blank spaces being filled in with—

(A) in any case in which the Joint Committee on Taxation identifies limited tax benefits in the statement required under subsection (a) of this section, the word "only" in the first blank space and a list of all of the specific provisions of the bill or joint resolution identified by the Joint Committee on Taxation in such statement in the second blank space; or

(B) in any case in which the Joint Committee on Taxation declares that there are no limited tax benefits in the statement required under subsection (a) of this section, the word "not" in the first blank space and the phrase "any provision of this Act" in the second blank space.

(c) President's authority

If any revenue or reconciliation bill or joint resolution is signed into law pursuant to Article I, section 7, of the Constitution of the United States—

(1) with a separate section described in subsection (b)(2) of this section, then the President may use the authority granted in section

691(a)(3) of this title only to cancel any limited tax benefit in that law, if any, identified in such separate section; or

(2) without a separate section described in subsection (b)(2) of this section, then the President may use the authority granted in section 691(a)(3) of this title to cancel any limited tax benefit in that law that meets the definition in section 691e of this title.

(d) Congressional identifications of limited tax benefits

There shall be no judicial review of the congressional identification under subsections (a) and (b) of this section of a limited tax benefit in a conference report. (Pub. L. 93–344, Title X, § 1027, as added Pub. L. 104–130, § 2(a), Apr. 9, 1996, 110 Stat. 1210.)

399.39–35 § 692. Judicial review. **399.39–35**

(a) Expedited review

(1) Any Member of Congress or any individual adversely affected, by this subchapter may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this part violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) Appeal to Supreme Court

Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) of this section shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered; and the jurisdictional statement shall be filed within 30 calendar days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) of this section shall be issued by a single Justice of the Supreme Court.

(c) Expedited consideration

It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a) of this section. (Pub. L. 104–130, § 3, Apr. 9, 1996, 110 Stat. 1211.)

CODIFICATION

Section enacted as part of the Line Item Veto Act of Act of 1996, and not as part of the Congressional Budget and Impoundment Control Act of 1974.

EFFECTIVE DATE

Section effective January 1, 1997 and not enforceable or effective on or after January 1, 2005, see section 5 of Pub. L. 104–130, set out as a note under section 691 of this title.

Chapter 20.—EMERGENCY POWERS TO ELIMINATE BUDGET DEFICITS

Subchapter I.—Elimination of Deficits in Excess of Maximum Deficit Amount

399.40 § 900. Statement of budget enforcement through sequestration; definitions. 399.40

(a) Omitted

(b) General statement of budget enforcement through sequestration

This chapter provides for budget enforcement as called for in House Concurrent Resolution 84 (105th Congress, 1st session).

(c) Definitions

As used in this subchapter:

(1) The terms "budget authority," "new budget authority," "outlays," and "deficit" have the meanings given to such terms in section 622 of this title and "discretionary spending limit" shall mean the amounts specified in section 901 of this title.

(2) The terms "sequester" and "sequestration" refer to or mean the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.

(3) The term "breach" means, for any fiscal year, the amount (if any) by which new budget authority or outlays for that year (within a category of discretionary appropriations) is above that category's discretionary spending limit for new budget authority or outlays for that year, as the case may be.

(4)(A) The term "category" means the subsets of discretionary appropriations in section 901(c) of this title. Discretionary appropriations in each of the categories shall be those designated in the joint explanatory statement accompanying the conference report on the Balanced Budget Act of 1997. New accounts or activities shall be categorized only after consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate and that consultation shall, to the extent practicable, include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to new accounts or activities.

(B) The term "highway category" refers to the following budget accounts or portions thereof that are subject to the obligation limitations on contract authority set forth in the Transportation Equity Act for the 21st Century:

(i) 69–8083–0–7–401 (Federal-Aid Highways).

(ii) 69–8020–0–7–401 (Highway Traffic Safety Grants).

(iii) 69–8048–0–7–401 (National Motor Carrier Safety Program).

(iv) 69–8016–0–7–401 (Operations and Research NHTSA).

(C) The term "mass transit category" refers to the following budget accounts or portions thereof that are subject to the obligation limitations on contract authority provided in the Transportation Equity Act for the 21st Century or for which appropriations are provided pursuant to authorizations contained in that Act (except that appropriations provided pursuant to section 5338(h) of title 49, as amended by the Transportation Equity Act for the 21st Century, shall not be included in this category):

(i) 69–8191–0–7–401 (Mass Transit Capital Fund).

(ii) 69–8350–0–7–401 (Trust Fund Share of Expenses).

(iii) 69–1129–0–1–401 (Formula Grants).

(iv) 69–1120–0–1–401 (Administrative Expenses).

(v) 69–1136–0–1–401 (University Transportation Centers).

(vi) 69–1137–0–1–401 (Transit Planning and Research).

Such term also refers to the Washington Metropolitan Transit Authority account (69–1128–01–1–401) only for fiscal year 1999 only for appropriations provided pursuant to authorizations contained in section 14 of Public Law 96–184 and Public Law 101–551.

(D) Special rule:

(i) Any outlays in excess of the discretionary spending limit set forth in section 901(c) of this title for the highway or mass transit category, as adjusted, for the budget year shall be considered nondefense category outlays or discretionary category outlays.

(ii) If the obligation limitations for accounts in the highway or mass transit category provided in an appropriation Act for a fiscal year exceed the obligation limitations set forth in section 8103 of the Transportation Equity Act for the 21st Century for that year, as adjusted, the estimated outlays flowing for each outyear from such excess obligations calculated pursuant to clause (iii) shall be attributed to the discretionary category in that outyear.

(iii) For purposes of clause (ii), outlays from excess obligations shall be determined using the average of the spendout rates for that category in the baseline.

(5) The term "baseline" means the projection (described in section 907 of this title) of current-year levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

(6) The term "budgetary resources" means new budget authority, unobligated balances, direct spending authority, and obligation limitations.

(7) The term "discretionary appropriations" means budgetary resources (except to fund direct-spending programs) provided in appropriation Acts.

(8) The term "direct spending" means—

(A) budget authority provided by law other than appropriation Acts;

(B) entitlement authority; and

(C) the food stamp program.

(9) The term "current" means, with respect to OMB estimates included with a budget submission under section 1105(a) of title 31, the estimates consistent with the economic and technical assumptions underlying that budget and with respect to estimates made after that budget submission that are not included with it,

estimates consistent with the economic and technical assumptions underlying the most recently submitted President's budget.

(10) The term "real economic growth", with respect to any fiscal year, means the growth in the gross national product during such fiscal year, adjusted for inflation, consistent with Department of Commerce definitions.

(11) The term "account" means an item for which appropriations are made in any appropriation Act and, for items not provided for in appropriation Acts, such term means an item for which there is a designated budget account identification code number in the President's budget.

(12) The term "budget year" means, with respect to a session of Congress, the fiscal year of the Government that starts on October 1 of the calendar year in which that session begins.

(13) The term "current year" means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

(14) The term "outyear" means, with respect to a budget year, any of the first 4 fiscal years that follow the budget year.

(15) The term "OMB" means the Director of the Office of Management and Budget.

(16) The term "CBO" means the Director of the Congressional Budget Office.

(17) As used in this subchapter, all references to entitlement authority shall include the list of mandatory appropriations included in the joint explanatory statement of managers accompanying the conference report on the Balanced Budget Act of 1997.

(18) The term "deposit insurance" refers to the Federal deposit insurance agencies, and other Federal agencies supervising insured depository institutions, resulting from full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current estimates.

(19) The term "asset sale" means the sale to the public of any asset (except for those assets covered by Title V of the Congressional Budget Act of 1974), whether physical or financial, owned in whole or in part by the United States. (Pub. L. 99–177, Title II, § 250, as added and amended Pub. L. 101–508, Title XIII, § 13101(a), (b), Nov. 5, 1990, 104 Stat. 1388–575, 1388–589; Pub. L. 105–33, Title X, § 10202, Aug. 5, 1997, 111 Stat. 697; Pub. L. 105–178, Title VIII, § 8101(c), (f), June 9, 1998, 112 Stat. 489, as amended Pub. L. 105–206, Title IX, § 9013(b), July 22, 1998, 112 Stat. 865.)

WAIVERS AND SUSPENSIONS IN THE SENATE

Section 271(b) of Pub. L. 99–177, as amended by Pub. L. 100–119, Title II, § 211, Sept. 29, 1987, 101 Stat. 787, provided that: "Sections 301(i), 302(c), 302(f), 304(b), 310(d), 310(g), and 311(a) of the Congressional Budget Act of 1974 [sections 632(i), 633(c), 633(f), 635(b), 641(d), 641(g), and 642(a) of this title] may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. This subsection shall not apply to any joint resolution reported or discharged pursuant to section 254(a) of this joint resolution [section 904(a) of this title]."

[For effective and termination dates of section 271(b) of Pub. L. 99–177, see section 275(a)(1), (b)(2)(D) of Pub. L. 99–177, set out as a note above.]

APPEALS OF RULINGS

Section 271(c) of Pub. L. 99–177, as enacted by Pub. L. 100–119, Title II, § 210(a), Sept. 29, 1987, 101 Stat. 787, provided that: "An affirmative vote of

three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under section 301(i), 302(c), 302(f), 304(b), 306, 310(g), or 311(a) of the Congressional Budget Act of 1974." [sections 632(i), 633(c), 633(f), 635(b), 637, 641(d), 641(g), or 642(a) of this title].

[For effective and termination dates of section 271(c) of Pub. L. 99–177, see section 275(a)(1), (b)(2)(D) of Pub. L. 99–177, set out as a note above.]

399.41 § 901. Enforcing discretionary spending limits. **399.41**

(a) Enforcement

(1) Sequestration

Within 15 calendar days after Congress adjourns to end a session and on the same day as a sequestration (if any) under section 902 of this title and section 903 of this title, there shall be a sequestration to eliminate a budget-year breach, if any, within any category.

(2) Eliminating a breach

Each non-exempt account within a category shall be reduced by a dollar amount calculated by multiplying the baseline level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to eliminate a breach within that category; except that the health programs set forth in section 906(e) of this title shall not be reduced by more than 2 percent and the uniform percent applicable to all other programs under this paragraph shall be increased (if necessary) to a level sufficient to eliminate that breach. If, within a category, the discretionary spending limits for both new budget authority and outlays are breached, the uniform percentage shall be calculated by—

(A) first, calculating the uniform percentage necessary to eliminate the breach in new budget authority, and

(B) second, if any breach in outlays remains, increasing the uniform percentage to a level sufficient to eliminate that breach.

(3) Military personnel

If the President uses the authority to exempt any military personnel from sequestration under section 905(f) of this title, each account within subfunctional category 051 (other than those military personnel accounts for which the authority provided under section 905(f) of this title has been exercised) shall be further reduced by a dollar amount calculated by multiplying the enacted level of non-exempt budgetary resources in that account at that time by the uniform percentage necessary to offset the total dollar amount by which outlays are not reduced in military personnel accounts by reason of the use of such authority.

(4) Part-year appropriations

If, on the date specified in paragraph (1), there is in effect an Act making or continuing appropriations for part of a fiscal year for any budget account, then the dollar sequestration calculated for that account under paragraphs (2) and (3) shall be subtracted from—

(A) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

(B) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation.

(5) Look-back

If, after June 30, an appropriation for the fiscal year in progress is enacted that causes a breach within a category for that year (after taking into account any sequestration of amounts within that category, the discretionary spending limits for that category for the next fiscal year shall be reduced by the amount or amounts for that breach.

(6) Within-session sequestration

If an appropriation for a fiscal year in progress is enacted (after Congress adjourns to end the session for that budget year and before July 1 of that fiscal year) that causes a breach within a category of that year (after taking into account any prior sequestration of amounts within that category), 15 days later there shall be a sequestration to eliminate that breach within that category following the procedures set forth in paragraphs (2) through (4).

(7) Estimates

(A) CBO estimates

As soon as practicable after Congress completes action on any discretionary appropriation, CBO, after consultation with the Committees on the Budget of the House of Representatives and the Senate shall provide OMB with an estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by that legislation.

(B) OMB estimates and explanation of differences

Not later than 7 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of enactment of any discretionary appropriation, OMB shall transmit a report to the House of Representatives and to the Senate containing the CBO estimate of that legislation, an OMB estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by that legislation, and an explanation of any difference between the 2 estimates. If during the preparation of the report OMB determines that there is a significant difference between OMB and CBO, OMB shall consult with the Committees on the Budget of the House of Representatives and the Senate regarding that difference and that consultation shall include, to the extent practicable, written communication to those committees that affords such committees the opportunity to comment before the issuance of the report.

(C) Assumptions and guidelines

OMB estimates under this paragraph shall be made using current economic and technical assumptions. OMB shall use the OMB estimates transmitted to the Congress under this paragraph. OMB and CBO shall prepare estimates under this paragraph in conformance with scorekeeping guidelines determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.

(D) Annual appropriations

For purposes of this paragraph, amounts provided by annual appropriations shall include any new budget authority and outlays for the current year (if any) and the budget authority and outlays for the current year (if any) and the budget year in accounts for which funding is provided in that legislation that result from previously enacted legislation.

(b) Adjustments to discretionary spending limits

(1) Preview report

(A) Concepts and definitions

When the President submits the budget under section 1105 of title 31, OMB shall calculate and the budget shall include adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear to reflect changes in concepts and definitions. Such changes shall equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions minus those levels using the concepts and definitions in effect before such changes. Such changes may only be made after consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate and that consultation shall include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to such changes.

(B) Adjustment to align highway spending with revenues

(i) When the President submits the budget under section 1105 of title 31, OMB shall calculate and the budget shall include adjustments to the highway category for the budget year and each outyear as provided in clause (ii)(I)(cc).

(ii)(I)(aa) OMB shall take the actual level of highway receipts for the year before the current year and subtract the sum of the estimated level of highway receipts in subclause (II) plus any amount previously calculated under item (bb) for that year.

(bb) OMB shall take the current estimate of highway receipts for the budget year and subtract the estimated level of receipts for that year.

(cc) OMB shall take the sum of the amounts calculated under items (aa) and (bb), add that sum to the amount of obligations set forth in section 8103 of the Transportation Equity Act for the 21st Century for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates. After making the calculation under the preceding sentence, OMB shall adjust the amount of obligations set forth in that section for the budget year by adding the sum of the amounts calculated under items (aa) and (bb).

(II) The estimated level of highway receipts for the purposes of this clause are—

(aa) for fiscal year 1998, $22,164,000,000;

(bb) for fiscal year 1999, $32,619,000,000;

(cc) for fiscal year 2000, $28,066,000,000;

(dd) for fiscal year 2001, $28,506,000,000;

(ee) for fiscal year 2002, $28,972,000,000; and

(ff) for fiscal year 2003, $29,471,000,000.

(III) In this clause, the term "highway receipts" means the governmental receipts credited to the highway account of the Highway Trust Fund.

(C)(i) In addition to the adjustment required by subparagraph (B), when the President submits the budget under section 1105 of title 31 for fiscal years 2000, 2001, 2002, or 2003, OMB shall calculate and the budget shall include for the budget year and each outyear an adjustment to the limits on outlays for the highway category and the mass transit category equal to—

(I) the outlays for the applicable category calculated assuming obligation levels consistent with the estimates prepared pursuant to subparagraph levels consistent with the estimates prepared pursuant to subparagraph (D), as adjusted, using current technical assumptions; minus

(II) the outlays for the applicable category set forth in the subparagraph (D) estimates, as adjusted.

(ii) The adjustment made pursuant to clause (i) in the fiscal years 2002 and 2003 budget submissions of the President under section 1105(a) of title 31 shall not exceed 4 percent plus cumulative carryovers. In this clause, the term "cumulative carryovers" means the total of each amount by which outlays for the highway and mass transit category for any fiscal year are less than the outlay limit for that category, as adjusted, for that year less any amount of carryover used in the previous year.

(D)(i) When OMB and CBO submit their final sequester report for fiscal year 1999, that report shall include an estimate of the outlays for each of the categories that would result in fiscal years 2000 through 2003 from obligations at the levels specified in section 8103 of the Transportation Equity Act for the 21st Century using current assumptions.

(ii) When the President submits the budget under section 1105 of title 31 for fiscal years 2000, 2001, 2002, or 2003, OMB shall adjust the estimates made in clause (i) by the adjustments by subparagraphs (B) and (C).

(E) OMB shall consult with the Committees on the Budget and include a report on adjustments under subparagraphs (B) and (C) in the preview report.

(2) Sequestration reports

When OMB submits a sequestration report under section 904(e), (f), or (g) of this title for a fiscal year, OMB shall calculate, and the sequestration report and subsequent budgets submitted by the President under section 1105(a) of title 31 shall include adjustments to discretionary spending limits (and those limits as adjusted) for the fiscal year and each succeeding year through 2002, as follows:

(A) Emergency appropriations

If, for any fiscal year, appropriations for discretionary accounts are enacted that the President designates as emergency requirements and that the Congress so designates in statute, the adjustment shall be the total of such appropriations in discretionary accounts designated as emergency requirements and the outlays flowing in all fiscal years from such appropriations. This subparagraph shall not

apply to appropriations to cover agricultural crop disaster assistance.

(B) Special outlay allowance

If, in any fiscal year, outlays for a category exceed the discretionary spending limit for that category but new budget authority does not exceed its limit for that category (after application of the first step of a sequestration described in subsection (a)(2) of this section, if necessary), the adjustment in outlays for a fiscal year is the amount of the excess but not to exceed 0.5 percent of the sum of the adjusted discretionary spending limits on outlays for that fiscal year.

(C) Continuing disability reviews

(i) If a bill or joint resolution making appropriations for a fiscal year is enacted that specifies an amount for continuing disability reviews under the heading "Limitation on Administrative Expenses" for the Social Security Administration, the adjustments for that fiscal year shall be the additional new budget authority provided in that Act for such reviews for that fiscal year and the additional outlays flowing from such amounts, but shall not exceed—

(I) for fiscal year 1998, $290,000,000 in additional new budget authority and $338,000,000 in additional outlays;

(II) for fiscal year 1999, $520,000,000 in additional new budget authority and $520,000,000 in additional outlays;

(III) for fiscal year 2000, $520,000,000 in additional new budget authority and $520,000,000 in additional outlays;

(IV) for fiscal year 2001, $520,000,000 in additional new budget authority and $520,000,000 in additional outlays; and

(V) for fiscal year 2002, $520,000,000 in additional new budget authority and $520,000,000 in additional outlays.

(ii) As used in this subparagraph—

(I) the term "continuing disability reviews" means reviews or redeterminations as defined under section 201(g)(1)(A) of the Social Security Act [42 U.S.C. 401(g)(1)(A)] and reviews and redeterminations authorized under section 211 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;

(II) the term "additional new budget authority" means the amount provided for a fiscal year, in excess of $200,000,000, in an appropriations Act and specified to pay for the costs of continuing disability reviews under the heading "Limitation on Administrative Expenses" for the Social Security Administration; and

(III) the term "additional outlays" means outlays, in excess of $200,000,000 in a fiscal year, flowing from the amounts specified for continuing disability reviews under the heading "Limitation on Administrative Expenses" for the Social Security Administration, includ-

ing outlays in that fiscal year flowing from amounts specified in Acts enacted for prior fiscal years (but not before 1996).

(D) Allowance for IMF

If an appropriation bill or joint resolution is enacted for a fiscal year through 2002 that includes an appropriation with respect to clause (i) or (ii), the adjustment shall be the amount of budget authority in the measure that is the dollar equivalent of the Special Drawing Rights with respect to—

(i) an increase in the United States quota as part of the International Monetary Fund Eleventh General Review of Quotas (United States Quota); or

(ii) any increase in the maximum amount available to the Secretary of the Treasury pursuant to section 17 of the Bretton Woods Agreement Act, as amended from time to time (New Arrangements to Borrow).

(E) Allowance for international arrearages

(i) Adjustments

If an appropriation bill or joint resolution is enacted for fiscal year 1998, 1999, or 2000 that includes an appropriation for arrearages for international organizations, international peacekeeping, and multilateral development banks for that fiscal year, the adjustment shall be the amount of budget authority in that measure and the outlays flowing in all fiscal years from that budget authority.

(ii) Limitations

The total amount of adjustments made pursuant to this subparagraph for the period of fiscal years 1998 through 2000 shall not exceed $1,884,000,000 in budget authority.

(F) EITC compliance initiative

If an appropriation bill or joint resolution is enacted for a fiscal year that includes an appropriation for an earned income tax credit compliance initiative, the adjustment shall be the amount of budget authority in that measure for that initiative and the outlays flowing in all fiscal years from that budget authority, but not to exceed—

(i) with respect to fiscal year 1998, $138,000,000 in new budget authority and $131,000,000 in outlays;

(ii) with respect to fiscal year 1999, $143,000,000 in new budget authority and $143,000,000 in outlays;

(iii) with respect to fiscal year 2000, $144,000,000 in new budget authority and $144,000,000 in outlays;

(iv) with respect to fiscal year 2001, $145,000,000 in new budget authority and $145,000,000 in outlays; and

(v) with respect to fiscal year 2002, $146,000,000 in new budget authority and $146,000,000 in outlays.

(G) Adoption incentive payments

Whenever a bill or joint resolution making appropriations for fiscal year 1999, 2000, 2001, 2002, or 2003 is enacted

that specifies an amount for adoption incentive payments pursuant to this part for the Department of Health and Human Services—

(i) the adjustments for new budget authority shall be the amounts of new budget authority provided in that measure for adoption incentive payments, but not to exceed $20,000,000; and

(ii) the adjustment for outlays shall be the additional outlays flowing from such amount.

(c) Discretionary spending limit

As used in this subchapter, the term "discretionary spending limit" means—

(1) with respect to fiscal year 1997, for the discretionary category, the current adjusted limits of new budget authority and outlays;

(2) with respect to fiscal year 1998—

(A) for the defense category: $269,000,000,000 in new budget authority and $266,823,000,000 in outlays;

(B) for the nondefense category: $252,357,000,000 in new budget authority and $282,853,000,000 in outlays; and

(C) for the violent crime reduction category: $5,500,000,000 in new budget authority and $3,592,000,000 in outlays;

(3) with respect to fiscal year 1999—

(A) for the defense category: $271,500,000,000 in new budget authority and $266,518,000,000 in outlays;

(B) for the nondefense category: $255,699,000,000 in new budget authority and $287,850,000,000 in outlays;

(C) for the violent crime reduction category: $5,800,000,000 in new budget authority and $4,953,000,000 in outlays;

(D) for the highway category: $21,885,000,000 in outlays; and

(E) for the mass transit category: $4,401,000,000 in outlays;

(4) with respect to fiscal year 2000—

(A) for the discretionary category: $532,693,000,000 in new budget authority and $558,711,000,000 in outlays;

(B) for the violent crime reduction category: $4,500,000,000 in new budget authority and $5,554,000,000 in outlays;

(C) for the highway category: $24,436,000,000 in outlays; and

(D) for the mass transit category: $4,761,000,000 in outlays;

(5) with respect to fiscal year 2001—

(A) for the discretionary category: $542,032,000,000 in new budget authority and $564,396,000,000 in outlays;

(B) for the highway category: $26,204,000,000 in outlays; and

(C) for the mass transit category: $5,190,000,000 in outlays; and

(6) with respect to fiscal year 2002—

(A) for the discretionary category: $551,074,000,000 in new budget authority and $560,799,000,000 in outlays;

(B) for the highway category: $26,977,000,000 in,outlays; and

(C) for the mass transit category: $5,709,000,000 in outlays; and

(7) with respect to fiscal year 2003—

(A) for the highway category: $27,728,000,000 in outlays; and

(B) for the mass transit category: $6,256,000,000 in outlays.

as adjusted in strict conformance with subsection (b) of this section. (Pub. L. 99–177, Title II, § 251, Dec. 12, 1985, 99 Stat. 1063; Pub. L. 100–119, Title I, § 102(a), Sept. 29, 1987, 101 Stat. 754; Pub. L. 100–203, Title VIII, § 8003(f), Dec. 22, 1987, 101 Stat. 1330–282; Pub. L. 101–508, Title XIII, § 13101(a), Nov. 5, 1990, 104 Stat. 1388–577; Pub. L. 103–66, Title XIV, § 14002(c)(1), Aug. 10, 1993, 107 Stat. 683; Pub. L. 103–87, Title V, § 571, Sept. 30, 1993, 107 Stat. 971; Pub. L. 103–306, Title V, § 562, Aug. 23, 1994, 108 Stat. 1649; Pub. L. 103–354, Title I, § 119(d)(1), Oct. 13, 1994, 108 Stat. 3208; Pub. L. 104–121, Title I, § 103(b), Mar. 29, 1996, 110 Stat. 848; Pub. L. 104–193, Title II, § 211(d)(5)(B), Aug. 22, 1996, 110 Stat. 2191; Pub. L. 104–208, div. A, Title I, § 101(c) Title V, § 577, Sept. 30, 1996, 110 Stat. 3009–169; Pub. L. 105–33, Title X, § 10203(a), (b), Aug. 5, 1997, 111 Stat. 698; Pub. L. 105–89, Title II, § 201(b)(1), Nov. 19, 1997, 111 Stat. 2125; Pub. L. 105–178, Title VIII, § 8101(a), (d), June 9, 1998, 112 Stat. 488, 490.)

OFFSETTING ADJUSTMENT IN DISCRETIONARY SPENDING LIMITS

Section 8101(b) of Pub. L. 105–178, as amended by Pub. L. 105–206, Title IX, § 9013(a), July 22, 1998, 112 Stat. 865, provided that:

"(1) Adjustment of nondefense category for FY1999.—The discretionary spending limit set forth in section 251(c)(3)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985, as adjusted in conformance with section 251(b) of that Act, is reduced by $859,000,000 in new budget authority and $25,144,000,000 in outlays.

"(2) Adjustment of discretionary category for FY2000.—The discretionary spending limit set forth in section 251(c)(4)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as adjusted in conformance with section 251(b) of that Act, is reduced by $859,000,000 in new budget authority and $26,009,000,000 in outlays.

"(3) Adjustment of discretionary spending limit for FY2001.—The discretionary spending limit set forth in section 251(c)(5)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as adjusted in conformance with section 251(b) of that Act, is reduced by $859,000,000 in new budget authority and $26,329,000,000 in outlays.

"(4) Adjustment of discretionary spending limit for FY2002.—The discretionary spending limit set forth in section 251(c)(6)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as adjusted in conformance with section 251(b) of that Act, is reduced by $859,000,000 in new budget authority and $26,675,000,000 in outlays."

[Amendment by Pub. L. 105–206 effective as if included in enactment of Pub. L. 105–178, approved June 9, 1998, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.]

LEVEL OF OBLIGATION LIMITATIONS

Section 8103 of Pub. L. 105–178 provided that:

"(a) Highway Category.—For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the highway category is—

"(1) for fiscal year 1999, $25,883,000,000;

"(2) for fiscal year 2000, $26,629,000,000;
"(3) for fiscal year 2001, $27,158,000,000;
"(4) for fiscal year 2002, $27,767,000,000; and
"(5) for fiscal year 2003, $28,233,000,000.

"(b) Mass Transit Category.—For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the mass transit category is—

"(1) for fiscal year 1999, $5,365,000,000;
"(2) for fiscal year 2000, $5,797,000,000;
"(3) for fiscal year 2001, $6,271,000,000;
"(4) for fiscal year 2002, $6,747,000,000; and
"(5) for fiscal year 2003, $7,226,000,000.

For purposes of this subsection, the term 'obligation limitations' means the sum of budget authority and obligation limitations."

399.41a **§ 901a. Repealed.** Pub. L 105–33, Title X, Sec. 10204(a)(1), Aug. 5, 1997, 111 Stat. 702. 399.41a

Section, Pub. L. 99–177, § 251a, as added Pub. L. 103–322, Title XXXI, § 310001(g)(1), Sept. 13, 1994, 108 Stat. 2104, related to sequestration with respect to Violent Crime Reduction Trust Fund.

399.42 **§ 902. Enforcing pay-as-you-go.** 399.42

(a) Purpose

The purpose of this section is to assure that any legislation enacted before October 1, 2002, affecting direct spending or receipts that increases the deficit will trigger an offsetting sequestration.

(b) Sequestration

(1) Timing

Not later than 15 calendar days after the date Congress adjourns to end a session and on the same day as a sequestration (if any) under section 901 or 903 of this title, there shall be a sequestration to offset the amount of any net deficit increase caused by all direct spending and receipts legislation enacted before October 1, 2002, as calculated under paragraph (2).

(2) Calculation of deficit increase

OMB shall calculate the amount of deficit increase or decrease by adding—

(A) all OMB estimates for the budget year of direct spending and receipts legislation transmitted under subsection (d) of this section;

(B) the estimated amount of savings in direct spending programs applicable to budget year resulting from the prior year's sequestration under this section or section 903 of this title, if any, as published in OMB's final sequestration report for that prior year; and

(C) any net deficit increase or decrease in the current year resulting from all OMB estimates for the current year of direct spending and receipts legislation transmitted under subsection (d) of this section that were not reflected in the final OMB sequestration report for the current year.

(c) Eliminating a deficit increase

(1) The amount required to be sequestered in a fiscal year under subsection (b) of this section shall be obtained from non-exempt direct spending accounts from actions taken in the following order:

(A) First

All reductions in automatic spending increases specified in section 906(a) of this title shall be made.

(B) Second

If additional reductions in direct spending accounts are required to be made, the maximum reductions permissible under sections 906(b) (guaranteed and direct student loans) and 906(c) (foster care and adoption assistance) of this title shall be made.

(C) Third

(i) If additional reductions in direct spending accounts are required to be made, each remaining non-exempt direct spending account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required by paragraph (1); except that the medicare programs specified in section 906(d) of this title shall not be reduced by more than 4 percent and the uniform percentage applicable to all other direct spending programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

(ii) For purposes of determining reductions under clause (i), outlay reductions (as a result of sequestration of Commodity Credit Corporation commodity price support contracts in the fiscal year of a sequestration) that would occur in the following fiscal year shall be credited as outlay reductions in the fiscal year of the sequestration.

(2) For purposes of this subsection, accounts shall be assumed to be at the level in the baseline.

(d) Estimates

(1) CBO estimates

As soon as practicable after Congress completes action on any direct spending or receipts legislation, CBO shall provide an estimate to OMB of that legislation.

(2) OMB estimates

Not later than 7 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of enactment of any direct spending or receipts legislation, OMB shall transmit a report to the House of Representatives and to the Senate containing—

(A) the CBO estimate of that legislation;

(B) an OMB estimate of that legislation using current economic and technical assumptions; and

(C) an explanation of any difference between the 2 estimates.

(3) Significant differences

If during the preparation of the report under paragraph (2) OMB determines that there is a significant difference between the OMB and CBO estimates, OMB shall consult with the Committees on the Budget of the House of Representatives and the Senate regarding that difference and that consultation, to the extent practicable, shall include written communication to such committees that affords

such committees the opportunity to comment before the issuance of that report.

(4) Scope of estimates

The estimates under this section shall include the amount of change in outlays or receipts for the current year (if applicable), the budget year, and each outyear excluding any amounts resulting from—

(A) full finding of, and continuation of, the deposit insurance guarantee commitment in effect under current estimates; and

(B) emergency provisions as designated under subsection (e) of this section.

(5) Scorekeeping guidelines

OMB and CBO, after consultation with each other and the Committees on the Budget of the House of Representatives and the Senate, shall—

(A) determine common scorekeeping guidelines; and

(B) in conformance with such guidelines, prepare estimates under this section.

(e) Emergency legislation

If a provision of direct spending or receipts legislation is enacted that the President designates as an emergency requirement and that the Congress so designates in statute, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be designated as an emergency requirement in the reports required under subsection (d) of this section. This subsection shall not apply to direct spending provisions to cover agricultural crop disaster assistance. (Pub. L. 99–177, Title II, § 252, Dec. 12, 1985, 99 Stat. 1072; Pub. L. 100–119, Title I, § 102(a), Sept. 29, 1987, 101 Stat. 764; Pub. L. 100–203, Title VIII, § 8003(e), Dec. 22, 1987, 101 Stat. 1330–282; Pub. L. 101–508, Title XIII, § 13101(a), Nov. 5, 1990, 104 Stat. 1388–581; Pub. L. 103–354, Title I, § 119(d)(2), Oct. 13, 1994, 108 Stat. 3208; Pub. L. 105–33, Title X, § 10205, Aug. 5, 1997, 111 Stat. 702.)

399.43 § 903. Enforcing deficit targets. **399.43**

(a) Sequestration

Within 15 calendar days after Congress adjourns to end a session (other than of the One Hundred First Congress) and on the same day as a sequestration (if any) under section 901 of this title and section 902 of this title, but after any sequestration required by section 901 (enforcing discretionary spending limits) of this title or section 902 (enforcing pay-as-you-go) of this title, there shall be a sequestration to eliminate the excess deficit (if any remains) if it exceeds the margin.

(b) Excess deficit; margin

The excess deficit is, if greater than zero, the estimated deficit for the budget year, minus—

(1) the maximum deficit amount for that year;

(2) the amounts for that year designated as emergency direct spending or receipts legislation under section 902(e) of this title; and

(3) for any fiscal year in which there is not a full adjustment for technical and economic reestimates, the deposit insurance reesti-

mate for that year, if any, calculated under subsection (h) of this section.

The "margin" for fiscal year 1992 or 1993 is zero and for fiscal year 1994 or 1995 is $15,000,000,000.

(c) Dividing the sequestration

To eliminate the excess deficit in a budget year, half of the required outlay reductions shall be obtained from non-exempt defense accounts (accounts designated as function 050 in the President's fiscal year 1991 budget submission) and half from non-exempt, non-defense accounts (all other non-exempt accounts).

(d) Defense

Each non-exempt defense account shall be reduced by a dollar amount calculated by multiplying the level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to carry out subsection (c) of this section, except that, if any military personnel are exempt, adjustments shall be made under the procedure set forth in section 901(a)(3) of this title.

(e) Non-defense

Actions to reduce non-defense accounts shall be taken in the following order:

(1) First

All reductions in automatic spending increases under section 906(a) of this title shall be made.

(2) Second

If additional reductions in non-defense accounts are required to be made, the maximum reduction permissible under sections 906(b) (guaranteed student loans) and 906(c) (foster care and adoption assistance) of this title shall be made.

(3) Third

(A) If additional reductions in non-defense accounts are required to be made, each remaining non-exempt, non-defense account shall be reduced by the uniform percentage necessary to make the reductions in non-defense outlays required by subsection (c) of this section, except that—

(i) the medicare program specified in section 906(d) of this title shall not be reduced by more than 2 percent in total including any reduction of less than 2 percent made under section 902 of this title or, if it has been reduced by 2 percent or more under section 902 of this title, it may not be further reduced under this section; and

(ii) the health programs set forth in section 906(e) of this title shall not be reduced by more than 2 percent in total (including any reduction made under section 901 of this title),

and the uniform percent applicable to all other programs under this subsection shall be increased (if necessary) to a level sufficient to achieve the required reduction in non-defense outlays.

(B) For purposes of determining reductions under subparagraph (A), outlay reduction (as a result of sequestration of Commodity Credit Corporation commodity price support contracts in the fiscal year of a sequestration) that would occur in the

following fiscal year shall be credited as outlay reductions in the fiscal year of the sequestration.

(f) Baseline assumptions; part-year appropriations

(1) Budget assumptions

For purposes of subsections (b), (c), (d), and (e) of this section, accounts shall be assumed to be at the level in the baseline minus any reductions required to be made under sections 901 and 902 of this title.

(2) Part-year appropriations

If, on the date specified in subsection (a) of this section, there is in effect an Act making or continuing appropriations for part of a fiscal year for any non-exempt budget account, then the dollar sequestration calculated for that account under subsection (d) or (e) of this section, as applicable, shall be subtracted from—

(A) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

(B) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation; except that the amount to be sequestered from that account shall be reduced (but not below zero) by the savings achieved by that appropriation when the enacted amount is less than the baseline for that account.

(g) Adjustments to maximum deficit amounts

(1) Adjustments

(A) When the President submits the budget for fiscal year 1992, the maximum deficit amounts for fiscal years 1992, 1993, 1994, and 1995 shall be adjusted to reflect up-to-date reestimates of economic and technical assumptions and any changes in concepts or definitions. When the President submits the budget for fiscal year 1993, the maximum deficit amounts for fiscal years 1993, 1994, and 1995 shall be further adjusted to reflect up-to-date reestimates of economic and technical assumptions and any changes in concepts or definitions.

(B) When submitting the budget for fiscal year 1994, the President may choose to adjust the maximum deficit amounts for fiscal years 1994 and 1995 to reflect up-to-date reestimates of economic and technical assumptions. If the President chooses to adjust the maximum deficit amount when submitting the fiscal year 1994 budget, the President may choose to invoke the same adjustment procedure when submitting the budget for fiscal year 1995. In each case, the President must choose between making no adjustment or the full adjustment described in paragraph (2). If the President chooses to make that full adjustment, then those procedures for adjusting discretionary spending limits described in sections 901(b)(1)(C) and 901(b)(2)(E) of this title, otherwise applicable through fiscal year 1993 or 1994 (as the case may be), shall be deemed to apply for fiscal year 1994 (and 1995 if applicable).

(C) When the budget for fiscal year 1994 or 1995 is submitted and the sequestration reports for those years under section 904 of this title are made (as applicable), if the President does not choose to make the adjustments set forth in subparagraph (B), the

maximum deficit amount for that fiscal year shall be adjusted by the amount of the adjustment to discretionary spending limits first applicable for that year (if any) under section 901(b) of this title.

(D) For each fiscal year the adjustments required to be made with the submission of the Presidents budget for that year shall also be made when OMB submits the sequestration update report and the final sequestration report for that year, but OMB shall continue to use the economic and technical assumptions in the President's budget for that year.

Each adjustment shall be made by increasing or decreasing the maximum deficit amounts set forth in section 665 of this title.

(2) Calculations of adjustments

The required increase or decrease shall be calculated as follows:

(A) The baseline deficit or surplus shall be calculated using up-to-date economic and technical assumptions, using up-to-date concepts and definitions, and, in lieu of the baseline levels of discretionary appropriations, using the discretionary spending limits set forth in section 665 of this title as adjusted under section 901 of this title.

(B) The net deficit increase or decrease caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any sequestration of direct spending accounts) shall be calculated for each fiscal year by adding—

(i) the estimates of direct spending and receipts legislation transmitted under section 902(d) of this title applicable to each such fiscal year; and

(ii) the estimated amount of savings in direct spending programs applicable to each such fiscal year resulting from the prior year' sequestration under this section or section 902 of this title of direct spending, if any, as contained in OMB's final sequestration report for that year.

(C) The amount calculated under subparagraph (B) shall be subtracted from the amount calculated under subparagraph (A).

(D) The maximum deficit amount set forth in section 665 of this title shall be subtracted from the amount calculated under subparagraph (C).

(E) The amount calculated under subparagraph (D) shall be the amount of the adjustment required by paragraph (1).

(h) Treatment of deposit insurance

(1) Initial estimates

The initial estimates of the net costs of federal deposit insurance for fiscal year 1994 and fiscal year 1995 (assuming full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of the submission of the budget for fiscal year 1993) shall be set forth in that budget.

(2) Reestimates

For fiscal year 1994 and fiscal year 1995, the amount of the reestimate of deposit insurance costs shall be calculated by subtracting the amount set forth under paragraph (1) for that year from the current estimate of deposit insurance costs (but assuming full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of submission of the budget for

fiscal year 1993). (Pub. L. 99–177, Title II, § 253, Dec. 12, 1985, 99 Stat. 1078; Pub. L. 100–119, Title I, § 103, Sept. 29, 1987, 101 Stat. 775; Pub. L. 101–508, Title XIII, § 13101(a), Nov. 5, 1990, 104 Stat. 1388–583.)

399.44 § 904. Reports and orders. **399.44**

(a) Timetable

The timetable with respect to this subchapter for any budget year is as follows:

Date	Action to be completed
January 21	Notification regarding optional adjustment of maximum deficit amount.
5 days before the President's budget submission.	CBO sequestration preview report.
The President's budget submission	OMB sequestration preview report.
August 10	Notification regarding military personnel.
August 15	CBO sequestration update report.
August 20	OMB sequestration update report.
10 days after end of session	CBO final sequestration report.
15 days after end of session	OMB final sequestration report; Presidential order.

(b) Submission and availability of reports

Each report required by this section shall be submitted, in the case of CBO, to the House of Representatives, the Senate and OMB and, in the case of OMB, to the House of Representatives, the Senate, and the President on the day it is issued. On the following day a notice of the report shall be printed in the Federal Register.

(c) Sequestration preview reports

(1) Reporting requirement

On the dates specified in subsection (a) of this section, OMB and CBO shall issue a preview report regarding discretionary, pay-as-you-go, and deficit sequestration based on laws enacted through those dates.

(2) Discretionary sequestration report

The preview reports shall set forth estimates for the current year and each subsequent year through 2002 of the applicable discretionary spending limits for each category and an explanation of any adjustments in such limits under section 901 of this title.

(3) Pay-as-you-go sequestration reports

The preview reports shall set forth, for the current year and the budget year, estimates for each of the following:

(A) The amount of net deficit increase or decrease, if any, calculated under subsection 902(b) of this title.

(B) A list identifying each law enacted and sequestration implemented after November 5, 1990 included in the calculation of the amount of deficit increase or decrease and specifying the budgetary effect of each such law.

(C) The sequestration percentage or (if the required sequestration percentage is greater than the maximum allowable percentage for medicare) percentages necessary to eliminate a deficit increase under section 902(c) of this title.

(4) Deficit sequestration reports

The preview reports shall set forth for the budget year estimates for each of the following:

(A) The maximum deficit amount, the estimated deficit calculated under section 903(b) of this title, and excess deficit, and the margin.

(B) The amount of reductions required under section 902 of this title, the excess deficit remaining after those reductions have been made, and the amount of reductions required from defense accounts and the reductions required from non-defense accounts.

(C) The sequestration percentage necessary to achieve the required reduction in defense accounts under section 903(d) of this title.

(D) The reductions required under sections 903(e)(1) and 903(e)(2) of this title.

(E) The sequestration percentage necessary to achieve the required reduction in non-defense accounts under section 903(e)(3) of this title.

The CBO report need not set forth the items other than the maximum deficit amount for fiscal year 1992, 1993, or any fiscal year for which the President notifies the House of Representatives and the Senate that he will adjust the maximum deficit amount under the option under section 903(g)(1)(B) of this title.

(5) Explanation of differences

The OMB reports shall explain the differences between OMB and CBO estimates for each item set forth in this subsection.

(d) Notification regarding military personnel

On or before the date specified in subsection (a) of this section, the President shall notify the Congress of the manner in which he intends to exercise flexibility with respect to military personnel accounts under section 905(f) of this title.

(e) Sequestration update reports

On the dates specified in subsection (a) of this section, OMB and CBO shall issue a sequestration updated report, reflecting laws enacted through those dates, containing all of the information required in the sequestration preview reports.

(f) Final sequestration reports

(1) Reporting requirement

On the dates specified in subsection (a) of this section, OMB and CBO shall issue a final sequestration report, updated to reflect laws enacted through those dates.

(2) Discretionary sequestration reports

The final reports shall set forth estimates for each of the following:

(A) For the current year and each subsequent year through 2002 the applicable discretionary spending limits for each category and an explanation of any adjustments in such limits under section 901 of this title.

(B) For the current year and the budget year the estimated new budget authority and outlays for each category and the breach, if any, in each category.

(C) For each category for which a sequestration is required, the sequestration percentages necessary to achieve the required reduction.

(D) For the budget year, for each account to be sequestered, estimates of the baseline level of sequestrable budgetary resources and resulting outlays and the amount of budgetary resources to be sequestered and resulting outlay reductions.

(3) Pay-as-you-go and deficit sequestration reports

The final reports shall contain all the information required in the pay-as-you-go and deficit sequestration preview reports. In addition, these reports shall contain, for the budget year, for each account to be sequestered, estimates of the baseline level of sequestrable budgetary resources and resulting outlays and the amount of budgetary resources to be sequestered and resulting outlay reductions. The reports shall also contain estimates of the effects on outlays of the sequestration in each outyear for direct spending programs.

(4) Explanation of differences

The OMB report shall explain any differences between OMB and CBO estimates of the amount of any net deficit change calculated under subsection 902(b) of this title, any excess deficit, any breach, and any required sequestration percentage. The OMB report shall also explain differences in the amount of sequestrable resources for any budget account to be reduced if such difference is greater than $5,000,000.

(5) Presidential order

On the date specified in subsection (a) of this section, if in its final sequestration report OMB estimates that any sequestration is required, the President shall issue an order fully implementing without change all sequestrations required by the OMB calculations set forth in that report. This order shall be effective on issuance.

(g) Within-session sequestration reports and order

If an appropriation for a fiscal year in progress is enacted (after Congress adjourns to end the session for that budget year and before July 1 of that fiscal year) that causes a breach, 10 days later CBO shall issue a report containing the information required in paragraph[1] (f)(2). Fifteen days after enactment, OMB shall issue a report containing the information required in paragraphs[1] (f)(2) and (f)(4). On the same day as the OMB report, the President shall issue an order fully implementing without change all sequestrations required by the OMB calculations set forth in that report. This order shall be effective on issuance.

(h) GAO compliance report

Upon request of the Committee on the Budget of the House of Representatives or the Senate, the Comptroller General shall submit to the Congress and the President a report on—

(1) the extent to which each order issued by the President under this section complies with all of the requirements contained in this subchapter, either certifying that the order fully and accurately complies with such requirements or indicating the respects in which it does not; and

[1] So in original. Probably means "subsection".

(2) the extent to which each report issued by OMB or CBO under this section complies with all of the requirements contained in this subchapter, either certifying that the report fully and accurately complies with such requirements or indicating the respect in which it does not.

(i) Low-growth report

At any time, CBO shall notify the Congress if—

(1) during the period consisting of the quarter during which such notification is given, the quarter preceding such notification, and the 4 quarters following such notification, CBO or OMB has determined that real economic growth is projected or estimated to be less than zero with respect to each of any 2 consecutive quarters within such period; or

(2) the most recent of the Department of Commerce's advance preliminary or final reports of actual real economic growth indicate that the rate of real economic growth for each of the most recently reported quarter and the immediately preceding quarter is less than one percent.

(j) Economic and technical assumptions

In all reports required by this section, OMB shall use the same economic and technical assumptions as used in the most recent budget submitted by the President under section 1105(a) of title 31. (Pub. L. 99–177, Title II, § 254, Dec. 12, 1985, 99 Stat. 1078; Pub. L. 100–119, Title I, §§ 102(b)(1), 106(e)(2), Sept. 29, 1987, 101 Stat. 773, 781; Pub. L. 101–508, Title XIII, § 13101(a), Nov. 5, 1990, 104 Stat. 1388–586; Pub. L. 103–66, Title XIV, §§ 14002(c)(2), 14003(b), Aug. 10, 1993, 107 Stat. 684, 685; Pub. L. 103–322, Title XXXI, § 310001(g)(2), Sept. 14, 1994, 108 Stat. 2105; Pub. L. 104–316, Title I, § 102(d), Oct. 19, 1996, 110 Stat. 3828; Pub. L. 105–33, Title X, § 10206, Aug. 5, 1997, 111 Stat. 704.)

399.45 § 905. Exempt programs and activities. **399.45**

(a) Social security benefits and tier I railroad retirement benefits

Benefits payable under the old-age, survivors, and disability insurance program established under Title II of the Social Security Act [42 U.S.C. 401 et seq.], and benefits payable under section 231b(a), 231b(f)(3), 231c(a), or 231c(f) of title 45, shall be exempt from reduction under any order issued under this subchapter.

(b) Veterans programs

The following programs shall be exempt from reduction under any order issued under this subchapter:

National Service Life Insurance Fund (36–8132–0–7–701);

Service-Disabled Veterans Insurance Fund (36–4012–0–3–701);

Veterans Special Life Insurance Fund (36–8455–0–8–701);

Veterans Reopened Insurance Fund (36–4010–0–3–701);

United States Government Life Insurance Fund (36–8150–0–7–701);

Veterans Insurance and Indemnities (36–0120–0–1–701);

Special Therapeutic and Rehabilitation Activities (36–4048–0–3–703);

Canteen Service Revolving Fund (36–4014–0–3–705);

Benefits under chapter 21 of title 38 relating to specially adapted housing and mortgage-protection life insurance for certain veterans with service-connected disabilities (36–0120–0–1–701);

Benefits under section 2307 of title 38 relating to burial benefits for veterans who die as a result of service-connected disability (36–0155–0–1–701);

Benefits under chapter 39 of title 38 relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces (36–0137–0–1–702);

Compensation (36–0153–0–1–701); and

Pensions (36–0154–0–1–701);

Benefits under chapter 35 of title 38, United States Code, related to educational assistance for survivors and dependents of certain veterans with service-connected disabilities (36–0137–0–1–702);

Assistance and services under chapter 31 of title 38, United States Code, relating to training and rehabilitation for certain veterans with service-connected disabilities (36–0137–0–1–702);

Benefits under subchapters I, II, and III of chapter 37 of title 38, United States Code, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans Guaranty and Indemnity Program Account (36–1119–0–1–704);

Loan Guaranty Program Account (36–1025–0–1–704); and

Direct Loan Program Account (36–1024–0–1–704).

(c) Net interest

No reduction of payments for net interest (all of major functional category 900) shall be made under any order issued under this subchapter.

(d) Earned Income tax credit

Payments to individuals made pursuant to section 32 of title 26 shall be exempt from reduction under any order issued under this subchapter.

(e) Non-defense unobligated balances

Unobligated balances of budget authority carried over from prior fiscal years, except balances in the defense category, shall be exempt from reduction under any order issued under this subchapter.

(f) Optional exemption of military personnel

(1) In general

The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

(2) Limitation

The President may not use the authority provided by paragraph (1) unless the President notifies the Congress of the manner in which such authority will be exercised on or before the date specified in section 904(a) of this title for the budget year.

(g) Other programs and activities

(1)(A) the following budget accounts and activities shall be exempt from reduction under any order issued under this subchapter:

Activities resulting from private donations, bequests, or voluntary contributions to the Government;

Activities financed by voluntary payments to the Government for goods or services to be provided for such payments;

Administration of Territories, Northern Mariana Islands Covenant grants (14–0412–0–1–806);

Alaska Power Administration, Operations and maintenance (89–0304–0–1–271);

Appropriations for the District of Columbia (to the extent they are appropriations of locally raised funds);

Bonneville Power Administration fund and borrowing authority established pursuant to section 13 of Public Law 93–454 (1974), as amended [16 U.S.C. 838k] (89–4045–0–3–271);

Bureau of Indian Affairs, Indian land and water claims settlements and miscellaneous payments to Indians (14–2303–0–1–452);

Bureau of Indian Affairs Miscellaneous trust funds (14–9973–0–7–999);

Claims, judgments, and relief acts (20–1895–0–1–808);

Compact of Free Association (14–0415–0–1–808);

Compensation of the President (11–0001–0–1–802);

Conservation Reserve Program (12–2319–0–1–302);

Customs Service, miscellaneous permanent appropriations (20–9922–0–2–806);

Comptroller of the Currency, Assessment funds (20–8413–0–8–373);

Dual benefits payments account (60–0111–0–1–601);

Exchange stabilization fund (20–4444–0–3–155);

Farm Credit Administration, Limitation on Administrative Expenses (78–4131–0–3–351);

Farm Credit System Financial Assistance Corporation, interest payment (20–1850–0–1–908);

Farm Credit System Financial Assistance Corporation, interest payments (20–1850–0–1–351);

Federal Deposit Insurance Corporation, Bank Insurance Fund (51–4064–0–3–373);

Federal Deposit Insurance Corporation, FSLIC Resolution Fund (51–4065–0–3–373);

Federal Deposit Insurance Corporation, Savings Association Insurance Fund (51–4066–0–3–373);

Federal Housing Finance Board (95–4039–0–3–371);

Federal payment to the railroad retirement accounts (60–0113–0–1–601);

Foreign military sales trust fund (11–8242–0–7–155);

Health professions graduate student loan insurance fund program account (75–0340–0–1–552);

Higher education facilities loans (91–0240–01–502);

Internal Revenue Collections for Puerto Rico (20–5737–0–2–806);

Intragovernmental funds, including those from which the outlays are derived primarily from resources paid in from other government accounts, except to the extent such funds are augmented by direct appropriations for the fiscal year during which an order is in effect;

Panama Canal Commission, Panama Canal Revolving Fund (95–4061–0–3–403);

Medical facilities guarantee and loan fund, Federal interest subsidies for medical facilities (75–9931–0–3–550);

National Credit Union Administration operating fund (25–4056–0–3–373);

National Credit Union Administration, Central liquidity facility (25–4470–0–3–373);

National Credit Union Administration, Credit union share insurance fund (25–4468–0–3–373);

Office of Thrift Supervision (20–4108–0–3–373);

Payment of Vietnam and USS Pueblo prisoner-of-war claims (15–0104–0–1–153);

Payment to civil service retirement and disability fund (24–0200–0–1–805);

Payment to Judiciary Trust Funds (10–0941–0–1–752);

Payments to copyright owners (03–5175–0–2–376);

Payments to health care trust funds (75–0580–1–571);

Payments to military retirement fund (97–0040–0–1–054);

Payments to social security trust funds (75–0404–0–1–651);

Payments to the foreign service retirement and disability fund (11–1036–0–1–153 and 19–0540–0–1–153);

Payments to trust funds from excise taxes or other receipts properly creditable to such trust funds;

Payments to the United States territories, fiscal assistance (14–0418–0–1–806);

Payments to widows and heirs of deceased Members of Congress (00–0215–0–1–801);

Postal service fund (18–4020–0–3–372);

Resolution Trust Corporation Revolving Fund (22–4055–0–3–373);

Salaries of Article III judges;

Soldiers and Airmen's Home, payment of claims (84–8930–0–7–705);

Southeastern Power Administration, Operations and maintenance (89–0302–0–1–271);

Southwestern Power Administration, Operations and maintenance (89–0303–0–1–271);

Tennessee Valley Authority Fund, except non-power programs and activities (64–4110–0–3–999);

Thrift Savings Fund;

United States Enrichment Corporation (95–4054–0–3–271);

Vaccine Injury Compensation (75–0320–0–1–551);

Vaccine Injury Compensation Program Trust Fund (20–8175–0–7–551);

United States Enrichment Corporation;

Washington Metropolitan Area Transit Authority, interest payments (46–0300–0–1–401);

Western Area Power Administration, Construction, rehabilitation, operations, and maintenance (89–5068–0–2–271); and

Western Area Power Administration, Colorado River basins power marketing fund (89–4452–0–3–271).

(B) The following Federal retirement and disability accounts and activities shall be exempt from reduction under any order issued under this subchapter:

Black Lung Disability Trust Fund (20–8144–0–7–601);

Central Intelligence Agency retirement and disability system fund (56–3400–0–1–054);

Civil service retirement and disability fund (24–8135–0–7–602);
Comptrollers general retirement system (05–0107–0–1–801);
Foreign service retirement and disability fund (19–8186–0–7–602);
Judicial survivors' annuities fund (10–8110–0–7–602);
Judicial Officers' Retirement Fund (10–8122–0–7–602);
Claims Judges' Retirement Fund (10–8124–0–7–602);
Special workers compensation expenses, Longshoremen's and harborworkers' compensation benefits (16–9971–0–7–601);
Military retirement fund (97–8097–0–7–602);
National Oceanic and Atmospheric Administration retirement (13–1450–0–1–306);
Pensions for former Presidents (47–0105–0–1–802);
Railroad Industry Pension Fund (60–8011–0–7–601);
Railroad supplemental annuity pension fund (60–8012–0–7–602);
Retired pay, Coast Guard (69–0241–0–1–403);
Retirement pay and medical benefits for commissioned officers, Public Health Service (74–0379–0–1–551);
Special benefits, Federal Employees' Compensation Act (16–1521–0–1–600);
Special benefits for disabled coal miners (75–0409–0–1–601); and
Tax Court judges survivors annuity fund (23–8115–0–7–602);

(2) Prior legal obligations of the Government in the following budget accounts and activities shall be exempt from any order issued under this subchapter:

Biomass energy development (20–0114–0–1–271);
United States Treasury check forgery insurance fund (20–4109–0–3–803);
Credit liquidating accounts;
Employees life insurance fund (24–8424–0–8–602);
Energy security reserve (Synthetic Fuels Corporation) (20–0112–0–1–271);
Federal Aviation Administration, Aviation insurance revolving fund (69–4120–0–3–402);
Federal Crop Insurance Corporation fund (12–4085–0–3–351);
Federal Emergency Management Agency, National flood insurance fund (58–4236–0–3–453);
Federal Emergency Management Agency, National insurance development fund (58–4235–0–3–451);
Geothermal resources development fund (89–0206–0–1–271);
Homeowners assistance fund, Defense (97–4090–0–3–051);
International Trade Administration, Operations and administration (13–1250–0–1–376);
Low-rent public housing, Loans and other expenses (86–4098–0–3–604);
Maritime Administration, War-risk insurance revolving fund (69–4302–0–3–403);
Overseas Private Investment Corporation (71–4030–0–3–151);
Pension Benefit Guaranty Corporation fund (16–4204–0–3–601);
Rail service assistance (69–0122–0–1–401);
Department of Veterans Affairs, Servicemen's group life insurance fund (36–4009–0–3–701).

(h) Low–income programs

The following programs shall be exempt from reduction under any order issued under this subchapter:

Block grants to States for temporary assistance for needy families;

Child nutrition programs (with the exception of special milk programs) (12–3539–0–1–605);

Temporary assistance for needy families (75–1552–0–1–609);

Contingency fund (75–1522–0–1–609);

Child care entitlement to States (75–1550–0–1–609);

Commodity supplemental food program (12–3512–0–1–605);

Food stamp programs (12–3505–0–1–605 and 12–3550–0–1–605);

Grants to States for Medicaid (75–0512–0–1–551);

Supplemental Security Income Program (75–0406–0–1–609); and

Special supplemental nutrition program for women, infants, and children (WIC) (12–3510–0–1–605);

Family support payments to States (75–1501–0–1–609).

(i) Identification of programs

For purposes of subsections (b), (g), and (h) of this section, each account is identified by the designated budget account identification code number set forth in the Budget of the United States Government 1998—Appendix, and an activity within an account is designated by the name of the activity and the identification code number of the account. (Pub. L. 99–177, Title II, § 255, Dec. 12, 1985, 99 Stat. 1082; Pub. L. 99–509, Title VII, § 7002(a), Oct. 21, 1986, 100 Stat. 1949; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–86, Title V, § 506(a), Aug. 10, 1987, 101 Stat. 634; Pub. L. 100–119, Title I, § 104(a)(1), (2), (b), (c)(1), Sept. 29, 1987, 101 Stat. 775–777; Pub. L. 101–73, Title VII, § 743(a), (c), Aug. 9, 1989, 103 Stat. 437; Pub. L. 101–220, § 8, Dec. 12, 1989, 103 Stat. 1881; Pub. L. 101–508, Title XIII, § 13101(c), Nov. 5, 1990, 104 Stat. 1388–589; Pub. L. 102–54, § 13(a), June 13, 1991, 105 Stat. 274; Pub. L. 102–486, Title IX, § 902(d), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 102–572, Title VI, § 601, Oct. 29, 1992, 106 Stat. 4514; Pub. L. 104–193, Title I, § 110(r)(1), Aug. 22, 1996, 110 Stat. 2175; Pub. L. 104–208, div. A, Title II, § 2704(d)(10), Sept. 30, 1996, 110 Stat. 3009–489; Pub. L. 105–33, Title X, § 10207, Aug. 5, 1997, 111 Stat. 704).

399.46 § 906. General and special sequestration rules. **399.46**

(a) Automatic spending increases

Automatic spending increases are increases in outlays due to changes in indexes in the following programs:

(1) Special milk program; and

(2) Vocational rehabilitation basic State grants.

In those programs all amounts other than the automatic spending increases shall be exempt from reduction under any order issued under this subchapter.

(b) Student loans

For all student loans under part B or D of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq., 1087a et seq.] made during the period when a sequestration order under section 904 of this title is in effect as required by section 902 or 903 of this title, origination

fees under sections 438(c)(2) and 455(c) of that Act [20 U.S.C. 1087–1(c)(2) and 1087e(c)] shall each be increased by 0.50 percentage point.

(c) Treatment of foster care and adoption assistance programs

Any order issued by the President under section 904 of this title shall make the reduction which is otherwise required under the foster care and adoption assistance programs (established by part E of title IV of the Social Security Act [42 U.S.C. 670 et seq.]) only with respect to payments and expenditures made by States in which increases in foster care maintenance payment rates or adoption assistance payment rates (or both) are to take effect during the fiscal year involved, and only to the extent that the required reduction can be accomplished by applying a uniform percentage reduction to the Federal matching payments that each such State would otherwise receive under section 474 of that Act [42 U.S.C. 674] (for such fiscal year) for that portion of the State's payments which is attributable to the increases taking effect during that year. No State's matching payments from the Federal Government for foster care maintenance payments or for adoption assistance maintenance payments may be reduced by a percentage exceeding the applicable domestic sequestration percentage. No State may, after December 12, 1985, make any change in the timetable for making payments under a State plan approved under part E of title IV of the Social Security Act which has the effect of changing the fiscal year in which expenditures under such part are made.

(d) Special rules for Medicare program

(1) Calculation of reduction in individual payment amounts

To achieve the total percentage reduction in those programs required by sections 902 and 903 of this title, and notwithstanding section 710 of the Social Security Act [42 U.S.C. 911], OMB shall determine, and the applicable Presidential order under section 904 of this title shall implement, the percentage reduction that shall apply to payments under the health insurance programs under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] for services furnished after the order is issued, such that the reduction made in payments under that order shall achieve the required total percentage reduction in those payments for that fiscal year as determined on a 12-month basis.

(2) Timing of application of reductions

(A) In general

Except as provided in subparagraph (B), if a reduction is made under paragraph (1) in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for services furnished during the effective period of the order. For purposes of the previous sentence, in the case of inpatient services furnished for an individual, the services shall be considered to be furnished on the date of the individual's discharge from the inpatient facility.

(B) Payment on the basis of cost reporting periods

In the case in which payment for services of a provider of services is made under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, if a reduction is made under paragraph (1)

in payment amounts pursuant to a sequestration order, the reduction shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs during the effective period of the order, but only (for each such cost reporting period) in the same proportion as the fraction of the cost reporting period that occurs during the effective period of the order.

(3) No increase in beneficiary charges in assignment-related cases

If a reduction in payment amounts is made under paragraph (1) for services for which payment under part B of title XVIII of the Social Security Act [42 U.S.C. 1395j et seq.] is made on the basis of an assignment described in section 1842(b)(3)(B)(ii) [42 U.S.C. 1395u(b)(3)(B)(ii)], in accordance with section 1842(b)(6)(B) [42 U.S.C. 1395u(b)(6)(B)], or under the procedure described in section 1870(f)(1) [42 U.S.C. 1395gg(f)(1)], of such Act, the person furnishing the services shall be considered to have accepted payment of the reasonable charge for the services, less any reduction in payment amount made pursuant to a sequestration order, as payment in full.

(4) No effect on computation of AAPCC

In computing the adjusted average per capita cost for purposes of section 1876(a)(4) of the Social Security Act [42 U.S.C. 1395mm(a)(4)], the Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be affected under this subchapter.

(e) Community and migrant health centers, Indian health services and facilities, and veterans' medical care

(1) The maximum permissible reduction in budget authority for any account listed in paragraph (2) for any fiscal year, pursuant to an order issued under section 904 of this title, shall be 2 percent.

(2) The accounts referred to in paragraph (1) are as follows:

(A) Community health centers (75–0350–0–1–550).

(B) Migrant health centers (75–0350–0–1–550).

(C) Indian health facilities (75–0391–0–1–551).

(D) Indian health services (75–0390–0–1–551).

(E) Veterans' medical care (36–0160–0–1–703).

For purposes of the preceding provisions of this paragraph, programs are identified by the designated budget account identification code numbers set forth in the Budget of the United States Government—Appendix.

(f) Treatment of child support enforcement program

Notwithstanding any change in the display of budget accounts, any order issued by the President under section 904 of this title shall accomplish the full amount of any required reduction in expenditures under sections 455 and 458 of the Social Security Act (42 U.S.C. 655, 658) by reducing the Federal matching rate for State administrative costs under such program, as specified (for the fiscal year involved) in section 455(a) of such Act, to the extent necessary to reduce such expenditures by that amount.

(g) Federal pay

(1) In general

For purposes of any order issued under section 904 of this title—

(A) Federal pay under a statutory pay system, and

(B) elements of military pay,

shall be subject to reduction under an order in the same manner as other administrative expense components of the Federal budget; except that no such order may reduce or have the effect of reducing the rate of pay to which any individual is entitled under any such statutory pay system (as increased by any amount payable under section 5304 of title 5 or section 302 of the Federal Employees Pay Comparability Act of 1990) or the rate of any element of military pay to which any individual is entitled under title 37, or any increase in rates of pay which is scheduled to take effect under section 5303 of title 5, section 1009 of title 37, or any other provision of law.

(2) Definitions

For purposes of this subsection:

(A) The term "statutory pay system" shall have the meaning given that term in section 5302(1) of title 5.

(B) The term "elements of military pay" means—

(i) the elements of compensation of members of the uniformed services specified in section 1009 of title 37,

(ii) allowances provided members of the uniformed services under sections 403a and 405 of such title, and

(iii) cadet pay and midshipman pay under section 203(c) of such title.

(C) The term "uniformed services" shall have the meaning given that term in section 101(3) of title 37.

(h) Treatment of Federal administrative expenses

(1) Notwithstanding any other provision of this title, administrative expenses incurred by the departments and agencies, including independent agencies, of the Federal Government in connection with any program, project, activity, or account shall be subject to reduction pursuant to an order issued under section 904 of this title, without regard to any exemption, exception, limitation, or special rule which is otherwise applicable with respect to such program, project, activity, or account under this subchapter.

(2) Notwithstanding any other provision of law, administrative expenses of any program, project, activity, or account which is self-supporting and does not receive appropriations shall be subject to reduction under a sequester order, unless specifically exempted in this part.

(3) Payments made by the Federal Government to reimburse or match administrative costs incurred by a State or political subdivision under or in connection with any program, project, activity, or account shall not be considered administrative expenses of the Federal Government for purposes of this section, and shall be subject to reduction or sequestration under this subchapter to the extent (and only to the extent) that other payments made by the Federal Government under or in connection with that program, project, activity, or account are subject to such reduction or sequestration; except that Federal payments made to a State as reimbursement of administrative costs incurred by such State under or in connection with the unemployment compensation programs specified in subsection (h)(1) of this section shall be subject to reduction or sequestration under this subchapter notwithstanding the exemption otherwise granted to such programs under that subsection.

(4) Notwithstanding any other provision of law, this subsection shall not apply with respect to the following:

(A) Comptroller of the Currency.

(B) Federal Deposit Insurance Corporation.

(C) Office of Thrift Supervision.

(D) National Credit Union Administration.

(E) National Credit Union Administration, central liquidity facility.

(F) Federal Retirement Thrift Investment Board.

(G) Resolution Trust Corporation.

(H) Farm Credit Administration.

(i) Treatment of payments and advances made with respect to unemployment compensation programs

(1) For purposes of section 904 of this title—

(A) any amount paid as regular unemployment compensation by a State from its account in the Unemployment Trust Fund (established by section 904(a) of the Social Security Act [42 U.S.C. 1104(a)]),

(B) any advance made to a State from the Federal unemployment account (established by section 904(g) of such Act [42 U.S.C. 1104(g)]) under Title XII of such Act [42 U.S.C. 1321 et seq.] and any advance appropriated to the Federal unemployment account pursuant to section 1203 of such Act [42 U.S.C. 1323], and

(C) any payment made from the Federal Employees Compensation Account (as established under section 909 of such Act [42 U.S.C. 1109]) for the purpose of carrying out chapter 85 of title 5 and funds appropriated or transferred to or otherwise deposited in such Account,

shall not be subject to reduction.

(2)(A) A State may reduce each weekly benefit payment made under the Federal-State Extended Unemployment Compensation Act of 1970 for any week of unemployment occurring during any period with respect to which payments are reduced under an order issued under section 904 of this title by a percentage not to exceed the percentage by which the Federal payment to the State under section 204 of such Act is to be reduced for such week as a result of such order.

(B) A reduction by a State in accordance with subparagraph (A) shall not be considered as a failure to fulfill the requirements of section 3304(a)(11) of title 26.

(j) Commodity Credit Corporation

(1) Powers and authorities of the Commodity Credit Corporation

This title shall not restrict the Commodity Credit Corporation in the discharge of its authority and responsibility as a corporation to buy and sell commodities in world trade, to use the proceeds as a revolving fund to meet other obligations and otherwise operate as a corporation, the purpose of which it was created.

(2) Reduction in payments made under contracts

(A) Loan eligibility under any contract entered into with a person by the Commodity Credit Corporation prior to the time an order has been issued under section 904 of this title shall not be reduced by an order subsequently issued. Subject to subparagraph (B), after an order is issued under such section for a fiscal year, any cash

payments for loans or loan deficiencies made by the Commodity Credit Corporation shall be subject to reduction under the order.

(B) Each loan contract entered into with producers or producer cooperatives with respect to a particular crop of a commodity and subject to reduction under subparagraph (A) shall be reduced in accordance with the same terms and conditions. If some, but not all, contracts applicable to a crop of a commodity have been entered into prior to the issuance of an order under section 904 of this title, the order shall provide that the necessary reduction in payments under contracts applicable to the commodity be uniformly applied to all contracts for the next succeeding crop of the commodity, under the authority provided in paragraph (3).

(3) Delayed reduction in outlays permissible

Notwithstanding any other provision of this title, if an order under section 904 of this title is issued with respect to a fiscal year, any reduction under the order applicable to contracts described in paragraph (1) may provide for reductions in outlays for the account involved to occur in the fiscal year following the fiscal year to which the order applies.

(4) Uniform percentage rate of reduction and other limitations

All reductions described in paragraph (2) which are required to be made in connection with an order issued under section 904 of this title with respect to a fiscal year shall be made so as to ensure that outlays for each program, project, activity, or account involved are reduced by a percentage rate that is uniform for all such programs, projects, activities, and accounts, and may not be made so as to achieve a percentage rate of reduction in any such item exceeding the rate specified in the order.

(5) Dairy program

Notwithstanding any other provision of this subsection, as the sole means of achieving any reduction in outlays under the milk price support program, the Secretary of Agriculture shall provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use. That price reduction (measured in cents per hundred weight of milk marketed) shall occur under section 201(d)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)(A)), shall begin on the day any sequestration order is issued under section 904 of this title, and shall not exceed the aggregate amount of the reduction in outlays under the milk price support program that otherwise would have been achieved by reducing payments for the purchase of milk or the products of milk under this subsection during the applicable fiscal year.

(6) Certain authority not to be limited

Nothing in this joint resolution shall limit or reduce, in any way, any appropriation that provides the Commodity Credit Corporation with budget authority to cover the Corporation's net realized losses.

(k) Effects of sequestration

The effects of sequestration shall be as follows:

(1) Budgetary resources sequestered from any account shall be permanently cancelled, except as provided in paragraph (5).

(2) Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects, and activities within a

budget account (with programs, projects, and activities as delineated in the appropriation Act or accompanying report for the relevant fiscal year covering that account, or for accounts not included in appropriation Acts, as delineated in the most recently submitted President's budget).

(3) Administrative regulations or similar actions implementing a sequestration shall be made within 120 days of the sequestration order. To the extent that formula allocations differ at different levels of budgetary resources within an account, program, project, or activity, the sequestration shall be interpreted as producing a lower total appropriation, with the remaining amount of the appropriation being obligated in a manner consistent with program allocation formulas in substantive law.

(4) Except as otherwise provided, obligations in sequestered accounts shall be reduced only in the fiscal year in which a sequester occurs.

(5) If an automatic spending increase is sequestered, the increase (in the applicable index) that was disregarded as a result of that sequestration shall not be taken into account in any subsequent fiscal year.

(6) Budgetary resources sequestered in revolving, trust, and special fund accounts and offsetting collections sequestered in appropriation accounts shall not be available for obligation during the fiscal year in which the sequestration occurs, but shall be available in subsequent years to the extent otherwise provided in law. (Pub. L. 99–177, Title II, § 256, Dec. 12, 1985, 99 Stat. 1086; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–86, Title V, § 506(b), Aug. 10, 1987, 101 Stat. 634; Pub. L. 100–119, Title I, §§ 102 (b)(2), (3), (11), 104(a)(3), (4), Sept. 29, 1987, 101 Stat. 773, 775, 776; Pub. L. 101–73, Title VII, § 743(b), Aug. 9, 1989, 103 Stat. 437; Pub. L. 101–508, Title XIII, § 13101(d), Nov. 5, 1990, 104 Stat. 1388–589; Pub. L. 101–509, Title V, § 529 [Title I, § 101(b)(2)(A), (4)(H)], Nov. 5, 1990, 104 Stat. 1427, 1439, 1440; Pub. L. 104–193, Title I, § 110(r)(2), Aug. 22, 1996, 110 Stat. 2175; Pub. L. 105–33, Title X, § 10208(a)(1), (b)–(g), Aug. 5, 1997, 111 Stat. 708–710.)

399.47 § 907. The baseline. **399.47**

(a) In general

For any budget year, the baseline refers to a projection of current-year levels of new budget authority, outlays, revenues, and the surplus or deficit into the budget year and the outyears based on laws enacted through the applicable date.

(b) Direct spending and receipts

For the budget year and each outyear, the baseline shall be calculated using the following assumptions:

(1) In general

Laws providing or creating direct spending and receipts are assumed to operate in the manner specified in those laws for each such year and funding for entitlement authority is assumed to be adequate to make all payments required by those laws.

(2) Exceptions

(A)(i) No program established by a law enacted on or before August 5, 1997 with estimated current year outlays greater than $50,000,000 shall be assumed to expire in the budget year or the outyears. The scoring of new programs with estimated outlays greater than $50,000,000 a year shall be based on scoring by the Committees on Budget or OMB, as applicable. OMB, CBO, and the Budget Committees shall consult on the scoring of such programs where there are differences between CBO and OMB.

(ii) On the expiration of the suspension of a provision of law that is suspended under section 171 of Public Law 104–127 and that authorizes a program with estimated fiscal year outlays that are greater than $50,000,000, for purposes of clause (i), the program shall be assumed to continue to operate in the same manner as the program operated immediately before the expiration of the suspension.

(B) The increase for veterans' compensation for a fiscal year is assumed to be the same as that required by law for veterans' pensions unless otherwise provided by law enacted in that session.

(C) Excise taxes dedicated to a trust fund, if expiring, are assumed to be extended at current rates.

(D) If any law expires before the budget year or any outyear, then any program with estimated current year outlays greater than $50,000,000 that operates under the law shall be assumed to continue to operate under that law as in effect immediately before its expiration.

(3) Hospital Insurance Trust Fund

Notwithstanding any other provision of law, the receipts and disbursements of the Hospital Insurance Trust Fund shall be included in all calculations required by this Act.

(c) Discretionary appropriations

For the budget year and each outyear, the baseline shall be calculated using the following assumptions regarding all amounts other than those covered by subsection (b) of this section:

(1) Inflation of current-year appropriations

Budgetary resources other than unobligated balances shall be at the level provided for the budget year in full-year appropriation Acts. If for any account a full-year appropriation has not yet been enacted, budgetary resources other than obligated balances shall be at the level available in the current year, adjusted sequentially and cumulatively for expiring housing contracts as specified in paragraph (2), for social insurance administrative expenses as specified in paragraph (3), to offset pay absorption and for pay annualization as specified in paragraph (4), for inflation as specified in paragraph (5), and to account for changes required by law in the level of agency payments for personnel benefits other than pay.

(2) Expiring housing contracts

New budget authority to renew expiring multiyear subsidized housing contracts shall be adjusted to reflect the difference in the number of such contracts that are scheduled to expire in that fiscal year and the number expiring in the current year,

with the per-contract renewal cost equal to the average current year cost of renewal contracts.

(3) Social insurance administrative expenses

Budgetary resources for the administrative expenses of the following trust funds shall be adjusted by the percentage change in the beneficiary population from the current year to that fiscal year: the Federal Hospital Insurance Trust Fund, the Supplementary Medical Insurance Trust Fund, the Unemployment Trust Fund, and the railroad retirement account.

(4) Pay annualization; offset to pay absorption

Current-year new budget authority for Federal employees shall be adjusted to reflect the full 12-month costs (without absorption) of any pay adjustment that occurred in that fiscal year.

(5) Inflators

The inflator used in paragraph (1) to adjust budgetary resources relating to personnel shall be the percent by which the average of the Bureau of Labor Statistics Employment Cost Index (wages and salaries, private industry workers) for that fiscal year differs from such index for the current year. The inflator used in paragraph (1) to adjust all other budgetary resources shall be the percent by which the average of the estimated gross domestic product chain-type index for that fiscal year differs from the average of such estimated index for the current year.

(6) Current-year appropriations

If, for any account, a continuing appropriation is in effect for less than the entire current year, then the current-year amount shall be assumed to equal the amount that would be available if that continuing appropriation covered the entire fiscal year. If law permits the transfer of budget authority among budget accounts in the current year, the current-year level for an account shall reflect transfers accomplished by the submission of, or assumed for the current year in, the President's original budget for the budget year.

(d) Up-to-date concepts

In deriving the balance for any budget year or outyear, current-year amount shall be calculated using the concepts and definitions that are required for the budget year.

(e) Asset sales

Amounts realized from the sale of an asset shall not be included in estimates under section 901, 902, or 903 of this title if that sale would result in a financial cost to the Federal Government as determined pursuant to scorekeeping guidelines.

(Pub. L. 99–177, Title II, § 257, Dec. 12, 1985, 99 Stat. 1092; Pub. L. 100–119, Title I, § 102(b) (4)–(8), 104(c)(2), 106(b), Sept. 29, 1987; 101 Stat. 773, 774, 777, 780; Pub. L. 101–508, Title XIII, § 13101(b), (e) Nov. 5, 1990, 104 Stat. 1388–589, 1388–591, 1388–593; Pub. L. 105–33, Title X, § 10209(a), Aug. 5, 1997, 111 Stat. 710.)

399.47a § 907a. Suspension in the event of war or low growth. **399.47a**

(a) Procedures in the event of a low growth report

(1) Trigger

Whenever CBO issues a low-growth report under section 904(j), of this title, the Majority Leader of the House of Representatives may, and the Majority Leader of the Senate shall, introduce a joint resolution (in the form set forth in paragraph (2)) declaring that the conditions specified in section 904(j) of this title are met and suspending the relevant provisions of this title, titles III and VI of the Congressional Budget Act of 1974, and section 1103 of title 31.

(2) Form of joint resolution

(A) The matter after the resolving clause in any joint resolution introduced pursuant to paragraph (1) shall be as follows: "That the Congress declares that the conditions specified in section 254(j) of the Balanced Budget and Emergency Deficit Control Act of 1985 are met, and the implementation of the Congressional Budget and Impoundment Control Act of 1974, chapter 11 of title 31, United States Code, and part C of the Balanced Budget and Emergency Deficit Control Act of 1985 are modified as described in section 258(b) of the Balanced Budget and Emergency Deficit Control Act of 1985."

(B) The title of the joint resolution shall be "Joint resolution suspending certain provisions of law pursuant to section 258(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985."; and the joint resolution shall not contain any preamble.

(3) Committee action

Each joint resolution introduced pursuant to paragraph (1) shall be referred to the appropriate committees of the House of Representatives or the Committee on the Budget of the Senate, as the case may be; and such Committee shall report the joint resolution to its House without amendment on or before the fifth day on which such House is in session after the date on which the joint resolution is introduced. If the Committee fails to report the joint resolution within the five-day period referred to in the preceding sentence, it shall be automatically discharged from further consideration of the joint resolution, and the joint resolution shall be placed on the appropriate calendar.

(4) Consideration of joint resolution

(A) A vote on final passage of a joint resolution reported to the Senate or discharged pursuant to paragraph (3) shall be taken on or before the close of the fifth calendar day of session after the date on which the joint resolution is reported or after the Committee has been discharged from further consideration of the joint resolution. If prior to the passage by one House of a joint resolution of that House, that House receives the same joint resolution from the other House, then—

(i) the procedure in that House shall be the same as if no such joint resolution had been received from the other House, but

(ii) the vote on final passage shall be on the joint resolution of the other House.

When the joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a House joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a Senate joint resolution agreed to in the Senate) shall cause the joint resolution to be engrossed, certified, and transmitted to the other House of the Congress as soon as practicable.

(B)(i) In the Senate, a joint resolution under this paragraph shall be privileged. It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(ii) Debate in the Senate on a joint resolution under this paragraph, and all debatable motions and appeals in connection therewith, shall be limited to not more than five hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(iii) Debate in the Senate on any debatable motion or appeal in connection with a joint resolution under this paragraph shall be limited to not more than one hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.

(iv) A motion in the Senate to further limit debate on a joint resolution under this paragraph is not debatable. A motion to table or to recommit a joint resolution under this paragraph is not in order.

(C) No amendment to a joint resolution considered under this paragraph shall be in order in the Senate.

(b) Suspension of sequestration procedures

Upon the enactment of a declaration of war or a joint resolution described in subsection (a) of this section—

(1) the subsequent issuance of any sequestration report or any sequestration order is precluded;

(2) sections 633(f), 641(d), 642(a) of this title, and title VI of the Congressional Budget Act of 1974 are suspended; and

(3) section 1103 of title 31 is suspended.

(c) Restoration of sequestration procedures

(1) In the event of a suspension of sequestration procedures due to a declaration of war, then, effective with the first fiscal year that begins in the session after the state of war is concluded by Senate ratification of the necessary treaties, the provisions of subsection (b) of this section triggered by that declaration of war are no longer effective.

(2) In the event of a suspension of sequestration procedures due to the enactment of a joint resolution described in subsection (a) of this section, then, effective with regard to the first fiscal year beginning at least 12 months after the enactment of that resolution, the provisions of subsection (b) of this section triggered by that resolution are no longer effective. (Pub. L. 99–177, Title II, § 258, as added Pub. L. 101–508, Title XIII, § 13101(f), Nov. 5, 1990, 104 Stat. 1388–593.)

399.47b § 907b. Modification of Presidential order. **399.47b**

(a) Introduction of joint resolution

At any time after the Director of OMB issues a final sequestration report under section 904 of this title for a fiscal year, but before the close of the twentieth calendar day of the session of Congress beginning after the date of issuance of such report, the majority leader of either House of Congress may introduce a joint resolution which contains provisions directing the President to modify the most recent order issued under section 904 of this title or provide an alternative to reduce the deficit for such fiscal year. After the introduction of the first such joint resolution in either House of Congress in any calendar year, then no other joint resolution introduced in such House in such calendar year shall be subject to the procedures set forth in this section.

(b) Procedures for consideration of joint resolutions

(1) Referral to committee

A joint resolution introduced in the Senate under subsection (a) of this section shall not be referred to a committee of the Senate and shall be placed on the calendar pending disposition of such joint resolution in accordance with this subsection.

(2) Consideration in the Senate

On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is introduced under subsection (a) of this section, notwithstanding any rule or precedent of the Senate, including Rule XXII of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the joint resolution. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution (to which the motion applies) is introduced. The joint resolution is privileged in the Senate. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the Senate shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the Senate until disposed of.

(3) Debate in the Senate

(A) In the Senate, debate on a joint resolution introduced under subsection (a) of this section, amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees).

(B) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order, and a motion to recommit the joint resolution is not in order.

(C)(i) No amendment that is not germane to the provisions of the joint resolution or to the order issued under section 904 of this title shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion

or appeal is debatable for not to exceed 30 minutes to be equally divided between, and controlled by, the mover and the majority leader (or their designees), except that in the event that the majority leader favors the amendment, motion, or appeal, the minority leader (or the minority leader's designee) shall control the time in opposition to the amendment, motion, or appeal.

(ii) In the Senate an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

(4) Vote on final passage

Immediately following the conclusion of the debate on a joint resolution introduced under subsection (a) of this section, a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, and the disposition of any pending amendments under paragraph (3), the vote on final passage of the joint resolution shall occur.

(5) Appeals

Appeals from the decisions of the Chair shall be decided without debate.

(6) Conference reports

In the Senate, points of order under titles III, IV, and VI of the Congressional Budget Act of 1974 are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

(7) Resolution from other House

If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (a) of this section, the Senate receives from the House of Representatives, a joint resolution introduced under subsection (a) of this section, then the following procedures shall apply:

(A) The joint resolution of the House of Representatives shall not be referred to a committee and shall be placed on the calendar.

(B) With respect to a joint resolution introduced under subsection (a) of this section in the Senate—

(i) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

(ii)(I) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

(II) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes the Senate joint resolution, the Senate shall be considered to have passed the House joint resolution as amended by the text of the Senate joint resolution.

(C) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

(8) Senate action on House resolution

If the Senate receives from the House of Representatives a joint resolution introduced under subsection (a) of this section after the Senate has disposed of a Senate originated resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution. (Pub. L. 99–177, Title II, § 258A, as added Pub. L. 101–508, Title XIII, § 13101(f), Nov. 5, 1990, 104 Stat. 1388–595.)

399.47c § 907c. Flexibility among defense programs, projects, and activities. 399.47c

(a) Subject to subsections (b), (c), and (d) of this section, new budget authority and unobligated balances for any programs, projects, or activities within major functional category 050 (other than a military personnel account) may be further reduced beyond the amount specified in an order issued by the President under section 904 of this title for such fiscal year. To the extent such additional reductions are made and result in additional outlay reductions, the President may provide for lesser reductions in new budget authority and unobligated balances for other programs, projects, or activities within major functional category 050 for such fiscal year, but only to the extent that the resulting outlay increases do not exceed the additional outlay reductions, and no such program, project, or activity may be increased above the level actually made available by law in appropriation Acts (before taking sequestration into account). In making calculations under this subsection, the President shall use account outlay rates that are identical to those used in the report by the Director of OMB under section 904 of this title.

(b) No actions taken by the President under subsection (a) of this section for a fiscal year may result in a domestic base closure or realignment that would otherwise be subject to section 2687 of title 10.

(c) The President may not exercise the authority provided by this paragraph for a fiscal year unless—

(1) the President submits a single report to Congress specifying, for each account, the detailed changes proposed to be made for such fiscal year pursuant to this section;

(2) that report is submitted within 5 calendar days of the start of the next session of Congress; and

(3) a joint resolution affirming or modifying the changes proposed by the President pursuant to this paragraph becomes law.

(d) Within 5 calendar days of session after the President submits a report to Congress under subsection (c)(1) of this section for a fiscal year, the majority leader of each House of Congress shall (by request) introduce a joint resolution which contains provisions affirming the changes proposed by the President pursuant to this paragraph.

(e)(1) The matter after the resolving clause in any joint resolution introduced pursuant to subsection (d) of this section shall be as follows: "That the report of the President as submitted on [Insert Date] under section 258B is hereby approved.".

(2) The title of the joint resolution shall be "Joint resolution approving the report of the President submitted under section 258B of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(3) Such joint resolution shall not contain any preamble.

(f)(1) A joint resolution introduced in the Senate under subsection (d) of this section shall be referred to the Committee on Appropriations, and if not reported within 5 calendar days (excluding Saturdays, Sundays, and legal holidays) from the date of introduction shall be considered as having been discharged therefrom and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection. In the Senate, no amendment proposed in the Committee on Appropriations shall be in order other than an amendment (in the nature of a substitute) that is germane or relevant to the provisions of the joint resolution or to the order issued under section 904 of this title. For purposes of this paragraph, an amendment shall be considered to be relevant if it relates to function 050 (national defense).

(2) On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is placed on the Senate calendar, notwithstanding any rule or precedent of the Senate, including Rule XXII of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the joint resolution. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after such joint resolution is placed on the appropriate calendar. The motion is not debatable. The joint resolution is privileged in the Senate. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the Senate shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the Senate until disposed of.

(g)(1) In the Senate, debate on a joint resolution introduced under subsection (d) of this section, amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees).

(2) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order. In the Senate, a motion to recommit the joint resolution is not in order.

(h)(1) No amendment that is not germane or relevant to the provisions of the joint resolution or to the order issued under section 904 of this title shall be in order in the Senate. For purposes of this paragraph, an amendment shall be considered to be relevant if it relates to function 050 (national defense). In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between, and controlled

by, the mover and the majority leader (or their designees), except that in the event that the majority leader favors the amendment, motion, or appeal, the minority leader (or the minority leader's designee) shall control the time in opposition to the amendment, motion, or appeal.

(2) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended, so long as the amendment makes or maintains mathematical consistency. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

(3) It shall not be in order in the Senate to consider any amendment to any joint resolution introduced under subsection (d) of this section or any conference report thereon if such amendment or conference report would have the effect of decreasing any specific budget outlay reductions below the level of such outlay reductions provided in such joint resolution unless such amendment or conference report makes a reduction in other specific budget outlays at least equivalent to any increase in outlays provided by such amendment or conference report.

(4) For purposes of the application of paragraph (3), the level of outlays and specific budget outlay reductions provided in an amendment shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(i) Immediately following the conclusion of the debate on a joint resolution introduced under subsection (d) of this section, a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, and the disposition of any pending amendments under subsection (h) of this section, the vote on final passage of the joint resolution shall occur.

(j) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (d) of this section shall be decided without debate.

(k) In the Senate, points of order under titles III and IV of the Congressional Budget Act of 1974 (including points of order under sections 633(c), 634(a), 637, and 651(b)(1) of this title) are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

(l) If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (d) of this section, the Senate receives from the House of Representatives a joint resolution introduced under subsection (d) of this section, then the following procedures shall apply:

(1) The joint resolution of the House of Representatives shall not be referred to a committee.

(2) With respect to a joint resolution introduced under subsection (d) of this section in the Senate—

(A) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

(B)(i) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

(ii) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes the Senate joint resolution, the Senate shall be considered to have passed the House joint resolution as amended by the text of the Senate joint resolution.

(3) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the joint resolution originated in the Senate.

(m) If the Senate receives from the House of Representatives a joint resolution introduced under subsection (d) of this section after the Senate has disposed of a Senate originated joint resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution. (Pub. L. 99–177, Title II, § 258B, as added Pub. L. 101–508, Title XIII, § 13101(g), Nov. 5, 1990, 104 Stat. 1388–597.)

399.47d § 907d. Special reconciliation process. **399.47d**

(a) Reporting of a resolutions and reconciliation bills and resolutions, in the Senate

(1) Committee alternatives to Presidential order

After the submission of an OMB sequestration update report under section 904 of this title that envisions a sequestration under section 902 or 903 of this title, each standing committee of the Senate may, not later than October 10, submit to the Committee on the Budget of the Senate information of the type described in section 632(d) of this title with respect to alternatives to the order envisioned by such report insofar as such order affects laws within the jurisdiction of the committee.

(2) Initial Budget Committee action

After the submission of such a report, the Committee on the Budget of the Senate may, not later than October 15, report to the Senate a resolution. The resolution may affirm the impact of the order envisioned by such report, in whole or in part. The the extent that any part is not affirmed, the resolution shall state which parts are not affirmed and shall contain instructions to committees of the Senate of the type referred to in section 641(a) of this title, sufficient to achieve at least the total level of deficit reduction contained in those sections which are not affirmed.

(3) Response of committees

Committees instructed pursuant to paragraph (2), or affected thereby, shall submit their responses to the Budget Committee no later than 10 days after the resolution referred to in paragraph (2) is agreed to, except that if only one such Committee is so instructed such Committee shall, by the same date, report to the Senate a reconciliation bill or reconciliation resolution containing its recommendations in response to such instructions. A committee shall be considered to have a complied with all instructions to it pursuant to a resolution adopted under paragraph (2) if it has made recommendations with respect to matters within its jurisdiction

which would result in a reduction in the deficit at least equal to the total reduction directed by such instructions.

(4) Budget Committee action

Upon receipt of its recommendations received in response to a resolution referred to in paragraph (2), the Budget Committee shall report to the Senate a reconciliation bill or reconciliation resolution, or both, carrying out all such recommendations without any substantive revisions. In the event that a committee instructed in a resolution referred to in paragraph (2) fails to submit any recommendation (or, when only one committee is instructed, fails to report a reconciliation bill or resolution) in response to such instructions, the Budget Committee shall include in the reconciliation bill or reconciliation resolution reported pursuant to this subparagraph legislative language within the jurisdiction of the noncomplying committee to achieve the amount of deficit reduction directed in such instructions.

(5) Point of order

It shall not be in order in the Senate to consider any reconciliation bill or reconciliation resolution reported under paragraph (4) with respect to a fiscal year, any amendment thereto, or any conference report thereon if—

(A) the enactment of such bill or resolution as reported;

(B) the adoption and enactment of such amendment; or

(C) the enactment of such bill or resolution in the form recommended in such conference report,

would cause the amount of the deficit for such fiscal year to exceed the maximum deficit amount for such fiscal year, unless the low-growth report submitted under section 904 of this title projects negative real economic growth for such fiscal year, or for each of any two consecutive quarters during such fiscal year.

(6) Treatment of certain amendments

In the Senate, an amendment which adds to a resolution reported under paragraph (2) an instruction of the type referred to in such paragraph shall be in order during the consideration of such resolution if such amendment would be in order but for the fact that it would be held to be non-germane on the basis that the instruction constitutes new matter.

(7) Definition

For purposes of paragraphs (1), (2), and (3), the term "day" shall mean any calendar day on which the Senate is in session.

(b) Procedures

(1) In general

Except as provided in paragraph (2), in the Senate the provisions of sections 636 and 641 of this title for the consideration of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration of resolutions, and reconciliation bills and reconciliation resolutions reported under this paragraph and conference reports thereon.

(2) Limit on debate

Debate in the Senate on any resolution reported pursuant to subsection (a)(2) of this section, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to 10 hours.

(3) Limitation on amendments

Section 641(d)(2) of this title shall apply to reconciliation bills and reconciliation resolutions reported under this subsection.

(4) Bills and resolutions received from the House

Any bill or resolution received in the Senate from the House, which is a companion to a reconciliation bill or reconciliation resolution of the Senate for the purposes of this subsection, shall be considered in the Senate pursuant to the provisions of this subsection.

(5) Definition

For purposes of this subsection, the term "resolution" means a simple, joint, or concurrent resolution. (Pub. L. 99–177, Title II, § 258C, as added Pub. L. 101–508, Title XIII, § 13101(g), Nov. 5, 1990, 104 Stat. 1388–600.)

399.48 **§ 908. Repealed.** Pub. L. 105–33, Title X, Sec. 10210, Aug. 5, 1997, 111 Stat. 711. 399.48

399.48a **§ 909. Repealed.** Pub. L. 101–508, Title XIII, Sec. 13212, Nov. 5, 1990, 104 Stat. 1388–621. 399.48a

Subchapter II.—Operation and Review

399.49 **§ 921. Transferred.** 399.49

399.49a **§ 922. Judicial review.** 399.49a

(a) Expedited review

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any order that might be issued pursuant to section 904 of this title violates the Constitution.

(2) Any Member of Congress, or any other person adversely affected by any action taken under this title, may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief concerning the constitutionality of this title.

(3) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory and injunctive relief on the ground that the terms of an order issued under section 904 of this title do not comply with the requirements of this title.

(4) A copy of any complaint in an action brought under paragraph (1), (2), or (3) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(5) Any action brought under paragraph (1), (2), or (3) shall be heard and determined by a three–judge court in accordance with section 2284 of title 28.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1), (2), or (3) without the necessity of adopting a resolution to authorize such intervention.

(b) Appeal to Supreme Court

Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1), (2), or (3) of subsection

(a) of this section shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1), (2), or (3) of subsection (a) of this section shall be issued by a single Justice of the Supreme Court.

(c) Expedited consideration

It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a) of this section.

(d) Noncompliance with sequestration procedures

(1) If it is finally determined by a court of competent jurisdiction that an order issued by the President under section 904 of this title for any fiscal year—

(A) does not reduce automatic spending increases under any program specified in section 906(a) of this title if such increases are required to be reduced by subchapter I of this chapter (or reduces such increases by a greater extent than is so required), or

(B) does not sequester the amount of budgetary resources which is required to be sequestered by subchapter I of this chapter (or sequesters more than that amount) with respect to any program, project, activity, or amount,

the President shall, within 20 days after such determination is made, revise the order in accordance with such determination.

(2) If the order issued by the President under section 904 of this title for any fiscal year—

(A) does not reduce any automatic spending increase to the extent that such increase is required to be reduced by subchapter I of this chapter,

(B) does not sequester any amount of new budget authority, new loan guarantee commitments, new direct loan obligations, or spending authority which is required to be sequestered by subchapter I of this chapter, or

(C) does not reduce any obligation limitation by the amount by which such limitation is required to be reduced under subchapter I of this chapter,

on the claim or defense that the constitutional powers of the President prevent such sequestration or reduction or permit the avoidance of such sequestration or reduction, and such claim or defense is finally determined by the Supreme Court of the United States to be valid, then the entire order issued pursuant to section 904 of this title for such fiscal year shall be null and void.

(e) Timing of relief

No order of any court granting declaratory or injunctive relief from the order of the President issued under section 904 of this title, including but not limited to relief permitting or requiring the expenditure of funds sequestered by such order, shall take effect during the pendency of the action before such court, during the time appeal may be taken,

or, if appeal is taken, during the period before the court to which such appeal is taken has entered its final order disposing of such action.

(f) Preservation of other rights

The rights created by this section are in addition to the rights of any person under law, subject to subsection (e) of this section.

(g) Economic data and assumptions

The economic data and economic assumptions used by the Director of OMB in computing the figures specified in any report issued by the Director of OMB under section 904 of this title shall not be subject to review in any judicial or administrative proceeding. (Pub. L. 99–177, Title II, § 274, Dec. 12, 1985, 99 Stat. 1098; Pub. L. 100–119, Title I, § 102(b)(9), (10), Sept. 29, 1987, 101 Stat. 774, 775; Pub. L. 105–33, Title X, § 10211, Aug. 5, 1997, 111 Stat. 711.)

Chapter 22.—JOHN C. STENNIS CENTER FOR PUBLIC SERVICE TRAINING AND DEVELOPMENT

399.50 § 1101. Congressional findings. 399.50

The Congress makes the following findings:

(1) Senator John C. Stennis of the State of Mississippi has served his State and country with distinction for more than 60 years as a public servant, including service in the United States Senate for a period of 41 years.

(2) Senator Stennis has a distinguished record as a United States Senator, including service as the first Chairman of the Select Committee on Ethics, Chairman of the Committee on Armed Services, Chairman of the Committee on Appropriations, and President pro tempore of the Senate.

(3) Senator Stennis has long maintained a special interest in and devotion to the development of leadership and excellence in public service.

(4) There is a compelling need to encourage outstanding young people to pursue public service on a career basis and to provide public service leadership training opportunities for individuals serving in State and local governments and for individuals serving as employees of Members of Congress.

(5) It would be a fitting tribute to Senator Stennis and to his leadership, integrity, and years of devoted public service to establish in his name a center for the training and development of leadership excellence in public service. (Pub. L. 100–458, Title I, § 112, Oct. 1, 1988, 102 Stat. 2172.)

399.51 § 1102. Definitions. 399.51

In this subtitle:

(1) The term "Center" means the John C. Stennis Center for Public Service Training and Development established under section 1103(a).

(2) The term "Board" means the Board of Trustees of the John C. Stennis Center for Public Service Training and Development established under section 1103(b).

(3) The term "fund" means the John C. Stennis Center for Public Service Training and Development Trust Fund provided for under

section 1105. (Pub. L. 100–458, Title I, § 113, Oct. 1, 1988, 102 Stat. 2172.)

399.52 § 1103. Establishment of the John C. Stennis Center for Public Service Training and Development. 399.52

(a) ESTABLISHMENT.—There is established in the legislative branch of the Government a center to be known as the "John C. Stennis Center for Public Service Training and Development".

(b) BOARD OF TRUSTEES.—The Center shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of seven members, as follows:

(1) Two members to be appointed by the majority leader of the Senate.

(2) One member to be appointed by the minority leader of the Senate.

(3) Two members to be appointed by the Speaker of the House of Representatives.

(4) One member to be appointed by the minority leader of the House of Representatives.

(5) The Executive Director of the Center, who shall serve as an ex-officio member of the Board.

(c) TERM OF OFFICE.—The term of office of each member of the Board appointed under paragraphs (1), (2), (3), and (4) of subsection (b) shall be six years, except that—

(1) the members first appointed under paragraphs (1) and (2) shall serve, as designated by the majority leader of the Senate, one for a term of two years, one for a term of four years, and one for a term of six years;

(2) the members first appointed under paragraphs (3) and (4) shall serve, as designated by the Speaker of the House of Representatives, one for a term of two years, one for a term of four years, and one for a term of six years; and

(3) a member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) TRAVEL AND SUBSISTENCE PAY.—Members of the Board (other than the Executive Director) shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(e) LOCATION OF CENTER.—The Center shall be located at or near Starkville, Mississippi, the location of Mississippi State University. (Pub. L. 100–458, Title I, § 114, Oct. 1, 1988, 102 Stat. 2173.)

399.53 § 1104. Purposes and authority of the Center. 399.53

(a) PURPOSES OF CENTER.—The purposes of the Center shall be—

(1) to increase awareness of the importance of public service, to foster among the youth of the United States greater recognition and understanding of the role of public service in the development of the United States, and to promote public service as a career choice;

(2) to provide training and development opportunities for State and local elected government officials and employees of State and local governments in order to assist such officials and employees

to become more effective and more efficient in performing their public duties and develop their potential for accepting increased public service opportunities; and

(3) to provide training and development opportunities for those employees of Members of the Congress who perform key roles in helping Members of Congress serve the people of the United States.

(b) AUTHORITY OF CENTER.—The Center is authorized, consistent with this subtitle, to develop such programs, activities, and services as it considers appropriate to carry out the purposes of this subtitle. Such authority shall include the following:

(1) The development and implementation of educational programs for secondary and post-secondary schools and colleges designed—

(A) to improve the attitude of students toward public service;

(B) to encourage students to consider public service as a career goal;

(C) to create a better understanding of the important role that people in public service have played in the growth and development of the United States; and

(D) to foster a sense of civic responsibility among the youth of the United States.

(2) The development and implementation of programs designed—

(A) to enhance skills and abilities of public service employees and elected officials at the State and local levels of government;

(B) to make such officials more productive and effective in the performance of their duties; and

(C) to help prepare such employees and officials to assume greater responsibilities in the field of public service.

(3) The development and implementation of congressional staff training programs designed to equip congressional staff personnel to perform their duties more effectively and efficiently.

(4) The development and implementation of media and telecommunications production capabilities to assist the Center in expanding the reach of its programs throughout the United States.

(5) The establishment of library and research facilities for the collection and compilation of research materials for use in carrying out the programs of the Center.

(C) PROGRAM PRIORITIES.—The Board of Trustees shall determine the priority of the programs to be carried out under this subtitle and the amount of funds to be allocated for such programs. (Pub. L. 100–458, Title I, § 115, Oct. 1, 1988, 102 Stat. 2173.)

399.54 § 1105. John C. Stennis Center for Public Service Development Trust Fund. 399.54

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "John C. Stennis Center for Public Service Development Trust Fund". The fund shall consist of amounts appropriated to it pursuant to section 1110 and amounts credited to it under subsection (d).

(b) INVESTMENT OF FUND ASSETS.—(1) It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated to the fund. Such investments may be made only in interest bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such

obligations may be acquired on original issue at the issue price or by purchase of outstanding obligations at the marketplace.

(2) The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest bearing obligations of the United States then forming a part of the public debt, except that when such average rate is not a multiple of one–eighth of one percent, the rate of interest of such special obligations shall be the multiple of one-eighth of one percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) AUTHORITY TO SELL OBLIGATIONS.—Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) PROCEEDS FROM CERTAIN TRANSACTIONS CREDITED TO FUND.—In addition to the appropriations received pursuant to section 1110 of this title, the interest on, and the proceeds from the sale or redemption of, any obligations held in the fund pursuant to section 1108(a) of this title, shall be credited to and form a part of the fund. (Pub. L. 100–458, Title I, § 116, Oct. 1, 1988, 102 Stat. 2174; Pub. L. 101–520, Title III, § 313(a), Nov. 5, 1990, 104 Stat. 2282.)

399.55 § 1106. Expenditures and audit of Trust Fund. **399.55**

(a) IN GENERAL.—The Secretary of the Treasury is authorized to pay to the Center from the interest and earnings of the fund, and moneys credited to the fund pursuant to section 1108(a) of this title, such sums as the Board determines are necessary and appropriate to enable the Center to carry out the provisions of this chapter.

(b) AUDIT BY GAO.—The activities of the Center under this subtitle may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Center, pertaining to such activities and necessary to facilitate the audit. (Pub. L. 100–458, Title I, § 117, Oct. 1, 1988, 102 Stat. 2175; Pub. L. 101–520, Title III, § 313(b), Nov. 5, 1990, 104 Stat. 2282.)

399.56 § 1107. Executive Director of Center. **399.56**

(a) APPOINTMENT BY BOARD.—(1) There shall be an Executive Director of the Center who shall be appointed by the Board. The Executive Director shall be the chief executive officer of the Center an shall carry out the functions of the Center subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this subtitle as the Board shall prescribe.

(2) The Executive Director shall not be eligible to serve as Chairman of the Board.

(b) COMPENSATION.—The Executive Director of the Center shall be compensated at the rate specified for employees in grade GS–18 of the General Schedule under section 5332 of title 5, United States Code. (Pub. L. 100–458, Title I, § 118, Oct. 1, 1988, 102 Stat. 2175.)

399.57 § 1108. Administrative provisions. **399.57**

(a) IN GENERAL.—In order to carry out the provisions of this subtitle, the Center may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this subtitle, except that in no case shall employees other than the Executive Director be compensated at a rate to exceed the maximum rate for employees in grade GS–15 of the General Schedule under section 5332 of title 5, United States Code;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS–18 under section 5332 of such title;

(3) prescribe such regulations as it considers necessary governing the manner in which its functions shall be carried out;

(4) solicit and receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Center, and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this subtitle, and such contracts or modifications thereof may, with the concurrence of two–thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

(7) make expenditures for official reception and representation expenses as well as expenditures for meals, entertainment and refreshments in connection with official training sessions or other authorized programs or activities;

(8) apply for, receive and use for the purposes of the Center grants or other assistance from Federal sources;

(9) establish, receive and use for the purposes of the Center fees or other charges for goods or services provided in fulfilling the Center's purposes to persons not enumerated in section 1104(b) of this title;

(10) invest, as specified in section 1105(b) of this title, moneys authorized to be received under this section; and

(11) make other necessary expenditures.

(b) ANNUAL REPORT.—The Center shall submit to Congress an annual report of its operations under this subtitle. (Pub. L. 100–458, Title I, § 119, Oct. 1, 1988, 102 Stat. 2176; Pub. L. 101–163, Title III, § 320,

Nov. 21, 1989, 103 Stat. 1068; Pub. L. 101–520, Title III, § 313(c), Nov. 5, 1990, 104 Stat. 2282.)

CROSS REFERENCE

Authority of the Library of Congress to provide financial services, see section 142j of title 2, United States Code (Senate Manual Section 323.5).

399.58 § 1109. Authorization for appropriations. 399.58

There are authorized to be appropriated such sums as may be necessary to carry out this chapter. (Pub. L. 100–458, Title I, § 120, Oct. 1, 1988, 102 Stat. 2176.)

399.59 § 1110. Appropriations. 399.59

There is appropriated to the fund the sum of $7,500,000 to carry out this chapter. (Oct. 1, 1988, Pub. L. 100–458, § 121, 102 Stat. 2176.)

Chapter 23.—GOVERNMENT EMPLOYEE RIGHTS

399.60 § 1201. Government Employee Rights Act of 1991. 399.60

(a) Short title

This chapter may be cited as the "Government Employee Rights Act of 1991".

(b) Purpose

The purpose of this chapter is to provide procedures to protect the rights of certain government employees, with respect to their public employment, to be free of discrimination on the basis of race, color, religion, sex, national origin, age, or disability.

(c) Definition

For purposes of this chapter, the term "violation" means a practice that violates section 1202(a) of this title. (Pub. L. 102–166, Title III, § 301, Nov. 21, 1991, 105 Stat. 1088; Pub. L. 103–283, Title III, § 312(f)(1), July 22, 1994, 108 Stat. 1446; Pub. L. 104–1, Title V, § 504(a)(1), Jan. 23, 1995, 109 Stat. 40.)

399.61 § 1202. Discriminatory practices prohibited 399.61

(a) Practices

All personnel actions affecting the Presidential appointees described in section 1219 of this title or the State employees described in section 1220 of this title shall be made free from any discrimination based on—

(1) race, color, religion, sex, or national origin, within the meaning of section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e16);

(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or

(3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102 through 104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112–14).

(b) Remedies

The remedies referred to in sections 1219(a)(1) and 1220(a) of this title—

(1) may include, in the case of a determination that a violation of subsection (a)(1) or (a)(3) of this section has occurred, such remedies as would be appropriate if awarded under sections 2000e–5(g), 2000e–5(k), and 2000e–16(d) of title 42, and such compensatory damages as would be appropriate if awarded under section 1981 or sections 1981a(a) and 1981a(b)(2) of title 42;

(2) may include, in the case of a determination that a violation of subsection (a)(2) of this section has occurred, such remedies as would be appropriate if awarded under section 633a(c) of title 29; and

(3) may not include punitive damages. (Pub. L. 102–166, Title III, § 302, Nov. 21, 1991, 105 Stat. 1088; Pub. L. 104–1, Title V, § 504(a)(1), Jan. 23, 1995, 109 Stat. 40.)

[§§ 1203 to 1218 Repealed.] (Pub. L. 104–1, Title V, § 504(a)(2), Jan. 23, 1995, 109 Stat. 41.)

399.62 **§ 1219. Repealed.** Pub. L. 104–331, § 5(a), (b), Oct 26, 1996, 110 Stat. 4072. 399.62

399.63 **§ 1220. Coverage of previously exempt State employees.** 399.63

(a) Application

The rights, protections, and remedies provided pursuant to section 1202 of this title shall apply with respect to employment of any individual chosen or appointed, by a person elected to public office in any State or political subdivision of any State by the qualified voters thereof—

(1) to be a member of the elected official's personal staff;

(2) to serve the elected official on the policymaking level; or

(3) to serve the elected official as an immediate advisor with respect to the exercise of the constitutional or legal powers of the office.

(b) Enforcement by administrative action

(1) In general

Any individual referred to in subsection (a) of this section may file a complaint alleging a violation, not later than 180 days after the occurrence of the alleged violation, with the Equal Employment Opportunity Commission, which, in accordance with the principles and procedures set forth in sections 554 through 557 of title 5, United States Code, shall determine whether a violation has occurred and shall set forth its determination in a final order. If the Equal Employment Opportunity Commission determines that a violation has occurred, the final order shall also provide for appropriate relief.

(2) Referral to State and local authorities

(A) Application.—Section 2000e–5(d) of title 42 shall apply with respect to any proceeding under this section.

(B) Definition.—For purposes of the application described in subparagraph (A), the term "any charge filed by a member of the Commission alleging an unlawful employment practice" means a complaint filed under this section.

(c) Judicial review

Any party aggrieved by a final order under subsection (b) of this section may obtain a review of such order under chapter 158 of title 28, United States Code [28 U.S.C. 2341 et seq.]. For the purpose of this review, the Equal Employment Opportunity Commission shall be an "agency" as that term is used in chapter 158 of title 28, United States Code [28 U.S.C. 2341 et seq.].

(d) Standard of review

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law and interpret constitutional and statutory provisions. The court shall set aside a final order under subsection (b) of this section if it is determined that the order was—

(1) arbitrary, capricious, an abuse of discretion, or otherwise, not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(e) Attorney's fees

If the individual referred to in subsection (a) of this section is the prevailing party in a proceeding under this subsection, attorney's fees may be allowed by the court in accordance with the standards prescribed under section 2000e–5(k) of title 42. (Pub. L. 102–166, Title III, § 304, formerly § 321, renumbered § 304, and amended Pub. L. 104–1, Title V, § 504(a)(3), (4), Jan. 23, 1995, 109 Stat. 41.)

[§§ 1221 to 1224 Repealed.] (Pub. L. 104–1, Title V, § 504(a)(2), Jan. 23, 1995, 109 Stat. 41.)

399.70 Chapter 24.—CONGRESSIONAL ACCOUNTABILITY 399.70

Subchapter I.—General

399.70–1 § 1301.1 Definitions. 399.70–1

Except as otherwise specifically provided in this chapter, as used in this chapter:

(1) Board

The term "Board" means the Board of Directors of the Office of Compliance.

(2) Chair

The term "Chair" means the Chair of the Board of Directors of the Office of Compliance.

(3) Covered employee

The term "covered employee" means any employee of—

(A) the House of Representatives;

(B) the Senate;

(C) the Capitol Guide Service;

(D) the Capitol Police;

(E) the Congressional Budget Office;

(F) the Office of the Architect of the Capitol;

(G) the Office of the Attending Physician;

(H) the Office of Compliance; or

(I) the Office of Technology Assessment.

(4) Employee

The term "employee" includes an applicant for employment and a former employee.

(5) Employee of the Office of the Architect of the Capitol

The term "employee of the Office of the Architect of the Capitol" includes any employee of the Office of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants.

(6) Employee of the Capitol Police

The term "employee of the Capitol Police" includes any member or officer of the Capitol Police.

(7) Employee of the House of Representatives

The term "employee of the House of Representatives" includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk–hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (C) through (I) of paragraph (3).

(8) Employee of the Senate

The term "employee of the Senate" includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (C) through (1) of paragraph (3).

(9) Employing office

The term "employing office" means—

(A) the personal office of a Member of the House of Representatives or of a Senator;

(B) a committee of the House of Representatives or the Senate or a joint committee;

(C) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or

(D) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(10) Executive Director

The term "Executive Director" means the Executive Director of the Office of Compliance.

(11) General Counsel

The term "General Counsel" means the General Counsel of the Office of Compliance.

(12) Office

The term "Office" means the Office of Compliance. (Pub. L. 104–1, Title I, § 101, Jan. 23, 1995, 109 Stat. 4.)

399.70–2 § 1302. Application of laws. **399.70–2**

(a) Laws made applicable

The following laws shall apply, as prescribed by this chapter, to the legislative branch of the Federal Government:

(1) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

(2) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)

(4) The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.).

(5) The Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.).

(6) The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(7) Chapter 71 (relating to Federal service labor-management relations) of title 5.

(8) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.).

(9) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.).

(10) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(11) Chapter 43 (relating to veterans' employment and reemployment) of title 38.

(b) Laws which may be made applicable

(1) In general

The Board shall review provisions of Federal law (including regulations) relating to (A) the terms and conditions of employment (including hiring, promotion, demotion, termination, salary, wages, overtime compensation, benefits, work assignments or reassignments, grievance and disciplinary procedures, protection from discrimination in personnel actions, occupational health and safety, and family and medical and other leave) of employees, and (B) access to public services and accommodations.

(2) Board report

Beginning on December 31, 1996, and every 2 years thereafter, the Board shall report on (A) whether or to what degree the provisions described in paragraph (1) are applicable or inapplicable to the legislative branch, and (B) with respect to provisions inapplicable to the legislative branch, whether such provisions should be made applicable to the legislative branch. The presiding officers of the House of Representatives and the Senate shall cause each such report to be printed in the Congressional Record and each such report shall be referred to the committees of the House of Representatives and the Senate with jurisdiction.

(3) Reports of congressional committees

Each report accompanying any bill or joint resolution relating to terms and conditions of employment or access to public services or accommodations reported by a committee of the House of Representatives or the Senate shall—

(A) describe the manner in which the provisions of the bill or joint resolution apply to the legislative branch; or

(B) in the case of a provision not applicable to the legislative branch, include a statement of the reasons the provisions does not apply.

On the objection of any Member, it shall not be in order for the Senate or the House of Representatives to consider any such bill or joint resolution if the report of the committee on such bill or joint resolution does not comply with the provisions of this paragraph. This paragraph may be waived in either House by majority vote of that House. (Pub. L. 104–1, Title I, § 102, Jan. 23, 1995, 109 Stat. 5.)

399.71 **Subchapter II.—Extension of Rights and Protections** 399.71

Part A.—Employment Discrimination, Family and Medical Leave, Fair Labor Standards, Employee Polygraph Protection, Worker Adjustment and Retraining, Employment and Reemployment of Veterans, and Intimidation

399.71–1 **§ 1311. Rights and protections under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, and Title I of the Americans With Disabilities Act of 1990.** 399.71–1

(a) Discriminatory practices prohibited

All personnel actions affecting covered employees shall be made free from any discrimination based on—

(1) race, color, religion, sex, or national origin, within the meaning of section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2);

(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or

(3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102 through 104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112–12114).

(b) Remedy

(1) Civil rights

The remedy for a violation of subsection (a)(1) of this section shall be—

(A) such remedy as would be appropriate if awarded under section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e5(g)); and

(B) such compensatory damages as would be appropriate if awarded under section 1977 of the Revised Statutes (42 U.S.C. 1981), or as would be appropriate if awarded under sections 1977A(a)(1), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes (42 U.S.C. 198la(a)(1), 198la(b)(2), and 198la(b)(3)(D)).

(2) Age discrimination

The remedy for a violation of subsection (a)(2) of this section shall be—

(A) such remedy as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)); and

(B) such liquidated damages as would be appropriate if awarded under section 7(b) of such Act (29 U.S.C. 626(b)).

In addition, the waiver provisions of section 7(f) of such Act (29 U.S.C. 626(f)) shall apply to covered employees.

(3) Disabilities discrimination

The remedy for a violation of subsection (a)(3) of this section shall be—

(A) such remedy as would be appropriate if awarded under section 505(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 794a(a)(1) or section 107(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117(a)); and

(B) such compensatory damages as would be appropriate if awarded under sections 1977A(a)(2), 1977A(a)(3), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes (42 U.S.C. 1981a(a)(2), 1981a(a)(3), 1981a(b)(2), and 1981a(b)(3)(D)).

(c) Omitted

(d) Effective date

This section shall take effect 1 year after January 23, 1995. (Pub. L. 104–1, Title II, § 201, Jan. 23, 1995, 109 Stat. 7.)

399.71–2 § 1312. Rights and protections under the Family and Medical Leave Act of 1993. 399.71–2

(a) Family and medical leave rights and protections provided

(1) In general

The rights and protections established by sections 101 through 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 through 2615) shall apply to covered employees.

(2) Definition

For purposes of the application described in paragraph (1)—

(A) the term "employer" as used in the Family and Medical Leave Act of 1993 means any employing office, and

(B) the term "eligible employee" as used in the Family and Medical Leave Act of 1993 means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

(b) Remedy

The remedy for a violation of subsection (a) of this section shall be such remedy, including liquidated damages, as would be appropriate if awarded under paragraph (1) of section 107(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617(a)(1)).

(c) Omitted

(d) Regulations

(1) In general

The Board shall, pursuant to section 1384 of this title, issue regulations to implement the rights and protections under this section.

(2) Agency regulations

The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor

to implement the statutory provisions referred to in subsection (a) of this section except insofar as the Board may determine, for good cause shown and stated together with the regulation that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(e) Effective date

(1) In general

Subsections (a) and (b) of this section shall be effective 1 year after January 23, 1995.

(2) General Accounting Office and Library of Congress

Subsection (c) of this section shall be effective 1 year after transmission to the Congress of the study under section 1371 of this title. (Pub. L. 104–1, Title II, § 202, Jan. 23, 1995, 109 Stat. 9.)

399.71–3 § 1313. Rights and protections under the Fair Labor Standards Act of 1938. 399.71–3

(a) Fair labor standards

(1) In general

The rights and protections established by subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 (a)(1) and (d), 207, 212(c)) shall apply to covered employees.

(2) Interns

For the purposes of this section, the term "covered employee" does not include an intern as defined in regulations under subsection (c) of this section.

(3) Compensatory time

Except as provided in regulations under subsection (c)(3) of this section and subsection (c)(4) of this section, covered employees may not receive compensatory time in lieu of overtime compensation.

(b) Remedy

The remedy for a violation of subsection (a) of this section shall be such remedy, including liquidated damages, as would be appropriate if awarded under section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)).

(c) Regulations to implement section

(1) In general

The Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

(2) Agency regulations

Except as provided in paragraph (3), the regulations issued under paragraph (1) shall be the same substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) of this section except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(3) Irregular work schedules

The Board shall issue regulations for covered employees whose work schedules directly depend on the schedule of the House of

Representatives or the Senate that shall be comparable to the provisions in the Fair Labor Standards Act of 1938 that apply to employees who have irregular work schedules.

(4) Law enforcement

Law enforcement personnel of the Capitol Police who are subject to the exemption under section 7(k) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(k)) may elect to receive compensatory time off in lieu of overtime compensation for hours worked in excess of the maximum for their work period.

(d) Omitted. (Codified at 29 U.S.C. 203)

(e) Effective date

Subsections (a) and (b) of this section shall be effective 1 year after January 23, 1995. (Pub. L. 104–1, Title II, § 203, Jan. 23, 1995, 109 Stat. 10; Pub. L. 104–197, Title III, § 312, Sept. 16, 1996, 110 Stat. 2415.)

399.71–4 § 1314. Rights and protections under the Employee Polygraph Protection Act of 1988. 399.71–4

(a) Polygraph practices prohibited

(1) In general

No employing office, irrespective of whether a covered employee works in that employing office, may require a covered employee to take a lie detector test where such a test would be prohibited if required by an employer under paragraph (1), (2), or (3) of section 3 of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2002 (1), (2), or (3)). In addition, the waiver provisions of section 6(d) of such Act (29 U.S.C. 2005(d)) shall apply to covered employees.

(2) Definitions

For purposes of this section, the term "covered employee" shall include employees of the General Accounting Office and the Library of Congress and the term "employing office" shall include the General Accounting Office and the Library of Congress.

(3) Capitol Police

Nothing in this section shall preclude the Capitol Police from using lie detector tests in accordance with regulations under subsection (c) of this section.

(b) Remedy

The remedy for a violation of subsection (a) of this section shall be such remedy as would be appropriate if awarded under section 6(c)(l) of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2005(c)(1)).

(c) Regulations to implement section

(1) In general

The Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

(2) Agency regulations

The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) of this section except insofar as the Board may determine, for good cause shown and stated together with the regulation, that

a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(d) Effective date

(1) In general

Except as provided in paragraph (2), subsections (a) and (b) of this section shall be effective 1 year after January 23, 1995.

(2) General Accounting Office and Library of Congress

This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 1371 of this title. (Pub. L. 104–1, Title II, § 204, Jan. 23, 1995, 109 Stat. 10.)

399.71–5 § 1315. Rights and protections under the Worker Adjustment and Retraining Notification Act. 399.71–5

(a) Worker adjustment and retraining notification rights

(1) In general

No employing office shall be closed or a mass layoff ordered within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102) until the end of a 60–day period after the employing office serves written notice of such prospective closing or layoff to representatives of covered employees or, if there are no representatives, to covered employees.

(2) Definitions

For purposes of this section, the term "covered employee" shall include employees of the General Accounting Office and the Library of Congress and the term "employing office" shall include the General Accounting Office and the Library of Congress.

(b) Remedy

The remedy for a violation of subsection (a) of this section shall be such remedy as would be appropriate if awarded under paragraphs (1), (2), and (4) of section 5(a) of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2104(a) (1), (2), and (4)).

(c) Regulations to implement section

(1) In general

The Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

(2) Agency regulations

The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) of this section except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(d) Effective date

(1) In general

Except as provided in paragraph (2), subsections (a) and (b) of this section shall be effective 1 year after January 23, 1995.

(2) General Accounting Office and Library of Congress

This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 1371 of this title. (Pub. L. 104–1, Title II, § 205, Jan. 23, 1995, 109 Stat. 11.)

399.71–6 § 1316. Rights and protections relating to veterans' employment and reemployment. 399.71–6

(a) Employment and reemployment rights of members of the uniformed services

(1) In general

It shall be unlawful for an employing office to—

(A) discriminate, within the meaning of subsections (a) and (b) of section 4311 of title 38, against an eligible employee;

(B) deny to an eligible employee reemployment rights within the meaning of sections 4312 and 4313 of title 38; or

(C) deny to an eligible employee benefits within the meaning of sections 4316, 4317, and 4318 of title 38.

(2) Definitions

For purposes of this section—

(A) the term "eligible employee" means a covered employee performing service in the uniformed services, within the meaning of section 4303(13) of title 38, whose service has not been terminated upon occurrence of any of the events enumerated in section 4304 of title 38,

(B) the term "covered employee" includes employees of the General Accounting Office and the Library of Congress, and—

(C) the term "employing office" includes the General Accounting office and the Library of Congress.

(b) Remedy

The remedy for a violation of subsection (a) of this section shall be such remedy as would be appropriate if awarded under paragraphs (1), (2)(A), and (3) of section 4323(c) of title 38.

(c) Regulations to implement section

(1) In general

The Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

(2) Agency regulations

The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) of this section except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(d) Effective date

(1) In general

Except as provided in paragraph (2), subsections (a) and (b) of this section shall be effective 1 year after January 23, 1995.

(2) General Accounting Office and Library of Congress

This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission

to the Congress of the study under section 1371 of this title. (Pub. L. 104–1, Title II, § 206, Jan. 23, 1995, 109 Stat. 12.)

399.71–6a 1316a. Legislative branch appointments. **399.71–6a**

(1) Definitions

For the purpose of this section, the terms "covered employee" and "Board" shall each have the meaning given such term by section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301).

(2) Rights and protections

The rights and protections established under section 2108, sections 3309 through 3312, and subchapter I of chapter 35 [5 U.S.C.A. § 3501 et seq.], of title 5 shall apply to covered employees.

(3) Remedies

(A) In general

The remedy for a violation of paragraph (2) shall be such remedy as would be appropriate if awarded under applicable provisions of title 5, in the case of a violation of the relevant corresponding provision (referred to in paragraph (2)) of such title.

(B) Procedure

The procedure for consideration of alleged violations of paragraph (2) shall be the same as apply under section 1401 of this title (and the provisions of law referred to therein) in the case of an alleged violation of part A of subchapter II of this chapter.

(4) Regulation of implement subsection

(A) In general

The Board shall, pursuant to section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), issue regulations to implement this section.

(B) Agency regulations

The regulations issued under subparagraph (A) shall be the same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of rights and protection under this section.

(C) Coordination

The regulations issued under subparagraph (A) shall be consistent with section 225 of the Congressional Accountability Act of 1995 (2 U.S.C. 1361).

(5) Applicability

Notwithstanding any other provision of this section, the term "covered employee" shall not, for purposes of this section, include an employee—

(A) whose appointment is made by the President with the advice and consent of the Senate;

(B) whose appointments is made by a Member of Congress or by a committee or subcommittee of either House of Congress; or

(C) who is appointed to a position, the duties of which are equivalent to those of a Senator Executive Service position (within the meaning of section 3132(a)(2) of title 5).

(6) Effective date

Paragraphs (2) and (3) shall be effective as of the effective date of regulations under paragraph (4). (Pub. L. 105–339, § 4(c), Oct. 31, 1998, 112 Stat. 3185.)

399.71–7 § 1317. Prohibition of intimidation or reprisal. **399.71–7**

(a) In general

It shall be unlawful for an employing office to intimidate, take reprisal against, or otherwise discriminate against, any covered employee because the covered employee has opposed any practice made unlawful by this chapter, or because the covered employee has initiated proceedings, made a charge, or testified, assisted, or participated in any manner in a hearing or other proceeding under this chapter.

(b) Remedy

The remedy available for a violation of subsection (a) of this section shall be such legal or equitable remedy as may be appropriate to redress a violation of subsection (a) of this section. (Pub. L. 104–1, Title II, § 207, Jan. 23, 1995, 109 Stat. 13.)

Part B.—Public Services and Accommodations Under the Americans With Disabilities Act of 1990

399.72 § 1331. Rights and protections under the Americans With Disabilities Act of 1990 relating to public services and accommodations; procedures for remedy of violations. **399.72**

(a) Entities subject to this section

The requirements of this section shall apply to—

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician;

(9) the Office of Compliance; and

(10) the Office of Technology Assessment.

(b) Discrimination in public services and accommodations

(1) Rights and protections

The rights and protections against discrimination in the provision of public services and accommodations established by sections 201 through 230, 302, 303, and 309 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12131–12150, 12182, 12183, and 12189) shall apply to the entities listed in subsection (a) of this section.

(2) Definitions

For purposes of the application of title II of the Americans With Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) under this section, the term "public entity" means any entity listed in subsection (a) of this section that provides public services, programs, or activities.

(c) Remedy

The remedy for a violation of subsection (b) of this section shall be such remedy as would be appropriate if awarded under section 203 or 308(a) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12133, 12188(a)), except that, with respect to any claim of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 1311 of this title.

(d) Available procedures

(1) Charge filed with General Counsel

A qualified individual with a disability, as defined in section 201(2) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12131(2)), who alleges a violation of subsection (b) of this section by an entity listed in subsection (a) of this section, may file a charge against any entity responsible for correcting the violation with the General Counsel within 180 days of the occurrence of the alleged violation. The General Counsel shall investigate the charge.

(2) Mediation

If, upon investigation under paragraph (1), the General Counsel believes that a violation of subsection (b) of this section may have occurred and that mediation may be helpful in resolving the dispute, the General Counsel may request, but not participate in, mediation under subsections (b) through (d) of section 1403 of this title between the charging individual and any entity responsible for correcting the alleged violation.

(3) Complaint, hearing, Board review

If mediation under paragraph (2) has not succeeded in resolving the dispute, and if the General Counsel believes that a violation of subsection (b) of this section may have occurred, the General Counsel may file with the Office a complaint against any entity responsible for correcting the violation. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 1405 of this title and any person who has filed a charge under paragraph (1) may intervene as of right, with the full rights of a party. The decision of the hearing officer shall be subject to review by the Board pursuant to section 1406 of this title.

(4) Judicial review

A charging individual who has intervened under paragraph (3) or any respondent to the complaint, if aggrieved by a final decision of the Board under paragraph (3), may file a petition for review in the United States Court of Appeals for the Federal Circuit, pursuant to section 1407 of this title.

(5) Compliance date

If new appropriated funds are necessary to comply with an order requiring correction of a violation of subsection (b) of this section, compliance shall take place as soon as possible, but no later than the fiscal year following the end of the fiscal year in which the

order requiring correction becomes final and not subject to further review.

(e) Regulations to implement section

(1) In general

The Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

(2) Agency regulations

The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) of this section except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(3) Entity responsible for correction

The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for categories of violations of subsection (b) of this section, the entity responsible for correction of a particular violation.

(f) Periodic inspections; report to Congress; initial study

(1) Periodic inspections

On a regular basis, and at least once each Congress, the General Counsel shall inspect the facilities of the entities listed in subsection (a) of this section to ensure compliance with subsection (b) of this section.

(2) Report

On the basis of each periodic inspection, the General Counsel shall, at least once every Congress, prepare and submit a report—

(A) to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Office of the Architect of the Capitol, or other entity responsible, for correcting the violation of this section uncovered by such inspection, and

(B) containing the results of the periodic inspection, describing any steps necessary to correct any violation of this section, assessing any limitations in accessibility to and usability by individuals with disabilities associated with each violation, and the estimated cost and time needed for abatement.

(3) Initial period for study and corrective action

The period from January 23, 1995 until December 31, 1996, shall be available to the Office of the Architect of the Capitol and other entities subject to this section to identify any violations of subsection (b) of this section, to determine the costs of compliance, and to take any necessary corrective action to abate any violations. The Office shall assist the Office of the Architect of the Capitol and other entities listed in subsection (a) of this section by arranging for inspections and other technical assistance at their request. Prior to July 1, 1996, the General Counsel shall conduct a thorough inspection under paragraph (1) and shall submit the report under paragraph (2) for the One Hundred Fourth Congress.

(4) Detailed personnel

The Attorney General, the Secretary of Transportation, and the Architectural and Transportation Barriers Compliance Board may, on request of the Executive Director, detail to the Office such personnel as may be necessary to advise and assist the Office in carrying out its duties under this section.

(g) Omitted. (Codified at 42 U.S.C. 12209)

(h) Effective date

(1) In general

Subsections (b), (c), and (d) of this section shall be effective on January 1, 1997.

(2) General Accounting Office, Government Printing Office, and Library of Congress

Subsection (g) of this section shall be effective 1 year after transmission to the Congress of the study under section 1371 of this title. (Pub. L. 104–1, Title II, § 210, Jan. 23, 1995, 109 Stat. 13.)

399.73 Part C.—Occupational Safety and Health Act of 1970 399.73

399.73–1 § 1341. Rights and protections under the Occupational Safety and Health Act of 1970; procedures for remedy of violations. 399.73–1

(a) Occupational safety and health protections

(1) In general

Each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654).

(2) Definitions

For purposes of the application under this section of chapter 15 of title 29—

(A) the term "employer" as used in such chapter means an employing office;

(B) the term "employee" as used in such chapter means a covered employee;

(C) the term "employing office" includes the General Accounting Office, the Library of Congress, and any entity listed in subsection (a) of section 1331 of this title that is responsible for correcting a violation of this section, irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such a violation occurs; and

(D) the term "employee" includes employees of the General Accounting Office and the Library of Congress.

(b) Remedy

The remedy for a violation of subsection (a) of this section shall be an order to correct the violation, including such order as would be appropriate if issued under section 13(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 662(a)).

(c) Procedures

(1) Requests for inspections

Upon written request of any employing office or covered employee, the General Counsel shall exercise the authorities granted to the Secretary of Labor by subsections (a), (d), (e), and (f) of section

8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657 (a), (d), (e), and (f) to inspect and investigate places of employment under the jurisdiction of employing offices.

(2) Citations, notices, and notifications

For purposes of this section, the General Counsel shall exercise the authorities granted to the Secretary of Labor in sections 9 and 10 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 658 and 659), to issue—

(A) a citation or notice to any employing office responsible for correcting a violation of subsection (a) of this section; or

(B) a notification to any employing office that the General Counsel believes has failed to correct a violation for which a citation has been issued within the period permitted for its correction.

(3) Hearings and review

If after issuing a citation or notification, the General Counsel determines that a violation has not been corrected, the General Counsel may file a complaint with the Office against the employing office named in the citation or notification. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 1405 of this title, subject to review by the Board pursuant to section 1406 of this title.

(4) Variance procedures

An employing office may request from the Board an order granting a variance from a standard made applicable by this section. For the purposes of this section, the Board shall exercise the authorities granted to the Secretary of Labor in sections 6(b)(6) and 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)(6) and 655(d)) to act on any employing office's request for a variance. The Board shall refer the matter to a hearing officer pursuant to subsections (b) through (h) of section 1405 of this title, subject to review by the Board pursuant to section 1406 of this title.

(5) Judicial review

The General Counsel or employing office aggrieved by a final decision of the Board under paragraph (3) or (4), may file a petition for review with the United States Court of Appeals for the Federal Circuit pursuant to section 1407 of this title.

(6) Compliance date

If new appropriated funds are necessary to correct a violation of subsection (a) of this section for which a citation is issued, or to comply with an order requiring correction of such a violation, correction or compliance shall take place as soon as possible, but not later than the end of the fiscal year following the fiscal year in which the citation is issued or the order requiring correction becomes final and not subject to further review.

(d) Regulations to implement section

(1) In general

The Board shall, pursuant to section 1384 of this title, issue regulations to implement this section.

(2) Agency regulations

The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a)

of this section except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(3) Employing office responsible for correction

The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (a), the employing office responsible for correction of a particular violation.

(e) Periodic inspections; report to Congress

(1) Periodic inspections

On a regular basis, and at least once each Congress, the General Counsel, exercising the same authorities of the Secretary of Labor as under subsection (c)(1) of this section, shall conduct periodic inspections of all facilities of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, the Office of Technology Assessment, the Library of Congress, and the General Accounting Office to report on compliance with subsection (a) of this section.

(2) Report

On the basis of each periodic inspection, the General Counsel shall prepare and submit a report—

(A) to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Office of the Architect of the Capitol or other employing office responsible for correcting the violation of this section uncovered by such inspection, and

(B) containing the results of the periodic inspection, identifying the employing office responsible for correcting the violation of this section uncovered by such inspection, describing any steps necessary to correct any violation of this section, and assessing any risks to employee health and safety associated with any violation.

(3) Action after report

If a report identifies any violation of this section, the General Counsel shall issue a citation or notice in accordance with subsection (c)(2)(A) of this section.

(4) Detailed personnel

The Secretary of Labor may, on request of the Executive Director, detail to the Office such personnel as may be necessary to advise and assist the Office in carrying out its duties under this section.

(f) Initial period for study and corrective action

The period from January 23, 1995 until December 31, 1996, shall be available to the Office of the Architect of the Capitol and other employing offices to identify any violations of subsection (a) of this section, to determine the costs of compliance, and to take any necessary corrective action to abate any violations. The Office shall assist the Office of the Architect of the Capitol and other employing offices by arranging for inspections and other technical assistance at their request. Prior to July 1, 1996, the General Counsel shall conduct a thorough inspection under subsection (e)(1) of this section and shall submit the

report under subsection (e)(2) of this section for the One Hundred Fourth Congress.

(g) Effective date

(1) In general

Except as provided in paragraph (2), subsections (a), (b), (c), and (e)(3) of this section shall be effective on January 1, 1997.

(2) General Accounting Office and Library of Congress

This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 1371 of this title. (Pub. L. 104–1, Title II, § 215, Jan. 23, 1995, 109 Stat. 16.)

399.74 Part D.—Labor-Management Relations 399.74

399.74–1 § 1351. Application of chapter 71 of title 5, relating to Federal service labor-management relations; procedures for remedy of violations. 399.74–1

(a) Labor-management rights

(1) In general

The rights, protections, and responsibilities established under sections 7102, 7106, 7111 through 7117, 7119 through 7122, and 7131 of title 5, shall apply to employing offices and to covered employees and representatives of those employees.

(2) Definition

For purposes of the application under this section of the sections referred to in paragraph (1), the term "agency" shall be deemed to include an employing office.

(b) Remedy

The remedy for a violation of subsection (a) of this section shall be such remedy, including a remedy under section 7118(a)(7) of title 5, as would be appropriate if awarded by the Federal Labor Relations Authority to remedy a violation of any provision made applicable by subsection (a) of this section.

(c) Authorities and procedures for implementation and enforcement

(1) General authorities of the Board; petitions

For purposes of this section and except as otherwise provided in this section, the Board shall exercise the authorities of the Federal Labor Relations Authority under sections 7105, 7111, 7112, 7113, 7115, 7117, 7118, and 7122 of title 5, and of the President under section 7103(b) of title 5. For purposes of this section, any petition or other submission that, under chapter 71 of title 5, would be submitted to the Federal Labor Relations Authority shall, if brought under this section, be submitted to the Board. The Board shall refer any matter under this paragraph to a hearing officer for decision pursuant to subsections (b) through (h) of section 1405 of this title, subject to review by the Board pursuant to section 1406 of this title. The Board may direct that the General Counsel carry out the Board's investigative authorities under this paragraph.

(2) General authorities of the General Counsel; charges of unfair labor practice

For purposes of this section and except as otherwise provided in this section, the General Counsel shall exercise the authorities of the General Counsel of the Federal Labor Relations Authority under sections 7104 and 7118 of title 5. For purposes of this section, any charge or other submission that, under chapter 71 of title 5, would be submitted to the General Counsel of the Federal Labor Relations Authority shall, if brought under this section, be submitted to the General Counsel. If any person charges an employing office or a labor organization with having engaged in or engaging in an unfair practice and makes such charge within 180 days of the occurrence of the alleged unfair labor practice, the General Counsel shall investigate the charge and may file a complaint with the Office. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 1405 of this title, subject to review by the Board pursuant to section 1406 of this title.

(3) Judicial review

Except for matters referred to in paragraphs (1) and (2) of section 7123(a) of title 5, the General Counsel or the respondent to the complaint, if aggrieved by a final decision of the Board under paragraph (1) or (2) of this subsection, may file a petition for judicial review in the United States Court of Appeals for the Federal Circuit pursuant to section 1407 of this title.

(4) Exercise of impasses panel authority; requests

For purposes of this section and except as otherwise provided in this section, the Board shall exercise the authorities of the Federal Service Impasses Panel under section 7119 of title 5. For purposes of this section, any request that, under chapter 71 of title 5, would be presented to the Federal Service Impasses Panel shall, if made under this section, be presented to the Board. At the request of the Board, the Executive Director shall appoint a mediator or mediators to perform the functions of the Federal Service Impasses Panel under section 7119 of title 5.

(d) Regulations to implement section

(1) In general

The Board shall, pursuant to section 1348 of this title, issue regulations to implement this section.

(2) Agency regulations

Except as provided in subsection (e) of this section, the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Federal Labor Relations Authority to implement the statutory provisions referred to in subsection (a) of this section except—

(A) to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; or

(B) as the Board deems necessary to avoid a conflict of interest or appearance of a conflict of interest.

(e) Specific regulations regarding application to certain offices of Congress

(1) Regulations required

The Board shall issue regulations pursuant to section 1384 of this title on the manner and extent to which the requirements and exemptions of chapter 71 of title 5, should apply to covered employees who are employed in the offices listed in paragraph (2). The regulations shall, to the greatest extent practicable, be consistent with the provisions and purposes of chapter 71 of title 5, and of this chapter, and shall be the same as substantive regulations issued by the Federal Labor Relations Authority under such chapter, except—

(A) to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

(B) that the Board shall exclude from coverage under this section any covered employees who are employed in offices listed in paragraph (2) if the Board determines that such exclusion is required because of—

(i) a conflict of interest or appearance of a conflict of interest; or

(ii) Congress' constitutional responsibilities.

(2) Offices referred to

The offices referred to in paragraph (1) include—

(A) the personal office of any Member of the House of Representatives or of any Senator;

(B) a standing, select, special, permanent, temporary, or other committee of the Senate or House of Representatives, or a joint committee of Congress;

(C) the Office of the Vice President (as President of the Senate), the Office of the President pro tempore of the Senate, the Office of the Majority Leader of the Senate, the Office of the Minority Leader of the Senate, the Office of the Majority Whip of the Senate, the Office of the Minority Whip of the Senate, the Conference of the Majority of the Senate, the Conference of the Minority of the Senate, the Office of the Secretary of the Conference of the Majority of the Senate, the Office of the Secretary of the Conference of the Minority of the Senate, the Office of the Secretary for the Majority of the Senate, the Office of the Secretary for the Minority of the Senate, the Majority Policy Committee of the Senate, the Minority Policy Committee of the Senate, and the following offices within the Office of the Secretary of the Senate: Offices of the Parliamentarian, Bill Clerk, Legislative Clerk, Journal Clerk, Executive Clerk, Enrolling Clerk, Official Reporters of Debate, Daily Digest, Printing Services, Captioning Services, and Senate Chief Counsel for Employment;

(D) the Office of the Speaker of the House of Representatives, the Office of the Majority Leader of the House of Representatives, the Office of the Minority Leader of the House of Representatives, the Offices of the Chief Deputy Majority Whips,

the Offices of the Chief Deputy Minority Whips and the following offices within the Office of the Clerk of the House of Representatives: Offices of Legislative Operations, Official Reporters of Debate, Official Reporters to Committees, Printing Services, and Legislative Information;

(E) the Office of the Legislative Counsel of the Senate, the Office of the Senate Legal Counsel, the Office of the Legislative Counsel of the House of Representatives, the Office of the General Counsel of the House of Representatives, the Office of the Parliamentarian of the House of Representatives, and the Office of the Law Revision Counsel;

(F) the offices of any caucus or party organization;

(G) the Congressional Budget Office, the Office of Technology Assessment, and the Office of Compliance; and

(H) such other offices that perform comparable functions which are identified under regulations of the Board.

(f) Effective date

(1) In general

Except as provided in paragraph (2), subsections (a) and (b) of this section shall be effective on October 1, 1996.

(2) Certain offices

With respect to the offices listed in subsection (e)(2) of this section, to the covered employees of such offices, and to representatives of such employees, subsections (a) and (b) of this section shall be effective on the effective date of regulations under subsection (e) of this section. (Pub. L. 104–1, Title II, § 220, Jan. 23, 1995, 109 Stat. 19.)

399.75 Part E.—General 399.75

399.75–1 § 1361. Generally applicable remedies and limitations. 399.75–1

(a) Attorney's fees

If a covered employee, with respect to any claim under this chapter, or a qualified person with a disability, with respect to any claim under section 1331 of this title, is a prevailing party in any proceeding under section 1405, 1406, 1407, or 1408 of this title, the hearing officer, Board, or court, as the case may be, may award attorney's fees, expert fees, and any other costs as would be appropriate if awarded under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(k)).

(b) Interest

In any proceeding under sections 1405, 1406, 1407, or 1408 of this title, the same interest to compensate for delay in payment shall be made available as would be appropriate if awarded under section 717(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(d)).

(c) Civil penalties and punitive damages

No civil penalty or punitive damages may be awarded with respect to any claim under this chapter.

(d) Exclusive procedure

(1) In general

Except as provided in paragraph (2), no person may commence an administrative or judicial proceeding to seek a remedy for the

rights and protections afforded by this chapter except as provided in this chapter.

(2) Veterans

A covered employee under section 1316 of this title may also utilize any provisions of chapter 43 of title 38, that are applicable to that employee.

(e) Scope of remedy

Only a covered employee who has undertaken and completed the procedures described in sections 1402 and 1403 of this title may be granted a remedy under part A of this subchapter.

(f) Construction

(1) Definitions and exemptions

Except where inconsistent with definitions and exemptions provided in this chapter, the definitions and exemptions in the laws made applicable by this chapter shall apply under this chapter.

(2) Size limitations

Notwithstanding paragraph (1), provisions in the laws made applicable under this chapter (other than chapter 23 of title 29) deter mining coverage based on size, whether expressed in terms of numbers of employees, amount of business transacted, or other measure, shall not apply in determining coverage under this chapter.

(3) Executive branch enforcement

This chapter shall not be construed to authorize enforcement by the executive branch of this chapter. (Pub. L. 104–1, Title II, § 225, Jan. 23, 1995, 109 Stat. 22.)

399.76 Part F.—Study 399.76

399.76–1 § 1371. Study and recommendations regarding General Accounting Office, Government Printing Office, and Library of Congress. 399.76–1

(a) In general

The Board shall undertake a study of—

(1) the application of the laws listed in subsection (b) of this section to—

(A) the General Accounting Office;

(B) the Government Printing Office; and

(C) the Library of Congress; and

(2) the regulations and procedures used by the entities referred to in paragraph (1) to apply and enforce such laws to themselves and their employees.

(b) Applicable statutes

The study under this section shall consider the application of the following laws:

(1) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), and related provisions of section 2302 of title 5.

(2) The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), and related provisions of section 2302 of title 5.

(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and related provisions of section 2302 of title 5.

(4) The Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.), and related provisions of sections 6381 through 6387 of title 5.

(5) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), and related provisions of sections 5541 through 5550a of title 5.

(6) The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), and related provisions of section 7902 of title 5.

(7) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(8) Chapter 71 (relating to Federal service and labor-management relations) of title 5.

(9) The General Accounting Office Personnel Act of 1980 (31 U.S.C. 731 et seq.).

(10) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.).

(11) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.).

(12) Chapter 43 (relating to veterans' employment and reemployment) of title 38.

(c) Contents of study and recommendations

The study under this section shall evaluate whether the rights, protections, and procedures, including administrative and judicial relief, applicable to the entities listed in paragraph (1) of subsection (a) of this section and their employees are comprehensive and effective and shall include recommendations for any improvements in regulations or legislation, including proposed regulatory or legislative language.

(d) Deadline and delivery of study

Not later than December 31, 1996—

(1) the Board shall prepare and complete the study and recommendations required under this section; and

(2) the Board shall transmit such study and recommendations (with the Board's comments) to the head of each entity considered in the study, and to the Congress by delivery to the Speaker of the House of Representatives and President pro tempore of the Senate for referral to the appropriate committees of the House of Representatives and of the Senate. (Pub. L. 104–1, Title II, § 230, Jan. 23, 1995, 109 Stat. 23; Pub. L. 104–53, Title III, § 309 (a), (b), Nov. 19, 1995, 109 Stat. 538.)

399.77 Subchapter III.—Office of Compliance 399.77

399.77–1 § 1381. Establishment of Office of Compliance. 399.77–1

(a) Establishment

There is established, as an independent office within the legislative branch of the Federal Government, the Office of Compliance.

(b) Board of Directors

The Office shall have a Board of Directors. The Board shall consist of five individuals appointed jointly by the Speaker of the House of Representatives, the Majority Leader of the Senate, and the Minority Leaders of the House of Representatives and the Senate. Appointments of the first five members of the Board shall be completed not later than 90 days after January 23, 1995.

(c) Chair

The Chair shall be appointed from members of the Board jointly by the Speaker of the House of Representatives, the Majority Leader of the Senate, and the Minority Leaders of the House of Representatives and the Senate.

(d) Board of Directors qualifications

(1) Specific qualifications

Selection and appointment of members of the Board shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. Members of the Board shall have training or experience in the application of the rights, protections, and remedies under one or more of the laws made applicable under section 1302 of this title.

(2) Disqualifications for appointments

(A) Lobbying

No individual who engages in, or is otherwise employed in, lobbying of the Congress and who is required under chapter 8a of this title to register with the Clerk of the House of Representatives or the Secretary of the Senate shall be eligible for appointment to, or service on, the Board.

(B) Incompatible office

No member of the Board appointed under subsection (b) of this section may hold or may have held the position of Member of the House of Representatives or Senator, may hold the position of officer or employee of the House of Representatives, Senate, or instrumentality or other entity of the legislative branch, or may have held such a position (other than the position of an officer or employee of the General Accounting Office Personnel Appeals Board, an officer or employee of the Office of Fair Employment Practices of the House of Representatives, or officer or employee of the Office of Senate Fair Employment Practices) within 4 years of the date of appointment.

(3) Vacancies

A vacancy on the Board shall be filled in the manner in which the original appointment was made.

(e) Term of office

(1) In general

Except as provided in paragraph (2), membership on the Board shall be for 5 years. A member of the Board who is appointed to a term of office of more than 3 years shall only be eligible for appointment for a single term of office.

(2) First appointment

Of the members first appointed to the Board—

(A) 1 shall have a term of office of 3 years,

(B) 2 shall have a term of office of 4 years, and

(C) 2 shall have a term of office of 5 years, 1 of whom shall be the Chair,

as designated at the time of appointment by the persons specified in subsection (b) of this section.

(f) Removal

(1) Authority

Any member of the Board may be removed from office by a majority decision of the appointing authorities described in subsection (b) of this section, but only for—

(A) disability that substantially prevents the member from carrying out the duties of the member,

(B) incompetence,

(C) neglect of duty,

(D) malfeasance, including a felony or conduct involving moral turpitude, or

(E) holding an office or employment or engaging in an activity that disqualifies the individual from service as a member of the Board under subsection (d)(2) of this section.

(2) Statement of reasons for removal

In removing a member of the Board, the Speaker of the House of Representatives and the President pro tempore of the Senate shall state in writing to the member of the Board being removed the specific reasons for the removal.

(g) Compensation

(1) Per diem

Each member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. The rate of pay of a member may be prorated based on the portion of the day during which the member is engaged in the performance of Board duties.

(2) Travel expenses

Each member of the Board shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(h) Duties

The Office shall—

(1) carry out a program of education for Members of Congress and other employing authorities of the legislative branch of the Federal Government respecting the laws made applicable to them and a program to inform individuals of their rights under laws applicable to the legislative branch of the Federal Government;

(2) in carrying out the program under paragraph (1), distribute the telephone number and address of the Office, procedures for action under title IV, and any other information appropriate for distribution, distribute such information to employing offices in a manner suitable for posting, provide such information to new employees of employing offices, distribute such information to the residences of covered employees, and conduct seminars and other activities designed to educate employing offices and covered employees; and

(3) compile and publish statistics on the use of the Office by covered employees, including the number and type of contacts made with the Office, on the reason for such contacts, on the number of covered employees who initiated proceedings with the Office under

this chapter and the result of such proceedings, and on the number of covered employees who filed a complaint, the basis for the complaint, and the action taken on the complaint.

(i) Congressional oversight

The Board and the Office shall be subject to oversight (except with respect to the disposition of individual cases) by the Committee on Rules and Administration and the Committee on Governmental Affairs of the Senate and the Committee on House Oversight of the House of Representatives.

(j) Opening of Office

The Office shall be open for business, including receipt of requests for counseling under section 1402 of this title, not later than 1 year after January 23, 1995.

(k) Financial disclosure reports

Members of the Board and officers and employees of the Office shall file the financial disclosure reports required under title I of the Ethics in Government Act of 1978 with the Clerk of the House of Representatives. (Pub. L. 104–1, Title III, § 301, Jan. 23, 1995, 109 Stat. 24.)

399.77–2 § 1382. Officers, staff, and other personnel. **399.77–2**

(a) Executive Director

(1) Appointment and removal

(A) In general

The Chair, subject to the approval of the Board, shall appoint and may remove an Executive Director. Selection and appointment of the Executive Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. The first Executive Director shall be appointed no later than 90 days after the initial appointment of the Board of Directors.

(B) Qualifications

The Executive Director shall be an individual with training or expertise in the application of laws referred to in section 1302(a) of this title.

(C) Disqualifications

The disqualifications in section 1381(d)(2) of this title shall apply to the appointment of the Executive Director.

(2) Compensation

The Chair may fix the compensation of the Executive Director. The rate of pay for the Executive Director may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5.

(3) Term

The term of office of the Executive Director shall be a single term of 5 years, except that the first Executive Director shall have a single term of 7 years.

(4) Duties

The Executive Director shall serve as the chief operating officer of the Office. Except as otherwise specified in this chapter, the Executive Director shall carry out all of the responsibilities of the Office under this chapter.

(b) Deputy Executive Directors

(1) In general

The Chair, subject to the approval of the Board, shall appoint and may remove a Deputy Executive Director for the Senate and a Deputy Executive Director for the House of Representatives. Selection and appointment of a Deputy Executive Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the office. The disqualifications in section 1381(d)(2) of this title shall apply to the appointment of a Deputy Executive Director.

(2) Term

The term of office of a Deputy Executive Director shall be a single term of 5 years, except that the first Deputy Executive Directors shall have a single term of 6 years.

(3) Compensation

The Chair may fix the compensation of the Deputy Executive Directors. The rate of pay for a Deputy Executive Director may not exceed 96 percent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5.

(4) Duties

The Deputy Executive Director for the Senate shall recommend to the Board regulations under section 1384(a)(2)(B)(i) of this title, maintain the regulations and all records pertaining to the regulations, and shall assume such other responsibilities as may be delegated by the Executive Director. The Deputy Executive Director for the House of Representatives shall recommend to the Board the regulations under section 1384(a)(2)(B)(ii) of this title, maintain the regulations and all records pertaining to the regulations, and shall assume such other responsibilities as may be delegated by the Executive Director.

(c) General Counsel

(1) In general

The Chair, subject to the approval of the Board, shall appoint a General Counsel. Selection and appointment of the General Counsel shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. The disqualifications in section 1381(d)(2) of this title shall apply to the appointment of a General Counsel.

(2) Compensation

The Chair may fix the compensation of the General Counsel. The rate of pay for the General Counsel may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5.

(3) Duties

The General Counsel shall—

(A) exercise the authorities and perform the duties of the General Counsel as specified in this chapter; and

(B) otherwise assist the Board and the Executive Director in carrying out their duties and powers, including representing the Office in any judicial proceeding under this chapter.

(4) Attorneys in the Office of the General Counsel

The General Counsel shall appoint, and fix the compensation of, and may remove, such additional attorneys as may be necessary to enable the General Counsel to perform the General Counsel's duties.

(5) Term

The term of office of the General Counsel shall be a single term of 5 years.

(6) Removal

(A) Authority

The General Counsel may be removed from office by the Chair but only for—

(i) disability that substantially prevents the General Counsel from carrying out the duties of the General Counsel,

(ii) incompetence,

(iii) neglect of duty,

(iv) malfeasance, including a felony or conduct involving moral turpitude, or

(v) holding an office or employment or engaging in an activity that disqualifies the individual from service as the General Counsel under paragraph (1).

(B) Statement of reasons for removal

In removing the General Counsel, the Speaker of the House of Representatives and the President pro tempore of the Senate shall state in writing to the General Counsel the specific reasons for the removal.

(d) Other staff

The Executive Director shall appoint, and fix the compensation of, and may remove, such other additional staff, including hearing officers, but not including attorneys employed in the office of the General Counsel, as may be necessary to enable the Office to perform its duties.

(e) Detailed personnel

The Executive Director may, with the prior consent of the department or agency of the Federal Government concerned, use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency, including the services of members or personnel of the General Accounting Office Personnel Appeals Board.

(f) Consultants

In carrying out the functions of the Office, the Executive Director may procure the temporary (not to exceed 1 year) or intermittent services of consultants. (Pub. L. 104–1, Title III, § 302, Jan. 23, 1995, 109 Stat. 26.)

399.77–3 § 1383. Procedural rules. **399.77–3**

(a) In general

The Executive Director shall, subject to the approval of the Board, adopt rules governing the procedures of the Office, including the procedures of hearing officers, which shall be submitted for publication in the Congressional Record. The rules may be amended in the same manner.

(b) Procedure

The Executive Director shall adopt rules referred to in subsection (a) of this section in accordance with the principles and procedures set forth in section 53 of title 5. The Executive Director shall publish a general notice of proposed rulemaking under section 553(b) of title 5, but, instead of publication of a general notice of proposed rulemaking in the Federal Register, the Executive Director shall transmit such notice to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Before adopting rules, the Executive Director shall provide a comment period of at least 30 days after publication of a general notice of proposed rulemaking. Upon adopting rules, the Executive Director shall transmit notice of such action together with a copy of such rules to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Rules shall be considered issued by the Executive Director as of the date of which they are published in the Congressional Record. (Pub. L. 104–1, Title III, § 303, Jan. 23, 1995, 109 Stat. 28.)

399.77–4 § 1384. Substantive regulations. **399.77–4**

(a) Regulations

(1) In general

The procedures applicable to the regulations of the Board issued for the implementation of this chapter, which shall include regulations the Board is required to issue under subchapter II of this title (including regulations on the appropriate application of exemptions under the laws made applicable in subchapter II of this title) are as prescribed in this section.

(2) Rulemaking procedure

Such regulations of the Board—

(A) shall be adopted, approved, and issued in accordance with subsection (b) of this section; and

(B) shall consist of 3 separate bodies of regulations, which shall apply, respectively, to—

(i) the Senate and employees of the Senate;

(ii) the House of Representatives and employees of the House of Representatives; and

(iii) all other covered employees and employing offices.

(b) Adoption by the Board

The Board shall adopt the regulations referred to in subsection (a)(1) of this section in accordance with the principles and procedures set forth in section 553 of title 5, and as provided in the following provisions of this subsection:

(1) Proposal

The Board shall publish a general notice of proposed rulemaking under section 553(b) of title 5, but, instead of publication of a general notice of proposed rulemaking in the Federal Register, the Board shall transmit such notice to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on

the first day on which both Houses are in session following such transmittal. Such notice shall set forth the recommendations of the Deputy Director for the Senate in regard to regulations under subsection (a)(2)(B)(i) of this section, the recommendations of the Deputy Director for the House of Representatives in regard to regulations under subsection (a)(2)(B)(ii) of this section, and the recommendations of the Executive Director for regulations under subsection (a)(2)(B)(iii) of this section.

(2) Comment

Before adopting regulations, the Board shall provide a comment period of at least 30 days after publication of a general notice of proposed rulemaking.

(3) Adoption

After considering comments, the Board shall adopt regulations and shall transmit notice of such action together with a copy of such regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.

(4) Recommendation as to method of approval

The Board shall include a recommendation in the general notice of proposed rulemaking and in the regulations as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution.

(c) Approval of regulations

(1) In general

Regulations referred to in paragraph (2)(B)(i) of subsection (a) of this section may be approved by the Senate by resolution or by the Congress by concurrent resolution or by joint resolution. Regulations referred to in paragraph (2)(B)(ii) of subsection (a) of this section may be approved by the House of Representatives by resolution or by the Congress by concurrent resolution or by joint resolution. Regulations referred to in paragraph (2)(B)(iii) may be approved by Congress by concurrent resolution or by joint resolution.

(2) Referral

Upon receipt of a notice of adoption of regulations under subsection (b)(3) of this section, the presiding officers of the House of Representatives and the Senate shall refer such notice, together with a copy of such regulations, to the appropriate committee or committees of the House of Representatives and of the Senate. The purpose of the referral shall be to consider whether such regulations should be approved, and, if so, whether such approval should be by resolution of the House of Representatives or of the Senate, by concurrent resolution or by joint resolution.

(3) Joint referral and discharge in the Senate

The presiding officer of the Senate may refer the notice of issuance of regulations, or any resolution of approval of regulations, to one committee or jointly to more than one committee. If a committee of the Senate acts to report a jointly referred measure, any other committee of the Senate must act within 30 calendar days of continuous session, or be automatically discharged.

(4) One-house resolution or concurrent resolution

In the case of a resolution of the House of Representatives or the Senate or a concurrent resolution referred to in paragraph (1), the matter after the resolving clause shall be the following: "The following regulations issued by the Office of Compliance on ____ are hereby approved:" (the blank space being appropriately filled in, and the text of the regulations being set forth).

(5) Joint resolution

In the case of a joint resolution referred to in paragraph (1), the matter after the resolving clause shall be the following: "The following regulations issued by the Office of Compliance on ____ are hereby approved and shall have the force and effect of law:" (the blank space being appropriately filled in, and the text of the regulations being set forth).

(d) Issuance and effective date

(1) Publication

After approval of regulations under subsection (c) of this section, the Board shall submit the regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.

(2) Date of issuance

The date of issuance of regulations shall be the date on which they are published in the Congressional Record under paragraph (1).

(3) Effective date

Regulations shall become effective not less than 60 days after the regulations are issued, except that the Board may provide for an earlier effective date for good cause found (within the meaning of section 553(d)(3) of title 5) and published with the regulation.

(e) Amendment of regulations

Regulations may be amended in the same manner as is described in this section for the adoption, approval, and issuance of regulations, except that the Board may, in its discretion, dispense with publication of a general notice of proposed rulemaking of minor, technical, or urgent amendments that satisfy the criteria for dispensing with publication of such notice pursuant to section 553(b)(B) of title 5.

(f) Right to petition for rulemaking

Any interested party may petition to the Board for the issuance, amendment, or repeal of a regulation.

(g) Consultation

The Executive Director, the Deputy Directors, and the Board—

(1) shall consult, with regard to the development of regulations, with—

(A) the Chair of the Administrative Conference of the United States;

(B) the Secretary of Labor;

(C) the Federal Labor Relations Authority; and

(D) the Director of the Office of Personnel Management; and

(2) may consult with any other persons with whom consultation, in the opinion of the Board, the Executive Director, or Deputy Directors, may be helpful. (Pub. L. 104–1, Title III, § 304, Jan. 23, 1995, 109 Stat. 29.)

399.77–5 § 1385. Expenses. 399.77–5

(a) Authorization of appropriations

Beginning in fiscal year 1995, and for each fiscal year thereafter, there are authorized to be appropriated for the expenses of the Office such sums as may be necessary to carry out the functions of the Office. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding 12 months following January 23, 1995—

(1) one-half of the expenses of the Office shall be paid from funds appropriated for allowances and expenses of the House of Representatives, and

(2) one-half of the expenses of the Office shall be paid from funds appropriated for allowances and expenses of the Senate, upon vouchers approved by the Executive Director, except that a voucher shall not be required for the disbursement of salaries of employees who are paid at an annual rate. The Clerk of the House of Representatives and the Secretary of the Senate are authorized to make arrangements for the division of expenses under this subsection, including arrangements for one House of Congress to reimburse the other House of Congress.

(b) Financial and administrative services

The Executive Director may place orders and enter into agreements for goods and services with the head of any agency, or major organizational unit within an agency, in the legislative or executive branch of the United States in the same manner and to the same extent as agencies are authorized under sections 1535 and 1536 of title 31, to place orders and enter into agreements.

(c) Witness fees and allowances

Except for covered employees, witnesses before a hearing officer or the Board in any proceeding under this chapter other than rulemaking shall be paid the same fee and mileage allowances as are paid subpoenaed witnesses in the courts of the United States. Covered employees who are summoned, or are assigned by their employer, to testify in their official capacity or to produce official records in any proceeding under this Act shall be entitled to travel expenses under subchapter I and section 5751 of chapter 57 of title 5. (Pub. L. 104–1, Title III, § 305, Jan. 23, 1995, 109 Stat. 31.)

399.78 Subchapter IV.—Administrative and Judicial Dispute-Resolution Procedures 399.78

399.78–1 § 1401. Procedure for consideration of alleged violations. 399.78–1

Except as otherwise provided, the procedure for consideration of alleged violations of part A of subchapter II of this chapter consists of—

(1) counseling as provided in section 1402 of this title;

(2) mediation as provided in section 1403 of this title; and

(3) election, as provided in section 1404 of this title, of either—

(A) a formal complaint and hearing as provided in section 1405 of this title, subject to Board review as provided in section 1406 of this title, and judicial review in the United States Court of Appeals for the Federal Circuit as provided in section 1407 of this title, or

(B) a civil action in a district court of the United States as provided in section 1408 of this title.

In the case of an employee of the Office of the Architect of the Capitol or of the Capitol Police, the Executive Director, after receiving a request for counseling under section 1402 of this title, may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police for resolution of the employee's grievance for a specific period of time, which shall not count against the time available for counseling or mediation. (Pub. L. 104–1, Title IV, § 401, Jan. 23, 1995, 109 Stat. 32.)

399.78–2 § 1402. Counseling. **399.78–2**

(a) In general

To commence a proceeding, a covered employee alleging a violation of a law made applicable under part A of subchapter II of this title shall request counseling by the Office. The Office shall provide the employee with all relevant information with respect to the rights of the employee. A request for counseling shall be made not later than 180 days after the date of alleged violation.

(b) Period of counseling

The period for counseling shall be 30 days unless the employee and the Office agree to reduce the period. The period shall begin on the date the request for counseling is received.

(c) Notification of end of counseling period

The Office shall notify the employee in writing when the counseling period has ended. (Pub. L. 104–1, Title IV, § 402, Jan. 23, 1995, 109 Stat. 32.)

399.78–3 § 1403. Mediation. **399.78–3**

(a) Initiation

Not later than 15 days after receipt by the employee of notice of the end of the counseling period under section 1402 of this title, but prior to and as a condition of making an election under section 1404 of this title, the covered employee who alleged a violation of a law shall file a request for mediation with the Office.

(b) Process

Mediation under this section—

(1) may include the Office, the covered employee, the employing office, and one or more individuals appointed by the Executive Director after considering recommendations by organizations composed primarily of individuals experienced in adjudicating or arbitrating personnel matters, and

(2) shall involve meetings with the parties separately or jointly for the purpose of resolving the dispute between the covered employee and the employing office.

(c) Mediation period

The mediation period shall be 30 days beginning on the date the request for mediation is received. The mediation period may be extended for additional periods at the joint request of the covered employee and the employing office. The Office shall notify in writing the covered employee and the employing office when the mediation period has ended.

(d) Independence of mediation process

No individual, who is appointed by the Executive Director to mediate, may conduct or aid in a hearing conducted under section 1405 of this title with respect to the same matter or shall be subject to subpoena or any other compulsory process with respect to the same matter. (Pub. L. 104–1, Title IV, § 403, Jan. 23, 1995, 109 Stat. 32.)

399.78–4 § 1404. Election of proceeding. 399.78–4

Not later than 90 days after a covered employee receives notice of the end of the period of mediation, but, no sooner than 30 days after receipt of such notification, such covered employee may either—

(1) file a complaint with the Office in accordance with section 1405 of this title, or

(2) file a civil action in accordance with section 1408 of this title in the United States district court for the district in which the employee is employed or for the District of Columbia. (Pub. L. 104–1, Title IV, § 404, Jan. 23, 1995, 109 Stat. 33.)

399.78–5 § 1405. Complaint and hearing. 399.78–5

(a) In general

A covered employee may, upon the completion of mediation under section 1403 of this title, file a complaint with the Office. The respondent to the complaint shall be the employing office—

(1) involved in the violation, or

(2) in which the violation is alleged to have occurred, and about which mediation was conducted.

(b) Dismissal

A hearing officer may dismiss any claim that the hearing officer finds to be frivolous or that fails to state a claim upon which relief may be granted.

(c) Hearing officer

(1) Appointment

Upon the filing of a complaint, the Executive Director shall appoint an independent hearing officer to consider the complaint and render a decision. No Member of the House of Representatives, Senator, officer of either the House of Representatives or the Senate, head of an employing office, member of the Board, or covered employee may be appointed to be a hearing officer. The Executive Director shall select hearing officers on a rotational or random basis from the lists developed under paragraph (2). Nothing in this section shall prevent the appointment of hearing officers as full–time employees of the Office or the selection of hearing officers on the basis of specialized expertise needed for particular matters.

(2) Lists

The Executive Director shall develop master lists, composed of—

(A) members of the bar of a State or the District of Columbia and retired judges of the United States courts who are experienced in adjudicating or arbitrating the kinds of personnel and other matters for which hearings may be held under this, and

(B) individuals expert in technical matters relating to accessibility and usability by persons with disabilities or technical matters relating to occupational safety and health.

In developing lists, the Executive Director shall consider candidates recommended by the Federal Mediation and Conciliation Service or the Administrative Conference of the United States.

(d) Hearing

Unless a complaint is dismissed before a hearing, a hearing shall be—

(1) conducted in closed session on the record by the hearing officer;

(2) commenced no later than 60 days after filing of the complaint under subsection (a) of this section, except that the Office may, for good cause, extend up to an additional 30 days the time for commencing a hearing; and

(3) conducted, except as specifically provided in this chapter and to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 554 through 557 of title 5.

(e) Discovery

Reasonable prehearing discovery may be permitted at the discretion of the hearing officer.

(f) Subpoenas

(1) In general

At the request of a party, a hearing officer may issue subpoenas for the attendance of witnesses and for the production of correspondence, books, papers, documents, and other records. The attendance of witnesses and the production of records may be required from any place within the United States. Subpoenas shall be served in the manner provided under rule 45(b) of the Federal Rules of Civil Procedure.

(2) Objections

If a person refuses, on the basis of relevance, privilege, or other objection, to testify in response to a question or to produce records in connection with a proceeding before a hearing officer, the hearing officer shall rule on the objection. At the request of the witness or any party, the hearing officer shall (or on the hearing officer's own initiative, the hearing officer may) refer the ruling to the Board for review.

(3) Enforcement

(A) In general

If a person fails to comply with a subpoena, the Board may authorize the General Counsel to apply, in the name of the Office, to an appropriate United States district court for an order requiring that person to appear before the hearing officer to give testimony or produce records. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey a lawful order of the district court issued

pursuant to this section may be held by such court to be a civil contempt thereof.

(B) Service of process

Process in an action or contempt proceeding pursuant to subparagraph (A) may be served in any judicial district in which the person refusing or failing to comply, or threatening to refuse or not to comply, resides, transacts business, or may be found, and subpoenas for witnesses who are required to attend such proceedings may run into any other district.

(g) Decision

The hearing officer shall issue a written decision as expeditiously as possible, but in no case more than 90 days after the conclusion of the hearing. The written decision shall be transmitted by the Office to the parties. The decision shall state the issues raised in the complaint, describe the evidence in the record, contain findings of fact and conclusions of law, contain a determination of whether a violation has occurred, and order such remedies as are appropriate pursuant to subchapter II of this title. The decision shall be entered in the records of the Office. If a decision is not appealed under section 1406 of this title to the Board, the decision shall be considered the final decision of the Office.

(h) Precedents

A hearing officer who conducts a hearing under this section shall be guided by judicial decisions under the laws made applicable by section 1302 of this title and by Board decisions under this chapter. (Pub. L. 104–1, Title IV, § 405, Jan. 23, 1995, 109 Stat. 33.)

399.78–6 § 1406. Appeal to the Board. **399.78–6**

(a) In general

Any party aggrieved by the decision of a hearing officer under section 1405(g) of this title may file a petition for review by the Board not later than 30 days after entry of the decision in the records of the Office.

(b) Parties' opportunity to submit argument

The parties to the hearing upon which the decision of the hearing officer was made shall have a reasonable opportunity to be heard, through written submission and, in the discretion of the Board, through oral argument.

(c) Standard of review

The Board shall set aside a decision of a hearing officer if the Board determines that the decision was—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(d) Record

In making determinations under subsection (c) of this section, the Board shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(e) Decision

The Board shall issue a written decision setting forth the reasons for its decision. The decision may affirm, reverse, or remand to the hearing officer for further proceedings. A decision that does not require further proceedings before a hearing officer shall be entered in the records of the Office as a final decision. (Pub. L. 104–1, Title IV, § 406, Jan. 23, 1995, 109 Stat. 35.)

399.78–7 § 1407. Judicial review of Board decisions and enforcement. 399.78–7

(a) Jurisdiction

(1) Judicial review

The United States Court of Appeals for the Federal Circuit shall have jurisdiction over any proceeding commenced by a petition of—

(A) a party aggrieved by a final decision of the Board under section 1406(e) of this title in cases arising under part A of subchapter II of this title,

(B) a charging individual or a respondent before the Board who files a petition under section 1331(d)(4) of this title,

(C) the General Counsel or a respondent before the Board who files a petition under section 1341(c)(5) of this title, or

(D) the General Counsel or a respondent before the Board who files a petition under section 1351(c)(3) of this title.

The court of appeals shall have exclusive jurisdiction to set aside, suspend (in whole or in part), to determine the validity of, or otherwise review the decision of the Board.

(2) Enforcement

The United States Court of Appeals for the Federal Circuit shall have jurisdiction over any petition of the General Counsel, filed in the name of the Office and at the direction of the Board, to enforce a final decision under section 1405(g) or 1406(e) of this title with respect to a violation of part A, B, C, or D of subchapter II of this title.

(b) Procedures

(1) Respondents

(A) In any proceeding commenced by a petition filed under subsection (a)(1) (A) or (B) of this section, or filed by a party other than the General Counsel under subsection (a)(1) (C) or (D) of this section, the Office shall be named respondent and any party before the Board may be named respondent by filing a notice of election with the court within 30 days after service of the petition.

(B) In any proceeding commenced by a petition filed by the General Counsel under subsection (a)(1) (C) or (D) of this section, the prevailing party in the final decision entered under section 1406(e) of this title shall be named respondent, and any other party before the Board may be named respondent by filing a notice of election with the court within 30 days after service of the petition.

(C) In any proceeding commenced by a petition filed under subsection (a)(2) of this section, the party under section 1405 or 1406 of this title that the General Counsel determines has failed to comply with a final decision under section 1405(g) or 1406(e) of this title shall be named respondent.

(2) Intervention

Any party that participated in the proceedings before the Board under section 1406 of this title and that was not made respondent under paragraph (1) may intervene as of right.

(c) Law applicable

Chapter 158 of title 28, shall apply to judicial review under paragraph (1) of subsection (a) of this section, except that—

(1) with respect to section 2344 of title 28, service of a petition in any proceeding in which the Office is a respondent shall be on the General Counsel rather than on the Attorney General;

(2) the provisions of section 2348 of title 28, on the authority of the Attorney General, shall not apply;

(3) the petition for review shall be filed not later than 90 days after the entry in the Office of a final decision under section 1406(e) of this title; and

(4) the Office shall be an "agency" as that term is used in chapter 158 of title 28.

(d) Standard of review

To the extent necessary for decision in a proceeding commenced under subsection (a)(1) of this section and when presented, the court shall decide all relevant questions of law and interpret constitutional and statutory provisions. The court shall set aside a final decision of the Board if it is determined that the decision, was—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(e) Record

In making determinations under subsection (d) of this section, the court shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error. (Pub. L. 104–1, Title IV, § 407, Jan. 23, 1995, 109 Stat. 35.)

399.78–8 § 1408. Civil action. **399.78–8**

(a) Jurisdiction

The district courts of the United States shall have jurisdiction over any civil action commenced under section 1404 of this title and this section by a covered employee who has completed counseling under section 1402 of this title and mediation under section 1403 of this title. A civil action may be commenced by a covered employee only to seek redress for a violation for which the employee has completed counseling and mediation.

(b) Parties

The defendant shall be the employing office alleged to have committed the violation, or in which the violation is alleged to have occurred.

(c) Jury trial

Any party may demand a jury trial where a jury trial would be available in an action against a private defendant under the relevant law made applicable by this chapter. In any case in which a violation of section 1311 of this title is alleged, the court shall not inform the

jury of the maximum amount of compensatory damages available under section 1311(b)(1) or 1311(b)(3) of this title. (Pub. L. 104–1, Title IV, § 408, Jan. 23, 1995, 109 Stat. 37.)

399.78–9 § 1409. Judicial review of regulations. 399.78–9

In any proceeding brought under section 1407 or 1408 of this title in which the application of a regulation issued under this chapter is at issue, the court may review the validity of the regulation in accordance with the provisions of subparagraphs (A) through (D) of section 706(2) of title 5, except that with respect to regulations approved by a joint resolution under section 1384(c) of this title, only the provisions of section 706(2)(B) of title 5, shall apply. If the court determines that the regulation is invalid, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provisions with respect to which the invalid regulation was issued. Except as provided in this section, the validity of regulations issued under this chapter is not subject to judicial review. (Pub. L. 104–1, Title IV, § 409, Jan. 23, 1995, 109 Stat. 37.)

399.78–10 § 1410. Other judicial review prohibited. 399.78–10

Except as expressly authorized by sections 1407, 1408, and 1409 of this title, the compliance or noncompliance with the provisions of this chapter and any action taken pursuant to this chapter shall not be subject to judicial review. (Pub. L. 104–1, Title IV, § 410, Jan. 23, 1995, 109 Stat. 37.)

399.78–11 § 1411. Effect of failure to issue regulations. 399.78–11

In any proceeding under section 1405, 1406, 1407, or 1408 of this title, except a proceeding to enforce section 1351 of this title with respect to offices listed under section 1351(e)(2) of this title, if the Board has not issued a regulation on a matter for which this chapter requires a regulation to be issued, the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding. (Pub. L. 104–1, Title IV, § 411, Jan. 23, 1995, 109 Stat. 37.)

399.78–12 § 1412. Expedited review of certain appeals. 399.78–12

(a) In general

An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order of a court upon the constitutionality of any provision of this chapter.

(b) Jurisdiction

The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal referred to in subsection (a) of this section, advance the appeal on the docket, and expedite the appeal to the greatest extent possible. (Pub. L. 104–1, Title IV, § 412, Jan. 23, 1995, 109 Stat. 37.)

399.78–13 § 1413. Privileges and immunities. 399.78–13

The authorization to bring judicial proceedings under sections 1405(f)(3), 1407, and 1408 of this title shall not constitute a waiver of sovereign immunity for any other purpose, or of the privileges of

any Senator or Member of the House of Representatives under article I, section 6, clause 1, of the Constitution, or a waiver of any power of either the Senate or the House of Representatives under the Constitution, including under article I, section 5, clause 3, or under the rules of either House relating to records and information within its jurisdiction. (Pub. L. 104–1, Title IV, § 413, Jan. 23, 1995, 109 Stat. 38.)

399.78–14 § 1414. Settlement of complaints. **399.78–14**

Any settlement entered into by the parties to a process described in section 1331, 1341, 1351, or 1401 of this title shall be in writing and not become effective unless it is approved by the Executive Director. Nothing in this chapter shall affect the power of the Senate and the House of Representatives, respectively, to establish rules governing the process by which a settlement may be entered into by such House or by any employing office of such House. (Pub. L. 104–1, Title IV, § 414, Jan. 23, 1995, 109 Stat. 38.)

399.78–15 § 1415. Payments. **399.78–15**

(a) Awards and settlements

Except as provided in subsection (c), only funds which are appropriated to an account of the Office in the Treasury of the United States for the payment of awards and settlements may be used for the payment of awards and settlements under this Act. There are authorized to be appropriated for such account such sums as may be necessary to pay such awards and settlements. Funds in the account are not available for awards and settlements involving the General Accounting Office, the Government Printing Office, or the Library of Congress.

(b) Compliance

Except as provided in subsection (c), there are authorized to be appropriated such sums as may be necessary for administrative, personnel, and similar expenses of employing offices which are needed to comply with this chapter.

(c) OSHA, accommodation, and access requirements

Funds to correct violations of section 1311(a)(3), 1331, or 1341 of this title may be paid only from funds appropriated to the employing office or entity responsible for correcting such violations. There are authorized to be appropriated such sums as may be necessary for such funds. (Pub. L. 104–1, Title IV, § 415, Jan. 23, 1995, 109 Stat. 38.)

399.78–16 § 1416. Confidentiality. **399.78–16**

(a) Counseling

All counseling shall be strictly confidential, except that the Office and a covered employee may agree to notify the employing office of the allegations.

(b) Mediation

All mediation shall be strictly confidential.

(c) Hearings and deliberations

Except as provided in subsections (d), (e), and (f) of this title, all proceedings and deliberations of hearing officers and the Board, including any related records, shall be confidential. This subsection shall not

apply to proceedings under section 1341 of this title, but shall apply to the deliberations of hearing officers and the Board under that section.

(d) Release of records for judicial action

The records of hearing officers and the Board may be made public if required for the purpose of judicial review under section 1407 of this title.

(e) Access by committees of Congress

At the discretion of the Executive Director, the Executive Director may provide to the Committee on Standards of Official Conduct of the House of Representatives and the Select Committee on Ethics of the Senate access to the records of the hearings and decisions of the hearing officers and the Board, including all written and oral testimony in the possession of the Office. The Executive Director shall not provide such access until the Executive Director has consulted with the individual filing the complaint at issue, and until a final decision has been entered under section 1405(g) or 1406(e) of this title.

(f) Final decisions

A final decision entered under section 1405(g) or 1406(e) of this title shall be made public if it is in favor of the complaining covered employee, or in favor of the charging party under section 1331 of this title, or if the decision reverses a decision of a hearing officer which had been in favor of the covered employee or charging party. The Board may make public any other decision at its discretion. (Pub. L. 104–1, Title IV, § 416, Jan. 23, 1995, 109 Stat. 38.)

399.79 Subchapter V.—Miscellaneous Provisions 399.79

399.79–1 § 1431. Exercise of rulemaking powers. 399.79–1

The provisions of sections 1302(b)(3) and 1384(c) of this title are enacted—

(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 such House, respectively, 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 each House. (Pub. L. 104–1, Title V, § 501, Jan. 23, 1995, 109 Stat. 39.)

399.79–2 § 1432. Political affiliation and place of residence. 399.79–2

(a) In general

It shall not be a violation of any provision of section 1311 of this title to consider the—

(1) party affiliation;

(2) domicile; or

(3) political compatibility with the employing office;

of an employee referred to in subsection (b) of this section with respect to employment decisions.

(b) Definition

For purposes of subsection (a) of this title, the term "employee" means—

(1) an employee on the staff of the leadership of the House of Representatives or the leadership of the Senate;

(2) an employee on the staff of a committee or subcommittee of—

(A) the House of Representatives;

(B) the Senate; or

(C) a joint committee of the Congress;

(3) an employee on the staff of a Member of the House of Representatives or on the staff of a Senator;

(4) an officer of the House of Representatives or the Senate or a congressional employee who is elected by the House of Representatives or Senate or is appointed by a Member of the House of Representatives or by a Senator (in addition an employee described in paragraph (1), (2), or (3)); or

(5) an applicant for a position that is to be occupied by an individual described in any of paragraphs (1) through (4). (Pub. L. 104–1, Title V, § 502, Jan. 23, 1995, 109 Stat. 39.)

399.79–3 § 1433. Nondiscrimination rules of the House and Senate. **399.79–3**

The Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives retain full power, in accordance with the authority provided to them by the Senate and the House, with respect to the discipline of Members, officers, and employees for violating rules of the Senate and the House on nondiscrimination in employment. (Pub. L. 104–1, Title V, § 503, Jan. 23, 1995, 109 Stat. 40.)

399.79–4 § 1434. Judicial branch coverage study. **399.79–4**

The Judicial Conference of the United States shall prepare a report for submission by the Chief Justice of the United States to the Congress on the application to the judicial branch of the Federal Government of—

(1) the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.);

(2) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);

(3) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(4) the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.);

(5) the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.);

(6) the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.);

(7) chapter 71 (relating to Federal service labor-management relations) of title 5;

(8) the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.);

(9) the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.);

(10) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.); and

(11) chapter 43 (relating to veterans' employment and reemployment) of title 38.

The report shall be submitted to Congress not later than December 31, 1996, and shall include any recommendations the Judicial Conference may have for legislation to provide to employees of the judicial branch the rights, protections, and procedures under the listed laws, including administrative and judicial relief, that are comparable to those available to employees of the legislative branch under subchapter I through IV of this chapter. (Pub. L. 104–1, Title V, § 505, Jan. 23, 1995, 109 Stat. 41.)

399.79–5 § 1435. Savings provisions. **399.79–5**

(a) Transition provisions for employees of the House of Representatives and of the Senate

(1) Claims arising before effective date

If, as of the date on which section 1311 of this title takes effect, an employee of the Senate or the House of Representatives has or could have requested counseling under section 305 of the Government Employees Rights Act of 1991 (2 U.S.C. 1205) or Rule LI of the House of Representatives, including counseling for alleged violations of family and medical leave rights under subchapter V of chapter 28 of title 29, the employee may complete, or initiate and complete, all procedures under chapter 23 of this title and Rule LI, and the provisions of that chapter and Rule shall remain in effect with respect to, and provide the exclusive procedures for, those claims until the completion of all such procedures.

(2) Claims arising between effective date and opening of office

If a claim by an employee of the Senate or House of Representatives arises under section 1311 or 1312 of this title after January 23, 1995, but before the opening of the Office for receipt of requests for counseling or mediation under sections 1402 and 1403 of this title, the provisions of chapter 23 of this title and Rule LI of the House of Representatives relating to counseling and mediation shall remain in effect, and the employee may complete under that Act or Rule the requirements for counseling and mediation under sections 1402 and 1403 of this title. If, after counseling and mediation is completed, the Office has not yet opened for the filing of a timely complaint under section 1405 of this title, the employee may elect—

(A) to file a complaint under section 307 of the Government Employees Rights Act of 1991 (2 U.S.C. 1207) or Rule LI of the House of Representatives, and thereafter proceed exclusively under that Act or Rule, the provisions of which shall remain in effect until the completion of all proceedings in relation to the complaint, or

(B) to commence a civil action under section 1408 of this title.

(3) Section 1207a of this title

With respect to payments of awards and settlements relating to Senate employees under paragraph (1) of this subsection, section 1207a of this title remains in effect.

(b) Transition provisions for employees of the Architect of the Capitol

(1) Claims arising before effective date

If, as of January 23, 1995, an employee of the Architect of the Capitol has or could have filed a charge or complaint regarding an alleged violation of section 166b–7(e)(2) of title 40, the employee may complete, or initiate and complete, all procedures under section 166b–7(e) title 40, the provisions of which shall remain in effect with respect to, and provide the exclusive procedures for, that claim until the completion of all such procedures.

(2) Claims arising between effective date and opening of office

If a claim by an employee of the Architect of the Capitol arises under section 1311 or 1312 of this title after January 23, 1995, but before the opening of the Office for receipt of requests for counseling or mediation under sections 1402 and 1403 of this title, the employee may satisfy the requirements for counseling and mediation by exhausting the requirements prescribed by the Architect of the Capitol in accordance with section 166b–7(e)(3) of title 40. If, after exhaustion of those requirements the Office has not yet opened for the filing of a timely complaint under section 1405 of this title, the employee may elect—

(A) to file a charge with the General Accounting Office Personnel Appeals Board pursuant to section 166b–7(e)(3) of title 40, and thereafter proceed exclusively under section 166b–7(e) of title 40, the provisions of which shall remain in effect until the completion of all proceedings in relation to the charge, or

(B) to commence a civil action under section 1408 of this title.

(c) Transition provision relating to matters other than employment under section 12209 of title 42

With respect to matters other than employment under section 12209 of title 42, the rights, protections, remedies, and procedures of section 12209 of title 42 shall remain in effect until section 1331 of this title takes effect with respect to each of the entities covered by section 12209 of this title. (Pub. L. 104–1, Title V, § 506, Jan. 23, 1995, 109 Stat. 42.)

399.79–6 § 1436. Repealed. Pub.L. 106–57, title III, § 313, Sept. 29, 1999, 113 Stat. 428. **399.79–6**

399.79–7 § 1437. Sense of Senate regarding adoption of simplified and streamlined acquisition procedures for Senate acquisitions. **399.79–7**

It is the sense of the Senate that the Committee on Rules and Administration of the Senate should review the rules applicable to purchases by Senate offices to determine whether they are consistent with the acquisition simplification and streamlining laws enacted in chapter 4 of title 41. (Pub. L. 104–1, Title V, § 508, Jan. 23, 1995, 109 Stat. 44.)

399.79–8 § 1438. Severability. **399.79–8**

If any provision of this chapter or the application of such provision to any person or circumstance is held to be invalid, the remainder of this chapter and the application of the provisions of the remainder

to any person or circumstance shall not be affected thereby. (Pub. L. 104–1, Title V, § 509, Jan. 23, 1995, 109 Stat. 44.)

399.80 Chapter 25.—UNFUNDED MANDATES REFORM 399.80

399.80–1 § 1501. Purposes. 399.80–1

The purposes of this chapter are—

(1) to strengthen the partnership between the Federal Government and State, local, and tribal governments;

(2) to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate Federal funding, in a manner that may displace other essential State, local, and tribal governmental priorities;

(3) to assist Congress in its consideration of proposed legislation establishing or revising Federal programs containing Federal mandates affecting State, local, and tribal governments, and the private sector by—

(A) providing for the development of information about the nature and size of mandates in proposed legislation; and

(B) establishing a mechanism to bring such information to the attention of the Senate and the House of Representatives before the Senate and the House of Representatives vote on proposed legislation;

(4) to promote informed and deliberate decisions by Congress on the appropriateness of Federal mandates in any particular instance;

(5) to require that Congress consider whether to provide funding to assist State, local, and tribal governments in complying with Federal mandates, to require analyses of the impact of private sector mandates, and through the dissemination of that information provide informed and deliberate decisions by Congress and Federal agencies and retain competitive balance between the public and private sectors;

(6) to establish a point-of-order vote on the consideration in the Senate and House of Representatives of legislation containing significant Federal intergovernmental mandates without providing adequate funding to comply with such mandates;

(7) to assist Federal agencies in their consideration of proposed regulations affecting State, local, and tribal governments, by—

(A) requiring that Federal agencies develop a process to enable the elected and other officials of State, local, and tribal governments to provide input when Federal agencies are developing regulations; and

(B) requiring that Federal agencies prepare and consider estimates of the budgetary impact of regulations containing Federal mandates upon State, local, and tribal governments and the private sector before adopting such regulations, and ensuring that small governments are given special consideration in that process; and

(8) to begin consideration of the effect of previously imposed Federal mandates, including the impact on State, local, and tribal governments of Federal court interpretations of Federal statutes and regulations that impose Federal intergovernmental mandates. (Pub. L. 104–4, § 2, Mar. 22, 1995, 109 Stat. 48.)

399.80–2 § 1502. Definitions. **399.80–2**

For purposes of this chapter—

(1) except as provided in section 1555 of this title, the terms defined under section 658 of this title shall have the meanings as so defined; and

(2) the term "Director" means the Director of the Congressional Budget Office. (Pub. L. 104–4, § 3, Mar. 22, 1995, 109 Stat. 49.)

399.80–3 § 1503. Exclusions. **399.80–3**

This chapter shall not apply to any provision in a bill, joint resolution, amendment, motion, or conference report before Congress and any provision in a proposed or final Federal regulation that—

(1) enforces constitutional rights of individuals;

(2) establishes or enforces any statutory rights that prohibit discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or disability;

(3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Federal Government;

(4) provide for emergency assistance or relief at the request of any State, local, or tribal government or any official of a State, local, or tribal government;

(5) is necessary for the national security or the ratification or implementation of international treaty obligations;

(6) the President designates as emergency legislation and that the Congress so designates in statute; or

(7) relates to the old-age, survivors, and disability insurance program under subchapter II of chapter 7 of title 42 (including taxes imposed by sections 3101(a) and 3111(a) of title 26 (relating to old-age, survivors, and disability insurance)). (Pub. L. 104–4, § 4, Mar. 22, 1995, 109 Stat. 49.)

399.80–4 § 1504. Agency assistance. **399.80–4**

Each agency shall provide to the Director such information and assistance as the Director may reasonably request to assist the Director in carrying out this chapter. (Pub. L. 104–4, § 5, Mar. 22, 1995, 109 Stat. 50.)

399.81 Subchapter I.—Legislative Accountability and Reform **399.81**

399.81–1 § 1511. Cost of regulations. **399.81–1**

(a) Sense of the Congress

It is the sense of the Congress that Federal agencies should review and evaluate planned regulations to ensure that the cost estimates provided by the Congressional Budget Office will be carefully considered as regulations are promulgated.

(b) Statement of cost

At the request of a committee chairman or ranking minority member, the Director shall, to the extent practicable, prepare a comparison between—

(1) an estimate by the relevant agency, prepared under section 1532 of this title, of the costs of regulations implementing an Act containing a Federal mandate; and

(2) the cost estimate prepared by the Congressional Budget Office for such Act when it was enacted by the Congress.

(c) Cooperation of Office of Management and Budget

At the request of the Director of the Congressional Budget Office, the Director of the Office of Management and Budget shall provide data and cost estimates for regulations implementing an Act containing a Federal mandate covered by part B of title IV of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 658 et seq.). (Pub. L. 104–4, Title I, § 103, Mar. 22, 1995, 109 Stat. 62.)

EFFECTIVE DATE

Section 110 of Pub. L. 104–4 provided that: "This title [enacting this subchapter and part B of subchapter II of chapter 17a of this title, and amending sections 602, 632, 653 of this title] shall take effect on January 1, 1996 or on the date 90 days after appropriations are made available as authorized under section 109, whichever is earlier and shall apply to legislation considered on and after such date."

399.81–2 § 1512. Consideration for Federal funding. **399.81–2**

Nothing in this chapter shall preclude a State, local, or tribal government that already complies with all or part of the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report from consideration for Federal funding under section 658d(a)(2) of this title for the cost of the mandate, including the costs the State, local, or tribal government is currently paying and any additional costs necessary to meet the mandate. (Pub. L. 104–4, Title I, § 105, Mar. 22, 1995, 109 Stat. 62.)

399.81–3 § 1513. Impact on local governments. **399.81–3**

(a) Findings

The Senate finds that—

(1) the Congress should be concerned about shifting costs from Federal to State and local authorities and should be equally concerned about the growing tendency of States to shift costs to local governments;

(2) cost shifting from States to local governments has, in many instances, forced local governments to raise property taxes or curtail sometimes essential services; and

(3) increases in local property taxes and cuts in essential services threaten the ability of many citizens to attain and maintain the American dream of owning a home in a safe, secure community.

(b) Sense of the Senate

It is the sense of the Senate that—

(1) the Federal Government should not shift certain costs to the State, and States should end the practice of shifting costs to local governments, which forces many local governments to increase property taxes;

(2) States should end the imposition, in the absence of full consideration by their legislatures, of State issued mandates on local governments without adequate State funding, in a manner that may displace other essential government priorities; and

(3) one primary objective of this chapter and other efforts to change the relationship among Federal, State, and local govern-

ments should be to reduce taxes and spending at all levels and to end the practice of shifting costs from one level of government to another with little or no benefit to taxpayers. (Pub. L. 104–4, Title I, § 106, Mar. 22, 1995, 109 Stat. 63.)

399.81–4 § 1514. Enforcement in the House of Representatives. **399.81–4**

(a) Omitted.

(b) Committee on Rules Reports on Waived Points of Order

The Committee on Rules shall include in the report required by clause 1(d) of rule XI (relating to its activities during the Congress) of the Rules of the House of Representatives a separate item identifying all waivers of points of order relating to Federal mandates, listed by bill or joint resolution number and the subject matter of that measure. (Pub. L. 104–4, Title I, § 107, Mar. 22, 1995, 109 Stat. 63.)

399.81–5 § 1515. Exercise of rulemaking powers. **399.81–5**

The provisions of sections 658 to 658g and 1514 of this title are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of such House, respectively, 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 each House. (Pub. L. 104–4, Title I, § 108, Mar. 22, 1995, 109 Stat. 63.)

399.81–6 § 1516. Authorization of appropriations. **399.81–6**

There are authorized to be appropriated to the Congressional Budget Office $4,500,000 for each of the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 to carry out the provisions of this subchapter. (Pub. L. 104–4, Title I, § 109, Mar. 22, 1995, 109 Stat. 64.)

399.83 Subchapter II.—Regulatory Accountability and Reform **399.83**

399.83–1 § 1531. Regulatory process. **399.83–1**

Each agency shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law). (Pub. L. 104–4, Title II, § 201, Mar. 22, 1995, 109 Stat. 64.)

399.83–2 § 1532. Statements to accompany significant regulatory actions. **399.83–2**

(a) In general

Unless otherwise prohibited by law, before promulgating any general notice of proposed rulemaking that is likely to result in promulgation of any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement containing—

(1) an identification of the provision of Federal law under which the rule is being promulgated;

(2) a qualitative and quantitative assessment of the anticipated costs and benefits of the Federal mandate, including the costs and benefits to State, local, and tribal governments or the private sector, as well as the effect of the Federal mandate of health, safety, and the natural environment and such an assessment shall include—

(A) an analysis of the extent to which such costs to State, local, and tribal governments may be paid with Federal financial assistance (or otherwise paid for by the Federal Government); and

(B) the extent to which there are available Federal resources to carry out the intergovernmental mandate;

(3) estimates by the agency, if and to the extent that the agency determines that accurate estimates are reasonably feasible, of—

(A) the future compliance costs of the Federal mandate; and

(B) any disproportionate budgetary effects of the Federal mandate upon any particular regions of the nation or particular State, local, or tribal governments, urban or rural or other types of communities, or particular segments of the private sector;

(4) estimates by the agency of the effect on the national economy, such as the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services, if and to the extent that the agency in its sole discretion determines that accurate estimates are reasonably feasible and that such effect is relevant and material; and

(5)(A) a description of the extent of the agency's prior consultation with elected representatives (under section 1534 of this title) of the affected State, local, and tribal governments;

(B) a summary of the comments and concerns that were presented by State, local, or tribal governments either orally or in writing to the agency; and

(C) a summary of the agency's evaluation of those comments and concerns.

(b) Promulgation

In promulgating a general notice of proposed rulemaking or a final rule for which a statement under subsection (a) of this section is required, the agency shall include in the promulgation a summary of the information contained in the statement.

(c) Preparation in conjunction with other statement

Any agency may prepare any statement required under subsection (a) of this section in conjunction with or as part of any other statement or analysis, provided that the statement or analysis satisfies the provisions of subsection (a) of this section. (Pub. L. 104–4, Title II, § 202, Mar. 22, 1995, 109 Stat. 64.)

399.83–3 § 1533. Small government agency plan. **399.83–3**

(a) Effects on small governments

Before establishing any regulatory requirements that might significantly or uniquely affect small governments, agencies shall have developed a plan under which the agency shall—

(1) provide notice of the requirements to potentially affected small governments, if any;

(2) enable officials of affected small governments to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates; and

(3) inform, educate, and advise small governments on compliance with the requirements.

(b) Authorization of appropriations

There are authorized to be appropriated to each agency, to carry out the provisions of this section and for no other purpose, such sums as are necessary. (Pub. L. 104–4, Title II, § 203, Mar. 22, 1995, 109 Stat. 65.)

399.83–4 § 1534. State, local, and tribal government input. 399.83–4

(a) In general

Each agency shall, to the extent permitted in law, develop an effective process to permit elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf) to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates.

(b) Meetings between State, local, tribal and Federal officers

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to actions in support of intergovernmental communications where—

(1) meetings are held exclusively between Federal officials and elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf) acting in their official capacities; and

(2) such meetings are solely for the purposes of exchanging views, information, or advice relating to the management or implementation of Federal programs established pursuant to public law that explicitly or inherently share intergovernmental responsibilities or administration.

(c) Implementing guidelines

No later than 6 months after March 22, 1995, the President shall issue guidelines and instructions to Federal agencies for appropriate implementation of subsections (a) and (b) of this section consistent with applicable laws and regulations. (Pub. L. 104–4, Title II, § 204, Mar. 22, 1995, 109 Stat. 65.)

399.83–5 § 1535. Least burdensome option or explanation required. 399.83–5

(a) In general

Except as provided in subsection (b) of this section, before promulgating any rule for which a written statement is required under section 1532 of this title, the agency shall identify and consider a reasonable number of regulatory alternatives and from those alternatives select the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, for—

(1) State, local, and tribal governments, in the case of a rule containing a Federal intergovernmental mandate; and

(2) the private sector, in the case of a rule containing a Federal private sector mandate.

(b) Exception

The provisions of subsection (a) of this section shall apply unless—

(1) the head of the affected agency publishes with the final rule an explanation of why the least costly, most cost-effective or least burdensome method of achieving the objectives of the rule was not adopted; or

(2) the provisions are inconsistent with law.

(c) OMB certification

No later than 1 year after March 22, 1995, the Director of the Office of Management and Budget shall certify to Congress, with a written explanation, agency compliance with this section and include in that certification agencies and rulemakings that fail to adequately comply with this section. (Pub. L. 104–4, Title II, § 205, Mar. 22, 1995, 109 Stat. 66.)

399.83–6 § 1536. Assistance to the Congressional Budget Office. 399.83–6

The Director of the Office of Management and Budget shall—

(1) collect from agencies the statements prepared under section 1532 of this title; and

(2) periodically forward copies of such statements to the Director of the Congressional Budget Office on a reasonably timely basis after promulgation of the general notice of proposed rulemaking or of the final rule for which the statement was prepared. (Pub. L. 104–4, Title II, § 206, Mar. 22, 1995, 109 Stat. 66.)

399.83–7 § 1537. Pilot program on small government flexibility. 399.83–7

(a) In general

The Director of the Office of Management and Budget, in consultation with Federal agencies, shall establish pilot programs in at least two agencies to test innovative, and more flexible regulatory approaches that—

(1) reduce reporting and compliance burdens on small governments; and

(2) meet overall statutory goals and objectives.

(b) Program focus

The pilot programs shall focus on rules in effect or proposed rules, or a combination thereof. (Pub. L. 104–4, Title II, § 207, Mar. 22, 1995, 109 Stat. 67.)

399.83–8 § 1538. Annual statements to Congress on agency compliance. 399.83–8

No later than 1 year after March 22, 1995 and annually thereafter, the Director of the Office of Management and Budget shall submit to the Congress, including the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives, a written report detailing compliance by each agency during the preceding reporting period with the requirements of this subchapter. (Pub. L. 104–4, Title II, § 208, Mar. 22, 1995, 109 Stat. 67.)

399.85 Subchapter III.—Review of Federal Mandates 399.85

399.85–1 § 1551. Baseline study of costs and benefits. 399.85–1

(a) In general

No later than 18 months after March 22, 1995, the Advisory Commission on Intergovernmental Relations (hereafter in this title referred to as the "Advisory Commission"), in consultation with the Director, shall complete a study to examine the measurement and definition issues involved in calculating the total costs and benefits to State, local, and tribal governments of compliance with Federal law.

(b) Considerations

The study required by this sections shall consider—

(1) the feasibility of measuring indirect costs and benefits as well as direct costs and benefits of the Federal, State, local, and tribal relationship; and

(2) how to measure both the direct and indirect benefits of Federal financial assistance and tax benefits to State, local, and tribal governments. (Pub. L. 104–4, Title III, § 301, Mar. 22, 1995, 109 Stat. 67.)

399.85–2 § 1552. Report on Federal mandates by Advisory Commission on Intergovernmental Relations. 399.85–2

(a) In general

The Advisory Commission on Intergovernmental Relations shall in accordance with this section—

(1) investigate and review the role of Federal mandates in intergovernmental relations and their impact on State, local, tribal, and Federal government objectives and responsibilities, and their impact on the competitive balance between State, local, and tribal governments, and the private sector and consider views of and the impact on working men and women on those same matters;

(2) investigate and review the role of unfunded State mandates imposed on local governments;

(3) make recommendations to the President and the Congress regarding—

(A) allowing flexibility for State, local, and tribal governments in complying with specific Federal mandates for which terms of compliance are unnecessarily rigid or complex;

(B) reconciling any two or more Federal mandates which impose contradictory or inconsistent requirements;

(C) terminating Federal mandates which are duplicative, obsolete, or lacking in practical utility;

(D) suspending, on a temporary basis, Federal mandates which are not vital to public health and safety and which compound the fiscal difficulties of State, local, and tribal governments, including recommendations for triggering such suspension;

(E) consolidating or simplifying Federal mandates, or the planning or reporting requirements of such mandates, in order to reduce duplication and facilitate compliance by State, local, and tribal governments with those mandates;

(F) establishing common Federal definitions or standards to be used by State, local, and tribal governments in complying with Federal mandates that use different definitions or standards for the same terms or principles; and

(G)(i) the mitigation of negative impacts on the private sector that may result from relieving State, local, and tribal governments from Federal mandates (if and to the extent that such negative impacts exist on the private sector); and

(ii) the feasibility of applying relief from Federal mandates in the same manner and to the same extent to private sector entities as such relief is applied to State, local, and tribal governments; and

(4) identify and consider in each recommendation made under paragraph (3), to the extent practicable—

(A) the specific Federal mandates to which the recommendation applies, including requirements of the departments, agencies, and other entities of the Federal Government that State, local, and tribal governments utilize metric systems of measurement; and

(B) any negative impact on the private sector that may result from implementation of the recommendation.

(b) Criteria

(1) In general

The Commission shall establish criteria for making recommendations under subsection (a) of this section.

(2) Issuance of proposed criteria

The Commission shall issue proposed criteria under this subsection no later than 60 days after March 22, 1995, and thereafter provide a period of 30 days for submission by the public of comments on the proposed criteria.

(3) Final criteria

No later than 45 days after the date of issuance of proposed criteria, the Commission shall—

(A) consider comments on the proposed criteria received under paragraph (2);

(B) adopt and incorporate in final criteria any recommendations submitted in those comments that the Commission determines will aid the Commission in carrying out its duties under this section; and

(C) issue final criteria under this subsection.

(c) Preliminary report

(1) In general

No later than 9 months after March 22, 1995, the Commission shall—

(A) prepare and publish a preliminary report on its activities under this subchapter, including preliminary recommendations pursuant to subsection (a) of this section;

(B) publish in the Federal Register a notice of availability of the preliminary report; and

(C) provide copies of the preliminary report to the public upon request.

(2) Public hearings

The Commission shall hold public hearings on the preliminary recommendations contained in the preliminary report of the Commission under this subsection.

(d) Final report

No later than 3 months after the date of the publication of the preliminary report under subsection (c) of this section, the Commission shall submit to the Congress, including the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on the Budget of the Senate, and the Committee on the Budget of the House of Representatives, and to the President a final report on the findings, conclusions, and recommendations of the Commission under this section.

(e) Priority to mandates that are subject of judicial proceedings

In carrying out this section, the Advisory Commission shall give the highest priority to immediately investigating, reviewing, and making recommendations regarding Federal mandates that are the subject of judicial proceedings between the United States and a State, local, or tribal government.

(f) Definition

For purposes of this section the term "State mandate" means any provision in a State statute or regulation that imposes an enforceable duty on local governments, the private sector, or individuals, including a condition of State assistance or a duty arising from participation in a voluntary State program. (Pub. L. 104–4, Title III, § 302, Mar. 22, 1995, 109 Stat. 67.)

399.85–3 § 1553. Special authorities of Advisory Commission. **399.85–3**

(a) Experts and consultants

For purposes of carrying out this subchapter, the Advisory Commission may procure temporary and intermittent services of experts or consultants under section 3109(b) of title 5.

(b) Detail of staff of Federal agencies

Upon request of the Executive Director of the Advisory Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Advisory Commission to assist it in carrying out this subchapter.

(c) Administrative support services

Upon the request of the Advisory Commission, the Administrator of General Services shall provide to the Advisory Commission, on a reimbursable basis, the administrative support services necessary for the Advisory Commission to carry out its duties under this subchapter.

(d) Contract authority

The Advisory Commission may, subject to appropriate, contract with and compensate government and private persons (including agencies) for property and services used to carry out its duties under this subchapter. (Pub. L. 104–4, Title III, § 303, Mar. 22, 1995, 109 Stat. 69.)

399.85–4 § 1554. Annual report to Congress regarding Federal court rulings. 399.85–4

No later than 4 months after March 22, 1995, and no later than March 15 of each year thereafter, the Advisory Commission on Intergovernmental Relations shall submit to the Congress, including the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, and to the President a report describing any Federal court case to which a State, local, or tribal government was a party in the preceding calendar year that required such State, local, or tribal government to undertake responsibilities or activities, beyond those such government would otherwise have undertaken, to comply with Federal statutes and regulations. (Pub. L. 104–4, Title III, § 304, Mar. 22, 1995, 109 Stat. 70.)

399.85–5 § 1555. Definition. 399.85–5

Notwithstanding section 1502 of this title, for purposes of this subchapter the term "Federal mandate" means any provision in statute or regulation or any Federal court ruling that imposes an enforceable duty upon State, local, or tribal governments including a condition of Federal assistance or a duty arising from participation in a voluntary Federal program. (Pub. L. 104–4, Title III, § 305, Mar. 22, Stat. 70.)

399.85–6 § 1556. Authorization of appropriations. 399.85–6

There are authorized to be appropriated to the Advisory Commission to carry out section 1551 and section 1552 of this title, $500,000 for each of fiscal years 1995 and 1996. (Pub. L. 104–4, Title III, § 306, Mar. 22, 1995, 109 Stat. 70.)

399.87 Subchapter IV.—Judicial Review 399.87

399.87–1 § 1571. Judicial review. 399.87–1

(a) Agency statements on significant regulatory actions

(1) In general

Compliance or noncompliance by any agency with the provisions of sections 1532 and 1533(a) (1) and (2) of this title shall be subject to judicial review only in accordance with this section.

(2) Limited review of agency compliance or noncompliance

(A) Agency compliance or noncompliance with the provisions of sections 1532 and 1533(a) (1) and (2) of this title shall be subject to judicial review only under section 706(1) of title 5, and only as provided under subparagraph (B).

(B) If an agency fails to prepare the written statement (including the preparation of the estimates, analyses, statements, or descriptions) under section 1532 of this title or the written plan under section 1533(a) (1) and (2) of this title, a court may compel the agency to prepare such written statement.

(3) Review of agency rules

In any judicial review under any other Federal law of an agency rule for which a written statement or plan is required under sections 1532 and 1533(a) (1) and (2) of this title, the inadequacy or failure to prepare such statement (including the inadequacy or failure to prepare any estimate, analysis, statement or description) or written plan shall not be used as a basis for staying, enjoining, invalidating or otherwise affecting such agency rule.

(4) Certain information as part of record

Any information generated under sections 1532 and 1533(a) (1) and (2) of this title that is part of the rulemaking record for judicial review under the provisions of any other Federal law may be considered as part of the record for judicial review conducted under such other provisions of Federal law.

(5) Application of other Federal law

For any petition under paragraph (2) the provisions of such other Federal law shall control all other matters, such as exhaustion of administrative remedies, the time for and manner of seeking review and venue, except that if such other Federal law does not provide a limitation on the time for filing a petition for judicial review that is less than 180 days, such limitation shall be 180 days after a final rule is promulgated by the appropriate agency.

(6) Effective date

This subsection shall take effect on October 1, 1995, and shall apply only to any agency rule for which a general notice of proposed rulemaking is promulgated on or after such date.

(b) Judicial review and rule of construction

Except as provided in subsection (a) of this section

(1) any estimate, analysis, statement, description or report prepared under this chapter, and any compliance or noncompliance with the provisions of this chapter, and any determination concerning the applicability of the provisions of this chapter shall not be subject to judicial review; and

(2) no provision of this chapter shall be construed to create any right or benefit, substantive or procedural, enforceable by any person in any administrative or judicial action. (Pub. L. 104–4, Title IV, § 401, Mar. 22, 1995, 109 Stat. 70.)

399.90 Chapter 26.—DISCLOSURE OF LOBBYING ACTIVITIES 399.90

399.90–1 § 1601. Findings. 399.90–1

The Congress finds that—

(1) responsible representative Government requires public awareness of the efforts of paid lobbyists to influence the public decision-making process in both the legislative and executive branches of the Federal Government;

(2) existing lobbying disclosure statutes have been ineffective because of unclear statutory language, weak administrative and enforcement provisions, and an absence of clear guidance as to who is required to register and what they are required to disclose; and

(3) the effective public disclosure of the identity and extent of the efforts of paid lobbyists to influence Federal officials in the conduct of Government actions will increase public confidence in the integrity of Government. (Pub. L. 104–65, § 2, Dec. 19, 1995, 109 Stat. 691.)

399.90–2 § 1602. Definitions. 399.90–2

As used in this chapter:

(1) Agency

The term "agency" has the meaning given that term in section 551(1) of title 5.

(2) Client

The term "client" means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

(3) Covered executive branch official

The term "covered executive branch official" means—

(A) the President;

(B) the Vice President;

(C) any officer or employee, or any other individual functioning in the capacity of such an officer or employee, in the Executive Office of the President;

(D) any officer or employee serving in a position in level I, II, III, IV, or V of the Executive Schedule, as designated by statute or Executive order;

(E) any member of the uniformed services whose pay grade is at or above O–7 under section 201 of title 37; and

(F) any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy-advocating character described in section 7511(b)(2)(B) of title 5.

(4) Covered legislative branch official

The term "covered legislative branch official" means—

(A) a Member of Congress;

(B) an elected officer of either House of Congress;

(C) any employee of, or any other individual functioning in the capacity of an employee of—

(i) a Member of Congress;

(ii) a committee of either House of Congress;

(iii) the leadership staff of the House of Representatives or the leadership staff of the Senate;

(iv) a joint committee of Congress; and

(v) a working group or caucus organized to provide legislative services or other assistance to Members of Congress; and

(D) any other legislative branch employee serving in a position described under section 109(13) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(5) Employee

The term "employee" means any individual who is an officer, employee, partner, director, or proprietor of a person or entity, but does not include—

(A) independent contractors; or

(B) volunteers who receive no financial or other compensation from the person or entity for their services.

(6) Foreign entity

The term "foreign entity" means a foreign principal (as defined in section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)).

(7) Lobbying activities

The term "lobbying activities" means lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others.

(8) Lobbying contact

(A) Definition

The term "lobbying contact" means any oral or written communication (including an electronic communication) to a covered executive branch official or a covered legislative branch official that is made on behalf of a client with regard to—

(i) the formulation, modification, or adoption of Federal legislation (including legislative proposals);

(ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government;

(iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); or

(iv) the nomination or confirmation of a person for a position subject to confirmation by the Senate.

(B) Exceptions

The term "lobbying contact" does not include a communication that is—

(i) made by a public official acting in the public official's official capacity;

(ii) made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

(iii) made in a speech, article, publication or other material that is distributed and made available to the public, or through radio, television, cable television, or other medium of mass communication;

(iv) made on behalf of a government of a foreign country or a foreign political party and disclosed under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

(v) a request for a meeting, a request for the status of an action, or any other similar administrative request, if the request does not include an attempt to influence a covered executive branch official or a covered legislative branch official;

(vi) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act;

(vii) testimony given before a committee, subcommittee, or task force of the Congress, or submitted

for inclusion in the public record of a hearing conducted by such committee, subcommittee, or task force;

(viii) information provided in writing in response to an oral or written request by a covered executive branch official or a covered legislative branch official for specific information;

(ix) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of the Congress or an agency, including any communication compelled by a Federal contract, grant, loan, permit, or license;

(x) made in response to a notice in the Federal Register, Commerce Business Daily, or other similar publication soliciting communications from the public and directed to the agency official specifically designated in the notice to receive such communications;

(xi) not possible to report without disclosing information, the unauthorized disclosure of which is prohibited by law;

(xii) made to an official in an agency with regard to—

(I) a judicial proceeding or a criminal or civil law enforcement inquiry, investigation, or proceeding; or

(II) a filing or proceeding that the Government is specifically required by statute or regulation to maintain or conduct on a confidential basis,

if that agency is charged with responsibility for such proceeding, inquiry, investigation, or filing

(xiii) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, or substantially similar provisions;

(xiv) a written comment filed in the course of a public proceeding or any other communication that is made on the record in a public proceeding;

(xv) a petition for agency action made in writing and required to be a matter of public record pursuant to established agency procedures;

(xvi) made on behalf of an individual with regard to that individual's benefits, employment, or other personal matters involving only that individual, except that this clause does not apply to any communication with—

(I) a covered executive branch official, or

(II) a covered legislative branch official (other than the individual's elected Members of Congress or employees who work under such Members' direct supervision),

with respect to the formulation, modification, or adoption of private legislation for the relief of that individual;

(xvii) a disclosure by an individual that is protected under the amendments made by the Whistleblower Protection Act of 1989 [5 U.S.C. 1201 et seq.], under the Inspector General Act of 1978 [12 U.S.C. 1811 et seq.], or under another provision of law;

(xviii) made by—

(I) a church, its integrated auxiliary, or a convention or association of churches that is exempt from filing a Federal income tax return under paragraph 2(A)(i) of section 6033(a) of the Internal Revenue Code of 1986 [26 U.S.C. 6033(a)], or

(II) a religious order that is exempt from filing a Federal income tax return under paragraph (2)(A)(iii) of such section 6033(a); and

(xix) between—

(I) officials of a self-regulatory organization (as defined in section 3(a)(26) of the Securities Exchange Act [15 U.S.C. 78c(a)(26)]) that is registered with or established by the Securities and Exchange Commission as required by that Act or a similar organization that is designated by or registered with the Commodities Future Trading Commission as provided under the Commodity Exchange Act [7 U.S.C. 1 et seq.]; and

(II) the Securities and Exchange Commission or the Commodities Futures Trading Commission, respectively;

relating to the regulatory responsibilities of such organization under that Act.

(9) Lobbying firm

The term "lobbying firm" means a person or entity that has 1 or more employees who are lobbyists on behalf of a client other than that person or entity. The term also includes a self-employed individual who is a lobbyist.

(10) Lobbyist

The term "lobbyist" means any individual who is employed or retained by a client for financial or other compensation for services that include more than one lobbying contact, other than an individual whose lobbying activities constitute less than 20 percent of the time engaged in the services provided by such individual to that client over a six month period.

(11) Media organization

The term "media organization" means a person or entity engaged in disseminating information to the general public through a newspaper, magazine, other publication, radio, television, cable television, or other medium of mass communication.

(12) Member of Congress

The term "Member of Congress" means a Senator or a Representative in, or Delegate or Resident Commissioner to, the Congress.

(13) Organization

The term "organization" means a person or entity other than an individual.

(14) Person or entity

The term "person or entity" means any individual, corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or State or local government.

(15) Public official

The term "public official" means any elected official, appointed official, or employee of—

(A) a Federal, State, or local unit of government in the United States other than—

(i) a college or university;

(ii) a government-sponsored enterprise (as defined in section 3(8) of the Congressional Budget and Impoundment Control Act of 1974 [2 U.S.C. 622(8)]);

(iii) a public utility that provides gas, electricity, water, or communications;

(iv) a guaranty agency (as defined in section 435(j) of the Higher Education Act of 1965 (20 U.S.C. 1085(j))), including any affiliate of such an agency; or

(v) an agency of any State functioning as a student loan secondary market pursuant to section 435(d)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(1)(F));

(B) a Government corporation (as defined in section 9101 of title 31);

(C) an organization of State or local elected or appointed officials other than officials of an entity described in clause (i), (ii), (iii), (iv), or (v) of subparagraph (A);

(D) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(E) a national or State political party or any organizational unit thereof; or

(F) a national, regional, or local unit of any foreign government, or a group of governments acting together as an international organization.

(16) State

The term "State" means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States. (Pub. L. 104–65, § 3, Dec. 19, 1995, 109 Stat. 691; Pub. L. 105–166, §§ 2, 3, Apr. 6, 1998, 112 Stat. 38.)

399.90–3 § 1603. Registration of lobbyists. **399.90–3**

(a) Registration

(1) General rule

No later than 45 days after a lobbyist first makes a lobbying contact or is employed or retained to make a lobbying contact, whichever is earlier, such lobbyist (or, as provided under paragraph (2), the organization employing such lobbyist), shall register with the Secretary of the Senate and the Clerk of the House of Representatives.

(2) Employer filing

Any organization that has 1 or more employees who are lobbyists shall file a single registration under this section on behalf of such employees for each client on whose behalf the employees act as lobbyists.

(3) Exemption

(A) General rule

Notwithstanding paragraphs (1) and (2), a person or entity whose—

(i) total income for matters related to lobbying activities on behalf of a particular client (in the case of a lobbying firm) does not exceed and is not expected to exceed $5,000; or

(ii) total expenses in connection with lobbying activities (in the case of an organization whose employees engage in lobbying activities on its own behalf) do not exceed or are not expected to exceed $20,000,

(as estimated under section 1604 of this title) in the semiannual period described in section 1604(a) of this title during which the registration would be made is not required to register under subsection (a) of this title with respect to such client.

(B) Adjustment

The dollar amounts in subparagraph (A) shall be adjusted—

(i) on January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) since December 19, 1995; and

(ii) on January 1 of each fourth year occurring after January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) during the preceding 4-year period,

rounded to the nearest $500.

(b) Contents of registration

Each registration under this section shall contain—

(1) the name, address, business telephone number, and principal place of business of the registrant, and a general description of its business or activities;

(2) the name, address, and principal place of business of the registrant's client, and a general description of its business or activities (if different from paragraph (1));

(3) the name, address, and principal place of business of any organization, other than the client, that—

(A) contributes more than $10,000 toward the lobbying activities of the registrant in a semiannual period described in section 1604(a) of this title; and

(B) in whole or in major part plans, supervises, or controls such lobbying activities.

(4) the name, address, principal place of business, amount of any contribution of more than $10,000 to the lobbying activities of the registrant, and approximate percentage of equitable ownership in the client (if any) of any foreign entity that—

(A) holds at least 20 percent equitable ownership in the client or any organization identified under paragraph (3);

(B) directly or indirectly, in whole or in major part, plans, supervises, controls, directs, finances, or subsidizes the activities of the client or any organization identified under paragraph (3); or

(C) is an affiliate of the client or any organization identified under paragraph (3) and has a direct interest in the outcome of the lobbying activity;

(5) a statement of—

(A) the general issue areas in which the registrant expects to engage in lobbying activities on behalf of the client; and

(B) to the extent practicable, specific issues that have (as of the date of the registration) already been addressed or are likely to be addressed in lobbying activities; and

(6) the name of each employee of the registrant who has acted or whom the registrant expects to act as a lobbyist on behalf of the client and, if any such employee has served as a covered executive branch official or a covered legislative branch official in the 2 years before the date on which such employee first acted (after December 19, 1995) as a lobbyist on behalf of the client, the position in which such employee served.

(c) Guidelines for registration

(1) Multiple clients

In the case of a registrant making lobbying contacts on behalf of more than 1 client, a separate registration under this section shall be filed for each such client.

(2) Multiple contacts

A registrant who makes more than 1 lobbying contact for the same client shall file a single registration covering all such lobbying contacts.

(d) Termination of registration

A registrant who after registration—

(1) is no longer employed or retained by a client to conduct lobbying activities, and

(2) does not anticipate any additional lobbying activities for such client,

may so notify the Secretary of the Senate and the Clerk of the House of Representatives and terminate its registration. (Pub. L. 104–65, § 4, Dec. 19, 1995, 109 Stat. 696.)

399.90–4 § 1604. Reports by registered lobbyists. **399.90–4**

(a) Semiannual report

No later than 45 days after the end of the semiannual period beginning on the first day of each January and the first day of July of each year in which a registrant is registered under section 4, each registrant shall file a report with the Secretary of the Senate and the Clerk of the House of Representatives on its lobbying activities during such semiannual period. A separate report shall be filed for each client of the registrant.

(b) Contents of report

Each semiannual report filed under subsection (a) of this section shall contain—

(1) the name of the registrant, the name of the client, and any changes or updates to the information provided in the initial registration;

(2) for each general issue area in which the registrant engaged in lobbying activities on behalf of the client during the semiannual filing period—

(A) a list of the specific issues upon which a lobbyist employed by the registrant engaged in lobbying activities, including, to

the maximum extent practicable, a list of bill numbers and references to specific executive branch actions;

(B) a statement of the Houses of Congress and the Federal agencies contacted by lobbyists employed by the registrant on behalf of the client;

(C) a list of the employees of the registrant who acted as lobbyists on behalf of the client; and

(D) a description of the interest, if any, of any foreign entity identified under section 1603(b)(4) of this title in the specific issues listed under subparagraph (A);

(3) in the case of a lobbying firm, a good faith estimate of the total amount of all income from the client (including any payments to the registrant by any other person for lobbying activities on behalf of the client) during the semiannual period, other than income for matters that are unrelated to lobbying activities; and

(4) in the case of a registrant engaged in lobbying activities on its own behalf, a good faith estimate of the total expenses that the registrant and its employees incurred in connection with lobbying activities during the semiannual filing period.

(c) Estimates of income or expenses

For purposes of this section, estimates of income or expenses shall be made as follows:

(1) Estimates of amounts in excess of $10,000 shall be rounded to the nearest $20,000.

(2) In the event income or expenses do not exceed $10,000, the registrant shall include a statement that income or expenses totaled less than $10,000 for the reporting period. (Pub. L. 104–65, § 5, Dec. 19, 1995, 109 Stat. 697; Pub. L. 105–166, § 4(c), Apr. 6, 1998, 112 Stat. 39.)

399.90–5 § 1605. Disclosure and enforcement. **399.90–5**

The Secretary of the Senate and the Clerk of the House of Representatives shall—

(1) provide guidance and assistance on the registration and reporting requirements of this chapter and develop common standards, rules, and procedures for compliance with this chapter;

(2) review, and, where necessary, verify and inquire to ensure the accuracy, completeness and timeliness of registration and reports;

(3) develop filing, coding, and cross-indexing systems to carry out the purpose of this chapter, including—

(A) a publicly available list of all registered lobbyists, lobbying firms, and their clients; and

(B) computerized systems designed to minimize the burden of filing and maximize public access to materials filed under this chapter;

(4) make available for public inspection and copying at reasonable times the registrations and reports filed under this chapter;

(5) retain registrations for a period of at least 6 years after they are terminated and reports for a period of at least 6 years after they are filed;

(6) compile and summarize, with respect to each semiannual period, the information contained in registrations and reports filed with respect to such period in a clear and complete manner;

(7) notify any lobbyist or lobbying firm in writing that may be in noncompliance with this Act; and

(8) notify the United States Attorney for the District of Columbia that a lobbyist or lobbying firm may be in noncompliance with this chapter, if the registrant has been notified in writing and has failed to provide an appropriate response within 60 days after notice was given under paragraph (7). (Pub. L. 104–65, § 6, Dec. 19, 1995, 109 Stat. 698.)

399.90–6 § 1606. Penalties. **399.90–6**

Whoever knowingly fails to—

(1) remedy a defective filing within 60 days after notice of such a defect by the Secretary of the Senate or the Clerk of the House of Representatives; or

(2) comply with any other provision of this chapter;

shall, upon proof of such knowing violation by a preponderance of the evidence, be subject to a civil fine of not more than $50,000, depending on the extent and gravity of the violation. (Pub. L. 104–65, § 7, Dec. 19, 1995, 109 Stat. 699.)

399.90–7 § 1607. Rules of construction. **399.90–7**

(a) Constitutional rights

Nothing in this chapter shall be construed to prohibit or interfere with—

(1) the right to petition the Government for the redress of grievances;

(2) the right to express a personal opinion; or

(3) the right of association,

protected by the first amendment to the Constitution.

(b) Prohibition of activities

Nothing in this chapter shall be construed to prohibit, or to authorize any court to prohibit, lobbying activities or lobbying contacts by any person or entity, regardless of whether such person or entity is in compliance with the requirements of this chapter.

(c) Audit and investigations

Nothing in this chapter shall be construed to grant general audit or investigative authority to the Secretary of the Senate or the Clerk of the House of Representatives. (Pub. L. 104–65, § 8, Dec. 19, 1995, 109 Stat. 699.)

399.90–8 § 1608. Severability. **399.90–8**

If any provision of this chapter, or the application thereof, is held invalid, the validity of the remainder of this chapter and the application of such provision to other persons and circumstances shall not be affected thereby. (Pub. L. 104–65, § 13, Dec. 19, 1995, 109 Stat. 701.)

399.90–9 § 1609. Identification of clients and covered officials. **399.90–9**

(a) Oral lobbying contacts

Any person or entity that makes an oral lobbying contact with a covered legislative branch official or a covered executive branch official shall, on the request of the official at the time of the lobbying contact—

(1) state whether the person or entity is registered under this chapter and identify the client on whose behalf the lobbying contact is made; and

(2) state whether such client is a foreign entity and identify any foreign entity required to be disclosed under section 1603(b)(4) of this title that has a direct interest in the outcome of the lobbying activity.

(b) Written lobbying contacts

Any person or entity registered under this chapter that makes a written lobbying contact (including an electronic communication) with a covered legislative branch official or a covered executive branch official shall—

(1) if the client on whose behalf the lobbying contact was made is a foreign entity, identify such client, state that the client is considered a foreign entity under this chapter, and state whether the person making the lobbying contact is registered on behalf of that client under section 1603 of this title; and

(2) identify any other foreign entity identified pursuant to section 1603(b)(4) of this title that has a direct interest in the outcome of the lobbying activity.

(c) Identification as covered official

Upon request by a person or entity making a lobbying contact, the individual who is contacted or the office employing that individual shall indicate whether or not the individual is a covered legislative branch official or a covered executive branch official. (Pub. L. 104–65, § 14, Dec. 19, 1995, 109 Stat. 702.)

399.90–10 § 1610. Estimates based on tax reporting system. **399.90–10**

(a) Entities covered by section 6033(b) of title 26

A person, other than a lobbying firm, that is required to report and does report lobbying expenditures pursuant to section 6033(b)(8) of title 26 may—

(1) make a good faith estimate (by category of dollar value) of applicable amounts that would be required to be disclosed under such section for the appropriate semiannual period to meet the requirements of sections 1603(a)(3) and 1604(b)(4) of this title; and

(2) for all other purposes consider as lobbying contacts and lobbying activities only—

(A) lobbying contacts with covered legislative branch officials (as defined in section 1602(4) of this title) and lobbying activities in support of such contacts; and

(B) lobbying of Federal executive branch officials to the extent that such activities are influencing legislation as defined in section 4911(d) of title 26.

(b) Entities covered by section 162(e) of title 26

A person, other than a lobbying firm, who is required to account and does account for lobbying expenditures pursuant to section 162(e) of title 26 may—

(1) make a good faith estimate (by category of dollar value) of applicable amounts that would not be deductible pursuant to such section for the appropriate semiannual period to meet the requirements of sections 1603(a)(3) and 1604(b)(4) of this title; and

(2) for all other purposes consider as lobbying contacts and lobbying activities only—

(A) lobbying contacts with covered legislative branch officials (as defined in section 1602(4) of this title) and lobbying activities in support of such contacts; and

(B) lobbying of Federal executive branch officials to the extent that amounts paid or costs incurred in connection with such activities are not deductible pursuant to section 162(e) of title 26.

(c) Disclosure of estimate

Any registrant that elects to make estimates required by this chapter under the procedures authorized by subsection (a) or (b) of this section for reporting or threshold purposes shall—

(1) inform the Secretary of the Senate and the Clerk of the House of Representatives that the registrant has elected to make its estimates under such procedures; and

(2) make all such estimates, in a given calendar year, under such procedures.

(d) Study

Not later than March 31, 1997, the Comptroller General of the United States shall review reporting by registrants under subsections (a) and (b) of this section and report to the Congress—

(1) the differences between the definition of "lobbying activities" in section 1602(7) of this title and the definitions of "lobbying expenditures", "influencing legislation", and related terms in sections 162(e) and 4911 of title 26, as each are implemented by regulations;

(2) the impact that any such differences may have on filing and reporting under this chapter pursuant to this subsection; and

(3) any changes to this chapter to the appropriate sections of title 26 that the Comptroller General may recommend to harmonize the definitions.

(Pub. L. 104–65, § 15, Dec. 19, 1995, 109 Stat. 702; Pub. L. 105–166, § 4(a), (b), Apr. 6, 1998, 112 Stat. 38.)

399.90–11 § 1611. Exempt organizations. **399.90–11**

An organization described in section 501(c)(4) of title 26 which engages in lobbying activities shall not be eligible for the receipt of Federal funds constituting an award, grant, or loan.

(Pub. L. 104–65, § 18, Dec. 19, 1995, 109 Stat. 703; Pub. L. 104–99, Title I, § 129(a), Jan. 26, 1996, 110 Stat. 34.)

399.90–12 § 1612. Sense of the Senate that lobbying expenses should remain nondeductible. 399.90–12

(a) Findings

The Senate finds that ordinary Americans generally are not allowed to deduct the costs of communicating with their elected representatives.

(b) Sense of the Senate

It is the sense of the Senate that lobbying expenses should not be tax deductible. (Pub. L. 104–65. § 23, Dec. 19, 1995, 109 Stat. 705.)