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GENERAL AND PERMANENT LAWS RELATING TO THE UNITED STATES SENATE

[Data collected through 106th Congress, 1st Session]

Extracts from the United States Code

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GENERAL AND PERMANENT LAWS RELATING TO THE UNITED STATES SENATE

Extracts from the United States Code[1]

[Data collected through 107th Congress, 2nd Session]

TITLE I.—GENERAL PROVISIONS

Chapter 2.—ACTS AND RESOLUTIONS; FORMALITIES OF ENACTMENT; REPEALS; SEALING OF INSTRUMENTS

§ 112. Statutes at large; contents; admissibility in evidence. 251

The Archivist of the United States shall cause to be compiled, edited, indexed, and published, the United States Statutes at Large, which shall contain all the laws and concurrent resolutions enacted during each regular session of Congress; all proclamations by the President in the numbered series issued since the date of the adjournment of the regular session of Congress next preceding; and also any amendments to the Constitution of the United States proposed or ratified pursuant to article V thereof since that date, together with the certificate of the Archivist of the United States issued in compliance with the provision contained in section 106b of this title. In the event of an extra session of Congress, the Archivist of the United States shall cause all the laws and concurrent resolutions enacted during said extra session to be consolidated with, and published as part of, the contents of the volume for the next regular session. The United States Statutes at Large shall be legal evidence of laws, concurrent resolutions, treaties, international agreements other than treaties, proclamations by the President, and proposed or ratified amendments to the Constitution of the United States therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States. (July 30, 1947, ch. 388, 61 Stat. 636; Sept. 23, 1950, ch. 1001, § 1, 64 Stat. 979; Oct. 31, 1951, ch. 655, § 3, 65 Stat. 710; Oct. 19, 1984, Pub. L. 98–497, Title I, § 107(d), 98 Stat. 2291.)

[1] Since some provisions of the most recently enacted statutes may receive slightly different editorial treatment in the codification process, and since a few stylistic changes have been made in this Manual to achieve more convenient adaptation to Senate needs, some pro forma deviations from the exact format of the United States Code may be noted.

252 § 112b. United States international agreements; transmission to Congress.

(a) The Secretary of State shall transmit to the Congress the text of any international agreement (including the text of any oral international agreement, which agreement shall be reduced to writing), other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no event later than sixty days thereafter. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President. Any department or agency of the United States Government which enters into any international agreement on behalf of the United States shall transmit to the Department of State the text of such agreement not later than twenty days after such agreement has been signed.

(b) Not later than March 1, 1979, and at yearly intervals thereafter, the President shall, under his own signature, transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report with respect to each international agreement which, during the preceding year, was transmitted to the Congress after the expiration of the 60-day period referred to in the first sentence of subsection (a), describing fully and completely the reasons for the late transmittal.

(c) Notwithstanding any other provision of law, an international agreement may not be signed or otherwise concluded on behalf of the United States without prior consultation with the Secretary of State. Such consultation may encompass a class of agreements rather than a particular agreement.

(d) The Secretary of State shall determine for and within the executive branch whether an arrangement constitutes an international agreement within the meaning of this section.

(e) The President shall, through the Secretary of State, promulgate such rules and regulations as may be necessary to carry out this section. (Pub. L. 92–403, § 1, Aug. 22, 1972, 86 Stat. 619; Pub. L. 95–45, § 5, June 15, 1977, 91 Stat. 224; Pub. L. 95–426, Title VII, § 708, Oct. 7, 1978, 92 Stat. 993; Pub. L. 103–236, § 138, Apr. 30, 1994, 108 Stat. 397; Pub. L. 103–437, § 1, Nov. 2, 1994, 108 Stat. 4581.)

Chapter 3.—CODE OF LAWS OF UNITED STATES AND SUPPLEMENTS; DISTRICT OF COLUMBIA CODE AND SUPPLEMENTS

253 § 211. Copies [of the Code of Laws] to Members of Congress.

In addition to quotas provided for by section 210 of this title there shall be printed, published, and distributed of the Code of Laws relating to the District of Columbia with tables, index and other ancillaries, suitably bound and with thumb inserts and other convenient devices to distinguish the parts, and of the supplements to both codes as provided for by sections 202, 203 of this title, ten copies of each for each

Member of the Senate and House of Representatives of the Congress in which the original authorized publication is made, for his use and distribution, and in addition for the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a number of bound copies of each equal to ten times the number of members of such committees, and one bound copy of each for the use of each committee of the Senate and House of Representatives. (July 30, 1947, ch. 388, 61 Stat. 640.)

§ 212. Additional distribution at each new Congress. **254**

In addition the Superintendent of Documents shall, at the beginning of the first session of each Congress, supply to each Senator and Representative in such Congress, who may in writing apply for the same, one copy each of the Code of Laws of the United States, the Code of Laws relating to the District of Columbia, and the latest supplement to each code: *Provided,* That such applicant shall certify in his written application for the same that the volume or volumes for which he applies is intended for his personal use exclusively: *And provided further,* That no Senator or Representative during his term of service shall receive under this section more than one copy each of the volumes enumerated herein. (July 30, 1947, Ch. 388, 61 Stat. 640.)

TITLE 2.—THE CONGRESS

Chapter 1.—ELECTION OF SENATORS AND REPRESENTATIVES

255 § 1. Time for election of Senators.

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.)

CONSTITUTIONAL PROVISIONS

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 **1241.14**).

Vacancies in the Senate, see Const. Amend. XVII (Senate Manual section **1267**).

256 § 1a. Election to be certified by governor.

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.)

257 § 1b. Same; countersignature by secretary of state.

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

258 § 21. Oath of Senators.

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.)

259 § 22. Oath of President of Senate.

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.)

260 § 23. Presiding officer of Senate may administer oaths.

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.)

§ 24. Secretary of Senate or Assistant Secretary may administer oaths. 261

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.)

§ 27. Change of place of meeting. 262

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.)

§ 30. Term of service of Members of Congress as trustees or directors of corporations or institutions appropriated for. 263

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.)

§ 30a. Jury duty exemption of elected officials of the legislative branch. 264

(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

§ 31. Compensation of Members of Congress. 265

(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 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.)

266 § 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))

267 § 31–2. Gifts and travel.

(a) Gifts

(1) No Member, officer, or employee of the Senate, or the spouse or dependent thereof, shall knowingly accept, directly or indirectly, any gift or gifts in any calendar year aggregating more than the minimal value as established by section 7342(a)(5) of Title 5 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.

(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 consider-

ation 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 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; 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.)

268 § 31a–1. Expense allowance of Majority and Minority Leaders of Senate; expense allowance of Majority and Minority Whips; methods of payment; taxability.

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 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, 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.)

269 § 31a–2. Representation Allowance Account for the Majority and Minority Leaders of Senate.

(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 discharge 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. (Pub. L. 99–88, Title I, § 197, Aug. 15, 1985, 99 Stat. 350.)

§ 31a–2a. Transfer of funds from representation allowance of Majority and Minority Leaders of Senate to expense allowance; availability; definitions. 270

(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. (Pub. L. 100–71, Title I, § 1, July 11, 1987, 101 Stat. 422.)

§ 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. 271

Requests for transfers

(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".

Authority to incur expenses

(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) of this section by such leader and upon vouchers approved by such leader.

Authority to advance sums

(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, Title II, Apr. 10, 1991, 105 Stat. 144.)

272 § 31a–3. Expense allowance for Chairmen of Majority and Minority Conference Committees of Senate; method of payment; taxability.

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. (Pub. L. 99–88, Title I, Aug. 15, 1985, 99 Stat. 348.)

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

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 **872**).

274 § 32a. Compensation of Deputy President pro tempore of Senate.

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. (Pub. L. 95–26, Title I, May 4, 1977, 91 Stat. 79.)

NOTE

See Senate Manual section **88**. 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.

§ 32b. Expense allowance of President pro tempore of Senate; methods of payment; taxability. 275

Effective with fiscal year 1978 and each fiscal year thereafter, there is hereby authorized an expense allowance for the President Pro Tempore 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. (Pub. L. 95–355, Title I, Sept. 8, 1978, 92 Stat. 532; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

§ 33. Senators' salaries. 276

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.)

§ 36. Salaries of Senators. 277

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. 10, 1923, ch. 68, 42 Stat. 1225; Feb. 6, 1931, ch. 111, 46 Stat. 1065; June 19, 1934, ch. 648, Title I, § 1, 48 Stat. 1022; Feb. 13, 1935, ch. 6, § 1, 49 Stat. 22, 23.)

CONSTITUTIONAL PROVISIONS

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."

§ 36a. Payment of sums due deceased Senators and Senate personnel. 278

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, Ch. I, § 1, 64 Stat. 1224; Oct. 31, 1972, Pub. L. 92–607, Ch. V, § 503, 86 Stat. 1505.)

279 § 39. Deductions for absence.

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; Pub. L. 97–51, § 112(d), Oct. 1, 1981, 95 Stat. 963; Pub. L. 104–186, Title II, § 203(7), Aug. 20, 1996, 110 Stat. 1726.)

280 § 40. Deductions for withdrawal.

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.)

281 § 40a. Deductions for delinquent indebtedness.

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.)

282 § 42a. Special delivery postage allowance for President of the Senate.

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), Oct. 1, 1981, 95 Stat. 965.)

§ 43d. Organizational expenses of Senator-elect. 283

(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 incurred by Senator-elect; funding; maximum amount

(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.)

284 § 46a. Stationery allowance for President of the Senate.

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

(July 1, 1941, ch. 268, 55 Stat. 450; June 13, 1945, ch. 189, 59 Stat. 244; June 14, 1948, ch. 467, 62 Stat. 425; Oct. 11, 1951, ch. 485, 65 Stat. 391; Aug. 1, 1953, ch. 304, Title I, 67 Stat. 320; Aug. 5, 1955, ch. 568, 69 Stat. 504; Jan. 6, 1964, Pub. L. 88–258, Title IV, 77 Stat. 864; May 29, 1967, Pub. L. 90–21, Title I, 81 Stat. 38; Dec. 12, 1969, Pub. L. 91–145, 83 Stat. 342; July 9, 1971, Pub. L. 92–51, 85 Stat. 128; Dec. 15, 1971, Pub. L. 92–184, Ch. IV, 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, Ch. VII, 89 Stat. 182.)

285 § 46a.–1. Senate revolving fund for stationery allowances; availability of unexpended balances; withdrawals.

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. (Pub. L. 85–58, Ch. XI, June 21, 1957, 71 Stat. 188; Pub. L. 92–607, Ch. V, § 506(l), Oct. 31, 1972, 86 Stat. 1508; Pub. L. 96–304, § 112(b)(3), July 8, 1980, 94 Stat. 889, 892; Pub. L. 97–276 § 101(e), Oct. 2, 1982, 96 Stat. 1189; Pub. L. 105–55, Title I, § 7, Oct. 7, 1997, 111 Stat. 1181.)

§ 46d.–1. Long-distance telephone calls for Vice President. **286**

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, Title I, 63 Stat. 77.)

§ 47. Mode of payment. **287**

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

§ 48. Certification of salary and mileage accounts. **288**

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.)

§ 55. United States Code Annotated or United States Code Service; procurement for Senators. **289**

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. (Pub. L. 92–51, July 9, 1971, 85 Stat. 129; Pub. L. 92–607, Ch. V, Oct. 31, 1972, 86 Stat. 1504.)

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

(a) Authorization for payment from Senate contingent fund

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.

(b) Limits for authorized expenses; recalculation formula

(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 expulsion) 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.)

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

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.

(g) Closing of deceased Senator's State offices

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.

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

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 Marshal 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.

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

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.

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

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. (Pub. L. 92–607, § 506(a)–(j), Oct. 31, 1972, 86 Stat. 1505; Pub. L. 93–145, Nov. 1, 1973, 87 Stat. 532; Pub. L. 93–371, § (3)(e), Aug. 13, 1974, 88 Stat. 429; Pub. L. 94–59, Title I, § 103, July 25, 1975, 89 Stat. 274; Pub. L. 95–94, Title I, § 112(a) to (c), Aug. 5, 1977, 91 Stat. 663; Pub. L. 95–240, Title II, § 208, Mar. 7, 1978, 92 Stat. 117; Pub. L. 95–391, Title I, § 108(a), Sept. 30, 1978, 92 Stat. 773; Pub. L. 96–304, Title I, §§ 101, 102(a), 103, 104, July 8, 1980, 94 Stat. 889; Pub. L. 97–19, July 6, 1981, 95 Stat. 103; Pub. L. 97–51, § 122, Oct. 1, 1981, 95 Stat. 965; Pub. L. 97–257, Title I, § 104(a), Sept. 10, 1982, 96 Stat. 849; Pub. L. 97–276, § 101(e), Oct. 2, 1982, 96 Stat. 1189; Pub. L. 98–51, § 102, July 14, 1983, 97 Stat. 266; Pub. L. 98–181, Title I, § 1204(a), Nov. 30, 1983, 97 Stat. 1290; Pub. L. 99–65, § 1(a), July 12, 1985, 99 Stat.

163; Pub. L. 100–137, § 1(b), October 21, 1987; Pub. L. 100–458, §§ 8(a), 13, 14(a), October 1, 1988, 101 Stat. 815; §§ 8(a), 13, 14(a), 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 to 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.)

§ 58a. Telecommunications services for Senators; payment of costs out of contingent fund. 291

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. (Pub. L. 98–181, § 1205(a), Nov. 30, 1983, 97 Stat. 1290; Pub. L. 99–65, § 1(b), July 12, 1985, 99 Stat. 163; Pub. L. 99–439, Oct. 2, 1986, 100 Stat. 1085.)

§ 58a.–1. Payment for telecommunications equipment and services; definitions. 292

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. 293

(a) Regulations issues by Committee on Rules and Administration

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) Equipment and services provided on reimbursable basis

For purposes of sections 58a–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) Establishment of reasonable charges

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) Disposition of moneys received

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) Committee authority to classify or reclassify equipment and services

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; Pub. L. 101–163, Title I, § 3, Nov. 21, 1989, 103 Stat. 1044.)

294 § 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. (Pub. L. 100–123, § 3, Oct. 5, 1987, 101 Stat. 795.)

295 § 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.

(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. (Pub. L. 100–137, § 2, October 21, 1987, 101 Stat. 819.) **296**

§ 58c. Senators' Official Personnel and Office Expense Account. **297**

(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 Office 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 Office Expense Account" shall, when referred to in other law, rule, regulation, or order (whether referred to by such name or any other) shall on and 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 Senators' account shall be available for the payment of franked mail expenses of Senators. (Pub. L. 100–137, § 1(a), Oct. 21, 1987, 101 Stat. 814, 815; Pub. L. 105–55 Title I, § 3(b), Oct. 7, 1997, 111 Stat. 1180.)

298 § 58c–1. Repealed. (Public Law 105–55, Title I, § 3(c)(1), Oct. 7, 1997, 111 Stat. 1180)

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

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

(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.

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

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.

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

(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.

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

(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.

(e) Omitted.

(f) Mobile office

(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 STATES GOVERNMENT VEHICLE

"FOR OFFICIAL USE ONLY";

OR

"MOBILE OFFICE OF SENATOR

"FOR OFFICIAL USE ONLY"

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(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.

(g) Effective date

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.)

§ 59–1. Additional home State office space for Senators. **300**

(a) Presidential declaration of disaster or emergency

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) Effective date

This section is effective on and after June 12, 1997.
(Pub. L. 105–18, Title II, § 7002, June 12, 1997, 111 Stat. 192.)

301 § 59b. Purchase of office equipment or furnishings by Senators.

(a) Authorization; conditions

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.

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

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.

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

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

302 § 59e. Official mail of persons entitled to use the congressional frank.

(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 in the House, or official expenses for franked mail, employee salaries, office space, furniture, or equipment and any associated information technology services (excluding handheld communications devices) in the Senate 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) 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).

(C) Redesignated (B)

(D) Repealed. (Pub. L. 105–275, Title I, § 104(a)(3), Oct. 21, 1998, 112 Stat. 2439.)

(3) Repealed. (Pub. L. 106–57, Title I, § (a)(3), Sept. 29, 1999, 113 Stat. 415.)

(4) Repealed. (Pub. L. 105–275, Title I, § 104(b), Oct. 21, 1998, 112 Stat. 2439.)

(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; Pub. L. 107–68, Title I § 110, Nov. 12, 2001, 115 Stat. 569.)

§ 59f. Mass mailings by Senate offices; quarterly statements; publication of summary tabulations. 303

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; Pub. L. 103–283, § 3(b), July 22, 1994, 108 Stat. 1427.)

§ 59g. Mass mailing of information under frank; quarterly registration with Secretary of Senate. 304

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

305 § 60–1. Authority of officers of Congress over Congressional employees.

(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. (Pub. L. 91–510, § 431, Oct. 26, 1970, 84 Stat. 1190.)

306 § 60–2. Amendment to Senate conflict of interest rule.[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 with the Select Committee. (Pub. L. 101–194, Title IX, § 903, Nov. 30, 1989, 103 Stat. 1781.)

307 § 60a–1. Senate pay adjustments; action by President pro tempore of Senate.

(a) Each time the President adjusts the rates of pay of employees under section 5303 of Title 5 (or section 5304 or 5304a of such title, as applied to employees employed in the pay locality of the Washington, D.C.-Baltimore, Maryland consolidated metropolitan statistical area) the President pro tempore of the Senate shall, as he considers appropriate—

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

[1] See Standing Rule XXXVII.

(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 (and, as the case may be, section 5304 or 5304a of such title, as applied to employees employed in the pay locality of Washington, D.C.-Baltimore, Maryland consolidated metropolitan statistical area) 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) Any percentage used in any statute specifically providing for an adjustment in rates of pay in lieu of an adjustment made under section 5303 of Title 5, and, as the case may be, section 5304 or 5304a of such title for any calendar year shall be treated as the percentage used in an adjustment made under such section 5303, 5304, or 5304a, as applicable, for purposes of subsection (a).

(f) For purposes of this section, the term "personnel" does not include any Senator. (Pub. L. 91–656, § 4, Jan. 8, 1971, 84 Stat. 1952, 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 V, § 529 [Title I, § 101(b)(4)(E)], Nov. 5, 1990, 104 Stat. 1440; Pub. L. 106–554, § 1(a)(2) [Title 1, § 2], Dec. 21, 2000, 114 Stat. 2763, 2763A–96.)

§ 60a–1a. Rates of compensation paid by Secretary of Senate; applicability of Senate pay adjustments by President pro tempore of Senate. **308**

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 Sec-

retary 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.)

309 § 60a–1b. Senate pay adjustments; action by President pro tempore of Senate.

(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.)

310 § 60c–1. Vice President, Senators, officers, and employees paid by Secretary of Senate; payment of salary; advance payment.

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. (Pub. L. 86–426, § 1, Apr. 20, 1960, 74 Stat. 53; Pub. L. 92–136, § 6, Oct. 11, 1971, 85 Stat. 378; Pub. L. 96–38, § 108(a), July 25, 1979, 93 Stat. 113; Pub. L. 97–51, §§ 111(a), 112(a), Oct. 1, 1981, 95 Stat. 962; Pub. L. 97–257, Title I, § 105(a), Sept. 10, 1982, 96 Stat. 849; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

311 § 60c–2. Salary deposit in financial organizations. Repealed. Pub. L. 97–258, § 5(b), Sept. 13, 1982, 96 Stat. 1081.

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 section **1091**.

§ 60c–2a. Banking and financial transactions of Secretary of Senate. 312

(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.)

§ 60c–3. Withholding and remittance of State income tax by Secretary of Senate. 313

(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) "State" defined

For the purposes of this section, "State" means any of the States of the United States and the District of Columbia. (Pub. L. 93–371, § 101(2), Aug. 13, 1974, 88 Stat. 427.)

§ 60c–4. Withholding of charitable contributions from salaries paid by Secretary of Senate and from employees of Architect of Capitol. 314

(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 12353, dated March 23, 1982, and at such other times 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 on United States, Senate, or any officer or employee of 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 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. (Pub. L. 95–470, Oct. 17, 1978, 92 Stat. 1323; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783.)

315 § 60c–5 Student loan repayment program.

(a) Definitions

In this section:

(1) Eligible employee

The term "eligible employee" means an individual—

(A) who is an employee of the Senate; and

(B) whose rate of pay as an employee of the Senate, on the date on which such eligibility is determined, does not exceed the rate of basic pay for an employee for a position at ES-1 of the Senior Executive Schedule as provided for in subchapter VIII of chapter 53 of Title 5, United States Code (including any locality pay adjustment applicable to the Washington, D.C.-Baltimore, Maryland consolidated metropolitan statistical area).

(2) Employee of the Senate

The term "employee of the Senate" has the meaning given the term in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301).

(3) Employing Office

The term "employing office" means the employing office, as defined in section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301), of an employee of the Senate.

(4) Secretary

The term "Secretary" means the Secretary of the Senate.

(5) Student loan

The term "student loan" means—

(A) a loan made, insured, or guaranteed under part B, D, or E of Title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq., 1087a et seq., or 1087aa et seq.); and

(B) a health education assistance loan made or insured under part A of Title VII of the Public Health Service Act (42 U.S.C. 292 et seq.), or under part E of Title VIII of such Act (42 U.S.C. 297a et seq.).

(b) Senate student loan repayment program

(1) Service Agreements

(A) In general

The head of an employing office and an eligible employee may enter into a written service agreement under which—

(i) the employing office shall agree to repay, by direct payments on behalf of the eligible employee, any student loan indebtedness of the eligible employee that is outstanding at the time the eligible employee and the employing office enter into the agreement, subject to this section; and

(ii) the eligible employee shall agree to complete the 1-year required period of employment described in subsection (c)(1) with the employing office in exchange for the student loan payments.

(B) Contents of service agreements

(i) Contents

A service agreement under this paragraph shall contain—

(I) the start and end dates of the required period of employment covered by the agreement,

(II) the monthly amount of the student loan payments to be provided by the employing office;

(III) the employee's agreement to reimburse the Senate under the conditions set forth in subsection (d)(1);

(IV) disclosure of the program limitations provided for in subsection (d)(4) and paragraphs (2), (3), (6), and (7) of subsection (f);

(V) other terms to which the employing office and employee agree (such as terms relating to job responsibilities or job performance expectations); and

(VI) any other terms prescribed by the Secretary.

(ii) Standard service agreements

The Secretary shall establish standard service agreements for employing offices to use in carrying out this section.

(2) Submission of agreements

On entering into a service agreement under this section, the employing office shall submit a copy of the service agreement to the Secretary.

(c) Program conditions

(1) Period of employment

The term of the required period of employment under a service agreement under this section shall be 1 year. On completion of the required period of employment under such a service agreement, the eligible employee and the employing office may enter into additional service agreements for successive 1-year periods of employment.

(2) Amount of payments

(A) In general

The amount of student loan payments made under service agreements under this section on behalf of an eligible employee may not exceed—

(i) $500 in any month, or

(ii) a total of $40,000.

(B) Payments included in gross compensation limitations

Any student loan payment made under this section in any month may not result in the sum of the payment and the compensation of an employee for that month exceeding 1/12 of the applicable annual maximum gross compensation limitation under section 105(d)(2), (e), or (f) of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61–1(d)(2), (e), or (f)).

(3) Timing of payments

Student loan payments made under this section under a service agreement shall begin the first day of the pay period after the date on which the agreement is signed and received by the Secretary, and shall be made on a monthly basis.

(d) Loss of eligibility for student loan payments and obligation to reimburse

(1) In general

An employee shall not be eligible for continued student loan payments under a service agreement under this section and (except in a case in which an employee's duty is terminated under paragraph (2) or an employing office assumes responsibilities under paragraph (3)) shall reimburse the Senate for the amount of all student loan payments made on behalf of the employee under the agreement, if, before the employee completes the required period of employment specified in the agreement—

(A) the employee voluntarily separates from service with the employing office;

(B) the employee engages in misconduct or does not maintain an acceptable level of performance, as determined by the head of the employing office; or

(C) the employee violates any condition of the agreement.

(2) Termination of agreement

The duty of an eligible employee to fulfill the required period of employment under the service agreement shall be terminated if—

(A) funds are not made available to cover the cost of the student loan repayment program carried out under this section; or

(B) the employee and the head of the employing office involved mutually agree to terminate the service agreement under subsection (f)(7).

(3) Another employing office

An employing office who hires an eligible employee during a required period of employment under such a service agreement may assume the remaining obligations (as of the date of the hiring) of the employee's prior employing office under the agreement.

(4) Failure of employee to reimburse

If an eligible employee fails to reimburse the Senate for the amount owed under paragraph (1), such amount shall be collected—

(A) under section 104(c) of the Legislative Appropriation Act, 1977 (2 U.S.C. 60c-2a(c)) or section 5514 of Title 5, United States Code,

if the eligible employee is employed by any other office of the Senate or agency of the Federal Government; or

(B) under other applicable provisions of law if the eligible employee is not employed by any other office of the Senate or agency of the Federal Government.

(5) Crediting of amounts

Any amount repaid by, or recovered from, an eligible employee under this section shall be credited to the subaccount for the employing office from which the amount involved was originally paid. Any amount so credited shall be merged with other sums in such subaccount for the employing office and shall be available for the same purposes, and subject to the same limitations (if any), as the sums with which such amount is merged.

(e) Records and reports

(1) In general

Not later than January 1, 2003, and each January 1 thereafter, the Secretary shall prepare and submit to the Committee on Rules and Administration of the Senate and the Committee on Appropriations of the Senate, a report for the fiscal year preceding the fiscal year in which the report is submitted, that contains information specifying—

(A) the number of eligible employees that received student loan payments under this section; and

(B) the costs of such payments, including—

(i) the amount of such payments made for each eligible employee;

(ii) the amount of any reimbursement amounts for early separation from service or whether any waivers were provided with respect to such reimbursements; and

(iii) any other information determined to be relevant by the Committee on Rules and Administration of the Senate or the Committee on Appropriations of the Senate.

(2) Confidentiality

Such report shall not include any information which is considered confidential or could disclose the identity of individual employees or employing offices. Information required to be contained in the report of the Secretary under section 105(a) of the Legislative Branch Act, 1965 (2 U.S.C. 104a) shall not be considered to be personal information for purposes of this paragraph.

(f) Other administrative matters

(1) Account

(A) In general

The Secretary shall establish and maintain a central account from which student loan payments available under this section shall be paid on behalf of eligible employees.

(B) Office subaccounts

The Secretary shall ensure that, within the account established under subparagraph (A), a separate subaccount is established for each employing office to be used by each such office to make student loan payments under this section. Such student loan payments shall

be made from any funds available to the employing office for student loan payments that are contained in the subaccount for the office.

(C) Limitation

Amounts in each subaccount established under this paragraph shall not be made available for any purpose other than to make student loan payments under this section.

(2) Beginning of payments

Student loan payments may begin under this section with respect to an eligible employee upon—

(A) the receipt by the Secretary of a signed service agreement; and

(B) verification by the Secretary with the holder of the loan that the eligible employee has an outstanding student loan balance that qualifies for payment under this section.

(3) Limitation

Student loan payments may be made under this section only with respect to the amount of student loan indebtedness of the eligible employee that is outstanding on the date on which the employee and the employing office enter into a service agreement under this section. Such payments may not be made under this section on a student loan that is in default or arrears.

(4) Payment on multiple loans

Student loan payments may be made under this section with respect to more than 1 student loan of an eligible employee at the same time or separately, if the total payments on behalf of such employee do not exceed the limits under subsection (c)(2)(A).

(5) Treatment of payments

Student loan payments made on behalf of an eligible employee under this section shall be in addition to any basic pay and other forms of compensation otherwise payable to the eligible employee, and shall be subject to withholding for income and employment tax obligations as provided for by law.

(6) No relief from liability

An agreement to make student loan payments under this section shall not exempt an eligible employee from the responsibility or liability of the employee with respect to the loan involved and the eligible employee shall continue to be responsible for making student loan payments on the portion of any loan that is not covered under the terms of the service agreement.

(7) Reduction in payments

Notwithstanding the terms of a service agreement under this section, the head of an employing office may reduce the amount of student loan payments made under the agreement if adequate funds are not available to such office. If the head of the employing office decides to reduce the amount of student loan payments for an eligible employee, the head of the office and the employee may mutually agree to terminate the service agreement.

(8) No right to continued employment

A service agreement under this section shall not be construed to create a right to, promise of, or entitlement to the continued employment of the eligible employee.

(9) No entitlement

A student loan payment under this section shall not be construed to be an entitlement for any eligible employee.

(10) Treatment of payments

A student loan payment under this section—

(A) shall not be basic pay of an employee for purposes of chapters 83 and 84 of Title 5, United States Code (relating to retirement) and chapter 87 of such title (relating to life insurance coverage); and

(B) shall not be included in Federal wages for purposes of chapter 85 of such title (relating to unemployment compensation).

(g) Allocation of funds

(1) Maximum amount

In this subsection, the term "maximum amount," used with respect to a fiscal year, means—

(A) in the case of an employing office described in subsection (h)(1)(A), the amount described in that subsection for that fiscal year; and

(B) In the case of an employing office described in subsection (h)(1)(B), the amount described in that subsection for that fiscal year.

(2) Allocation

From the total amount made available to carry out this section for a fiscal year, there shall be allocated to each employing office for that fiscal year—

(A) the maximum amount for that employing office for that fiscal year; or

(B) if the total amount is not sufficient to provide the maximum amount to each employing office, an amount that bears the same relationship to the total amount as the maximum amount for that employing office for that fiscal year bears to the total of the maximum amounts for all employing offices for that fiscal year.

(3) Apportionment

In the case of an employing office that is a Committee of the Senate, the funds allocated under this subsection shall be apportioned between the majority and minority staff of the committee in the same manner as amounts are apportioned between the staffs for salaries.

(h) Authorization of appropriations

(1) In general

There are authorized to be appropriated (or otherwise made available from appropriations) to carry out this section the following amounts for each fiscal year:

(A) For each employing office that is the personal office of a Senator, an amount equal to 2 percent of the total sums appro-

priated for the fiscal year involved for administrative and clerical salaries for such office.

(B) For each other employing office, an amount equal to 2 percent of the total sums appropriated for the fiscal year involved for salaries for such office.

(2) Limitation

Amounts provided under this section shall be subject to annual appropriations.

(i) Effective date

This section shall apply to fiscal year 2002 and each fiscal year thereafter.

(Pub. L. 107–68, Title I, § 102, Nov. 12, 2001, 115 Stat. 563; Pub. L. 107–117, Div. B, Ch. 9, § 916, Jan. 10, 2002, 115 Stat. 2324.)

316 § 60j. Longevity compensation. [2]

(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.

(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

[2] The application of this section is restricted by section 60j–4 of this section.

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, Pub. L. 88–454, § 104(b), Aug. 20, 1964, 78 Stat. 550; Pub. L. 90–57, § 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; Pub. L. 96–304, Title I, § 107(b), July 8, 1980, 94 Stat. 890.)

§ 60j–1. Capitol Police longevity compensation. **317**

Any member of the Capitol Police who by reason of the provision repealed by subsection (b)[1] was receiving immediately prior to September 1, 1964, longevity compensation provided by section 105 of the Legislative Branch Appropriation Act, 1959,[2] shall, on and after September 1, 1964, 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. (Pub. L. 88–454, § 104(c), Aug. 20, 1964, 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 105 of Legislative Branch Appropriation Act, 1959, repealed by section 106(d) of Legislative Branch Appropriation Act, 1963.

318 § 60j–2. Longevity compensation for telephone operators on United States telephone exchange and members of Capitol Police paid by Chief Administrative Officer of House.

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.)

319 § 60j–3. Repealed. (Pub. L. 97–276, § 101(e), Oct. 2, 1982, 96 Stat. 1189)

320 § 60j–4. Longevity compensation not applicable to individuals paid by Secretary of Senate; savings provision.

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 subsections 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. (Pub. L. 98–51, § 107, July 14, 1983, 97 Stat. 267.)

321 § 61. Limit on rate of compensation of Senate officers and employees.

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.)

322 § 61–1. Gross rate of compensation of employees paid by Secretary of Senate.

(a) Annual rate; certification

(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.

(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 this paragraph, a new rate of compensation refers to compensation in the case of an appointment, transfer from one Senate appointing author-

ity 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.

(b) Conversion; increase in computation

NOTE.—This subsection has been executed.

(c) Reference in other provisions to basic rates and additional compensation as reference to per annum gross rate

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.

(d) Compensation of employees in office of Senator; limitation; titles of positions

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 des-

ignated 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.)

(e) Gross rate of compensation of employee of committee of Senate employed by joint committee, select committee, or standing committee

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.

(f) General limitation

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.

(Pub. L. 90–57, § 105 (a)–(f), (j), July 28, 1967, 81 Stat. 141–144; Pub. L. 90–206, Title II, § 214(j)–(*l*), Dec. 16, 1967, 81 Stat. 637; Pub. L. 91–145, 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, Dec. 15, 1971, 85 Stat. 633; Pub. L. 92–607, Ch. V, § 505, Oct. 31, 1972, 86 Stat. 1505; Pub. L. 93–145, Nov. 1, 1973, 87 Stat. 532; Pub. L. 93–245, Ch. VI, Jan. 3, 1974, 87 Stat. 1078; Pub. L. 93–255, § 1, Mar. 27, 1974, 88 Stat. 52; Pub. L. 93–371, Aug. 13, 1974, 88 Stat. 430; Pub. L. 94–59, Title I, § 102,

July 25, 1975, 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. 663; Pub. L. 95–391, Title I, § 104(b), Sept. 30, 1978, 92 Stat. 772; Pub. L. 95–482, § 112, Oct. 18, 1978, 92 Stat. 1605; Pub. L. 96–304, Title I, §§ 107(a), 112(b)(1), July 8, 1980, 94 Stat. 890, 892; Pub. L. 98–181, Title I, § 1203(a), Nov. 30, 1983, 97 Stat. 1289; Pub. L. 98–367, Title I, §§ 3(a), 12(a), (b), July 17, 1984, 98 Stat. 475, 476; Pub. L. 100–71, Title I, § 3(a), July 11, 1987, 101 Stat. 423; Pub. L. 100–137, § 1(c)(1), Oct, 21, 1987, 101 Stat. 818; Pub. L. 100–202, § 101(i), Dec. 22, 1987, 101 Stat. 1329–290; 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.)

§ 61–1a. Availability of appropriated funds for payment to an individual of pay from more than one position; conditions. 323

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, § 101(i) [Title I, § 9], Dec. 22, 1987, 101 Stat. 1329–290, 1329–295.)

§ 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". 324

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. (Pub. L. 98–367, Title I, § 4, July 17, 1984, 98 Stat. 475.)

§ 61–1c. Aggregate gross compensation of employee of Senator of State with population under 5,000,000. 325

(a) Notwithstanding the provisions of section 61–1(d)(1) of this title, and except as otherwise provided in subparagraph (C) of such paragraph, 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. (Pub. L. 102–90, Title I, § 5, Aug. 14, 1991, 105 Stat. 450.)

326 § 61a. Compensation of Secretary of Senate.

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.

327 § 61a–9. Advancement by Secretary of Senate of travel funds to employees under his jurisdiction for Federal Election Campaign Act travel expenses.

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. (Pub. L. 92–607, § 504, Oct. 31, 1972, 86 Stat. 1505.)

328 § 61a–9a. Travel expenses of Secretary of Senate; advancement of travel funds to designated employees.

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. (Pub. L. 94–59, § 101, July 25, 1975, 89 Stat. 273; Pub. L. 95–94, Title I, § 106, Aug. 5, 1977, 91 Stat. 661; Pub. L. 95–355, Title I, § 101, Sept. 8, 1978, 92 Stat. 533; Pub. L. 97–12, § 102, June 5, 1981, 95 Stat. 61; Pub. L. 98–367, § 1, July 17, 1984, 98 Stat. 474.)

329 § 61a–11. Abolition of statutory positions in Office of Secretary of Senate; Secretary's authority to establish and fix compensation for positions.

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. (Pub. L. 97–51, § 114, Oct. 1, 1981, 95 Stat. 963.)

§ 61b. Compensation of Parliamentarian of Senate. 330

The Parliamentarian of the Senate 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.)

§ 61b–3. Professional archivist; Secretary's authority to obtain services from General Services Administration. 331

For each fiscal year (beginning with the fiscal year which ends September 30, 1982), the Secretary of the Senate is authorized to expend from the contingent fund of the Senate such amount as may be necessary to enable the Secretary to obtain from the General Services Administration the services of a professional archivist. Such services shall be obtained on a reimbursable basis and shall not be obtained except with the consent of the General Services Administration and the Committee on Rules and Administration. (Pub. L. 97–92, Title I, § 125, Dec. 15, 1981, 95 Stat. 1198.)

§ 61c–1. Adjustment of rate of compensation by Secretary of Senate. 332

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. (Pub. L. 91–382, Aug. 18, 1970, 84 Stat. 808.)

§ 61c–2. Compensation of Assistants to Majority and Minority in Office of Secretary of Senate. 333

The Assistant to the Majority of the Senate and the Assistant to the Minority of the Senate in the Office of the Secretary of the Senate may each be paid a maximum annual rate of compensation not to exceed $36,500. (Pub. L. 94–59, Title I, § 105, July 25, 1975, 89 Stat. 275.)

§ 61d. Compensation of Chaplain of Senate. 334

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. (Pub. L. 100–202, § 101(i) [Title I, § 2(a)], Dec. 22, 1987, 101 Stat. 1329–290, 1329–294.)

§ 61d–1. Compensation of employees of Chaplain of Senate. 335

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. 100–202, § 101(i)

[Title I, § 2(b)], Dec. 22, 1987, 101 Stat. 1329–290, 1329–294; Pub. L. 101–163, Title I, § 10, Nov. 21, 1989, 103 Stat. 1046.)

336 § 61d–2. Postage allowance for Chaplain of Senate.

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. (Pub. L. 97–51, § 127(b)(1), Oct. 1, 1981, 95 Stat. 966.)

337 § 61d–3. Office of the Chaplain Expense Revolving Fund.

(a) Establishment

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) Disbursements

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) Deposits

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) Vouchers

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

338 § 61e. Compensation of Sergeant at Arms and Doorkeeper of Senate.

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.

339 § 61e–3. Deputy Sergeant at Arms and Doorkeeper to act on death, resignation, disability, or absence of Sergeant at Arms and Doorkeeper of Senate.

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. (Pub. L. 97–51, § 128, Oct. 1, 1981, 95 Stat. 966.)

§ 61e–4. Designation by Sergeant at Arms and Doorkeeper of Senate of persons to approve vouchers for payment of moneys. 340

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.)

§ 61f–1a. Travel expenses of Sergeant at Arms and Doorkeeper of the Senate. 341

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. (Pub. L. 94–303, Title I, § 117, June 1, 1976, 90 Stat. 615; Pub. L. 95–391, Title I, § 106, Sept. 30, 1978, 92 Stat. 772; Pub. L. 96–86; § 111(c), Oct. 12, 1979, 93 Stat. 661; Pub. L. 97–12, § 108, June 5, 1981, 95 Stat. 62; Pub. L. 100–458, § 6, Oct. 1, 1988, 102 Stat. 2161; Pub. L. 101–520, Title I, § 6, Nov. 5, 1990, 104 Stat. 2258.)

342 § 61f–7. Abolition of statutory positions in Office of Sergeant at Arms and Doorkeeper of Senate; authority to establish and fix compensations for positions.

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. (Pub. L. 97–51, § 116, Oct. 1, 1981, 95 Stat. 963.)

343 § 61f–8. Use by Sergeant at Arms and Doorkeeper of Senate of individual consultants or organizations, and department and agency personnel.

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. (Pub. L. 97–51, § 117, Oct. 1, 1981, 95 Stat. 964; Pub. L. 97–257, Title I,

§ 103, Sept. 10, 1982, 96 Stat. 849; Pub. L. 98–367, Title I, § 7, July 17, 1984, 98 Stat. 475; Pub. L. 100–458, § 7, Oct. 1, 1988, 102 Stat. 2162.)

§ 61f–10. Procurement of temporary help. 344

(a) In general

(1) Subject to regulations that the Committee on Rules and Administration of the Senate may prescribe, the Secretary of the Senate and the Sergeant at Arms and Doorkeeper of the Senate may procure temporary help services from a private sector source that offers such services. Each procurement of services under this subsection shall be for no longer than 30 days.

(2) A person performing services procured under paragraph (1) shall not, during the period of the performance of the services, be an employee of the United States or be considered to be an employee of the United States for any purpose.

(b) This section shall take effect on October 1, 2001, and shall apply in fiscal year 2002 and successive fiscal years. (Pub. L. 107–68, Title I, § 109, Nov. 12, 2001, 115 Stat. 569.)

§ 61g–6. Payment of expenses of Conference of Majority and Conference of Minority from Senate contingent fund. 345

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 $100,000, 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. (Pub. L. 97–51, § 120, Oct. 1, 1981, 95 Stat. 965; Pub. L. 97–276, § 101(e), Oct. 2, 1982, 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; Pub. L. 107–68, Title I, § 105(a), Nov. 12, 2001, 115 Stat. 568.)

§ 61g–6a. Salaries and expenses for Senate Majority and Minority Policy Committees and Senate Majority and Minority Conference Committees 346

(a) Transfer of funds for Policy Committees

(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) Transfer of funds for Conference Committees

(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) Availability of transferred funds

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) Notification to Committee on Appropriations

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

347 § 61g–7. Services of consultants to Majority or Minority Conference Committee of Senate.

(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 contract 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. (Pub. L. 99–88, Title I, § 195, Aug. 15, 1985, 99 Stat. 349; Pub. L. 104–197, Title I, § 1, Sept. 16, 1996, 110 Stat. 2396.)

§ 61g–8. Utilization of funds for specialized training of professional staff for Majority and Minority Conference Committee of the Senate. 348

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.)

§ 61h–4. Appointment of employees by Senate Majority and Minority Leaders; compensation. 349

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. (Pub. L. 95–26, Title I, May 4, 1977, 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.

§ 61h–5. Assistants to Senate Majority and Minority Leaders for Floor Operations; establishment of positions; appointment; compensation. 350

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. (Pub. L. 98–51, Title I, § 101(a), July 14, 1983, 97 Stat. 265.)

§ 61h–6. Appointment of consultants by Majority Leader, Minority Leader, Secretary of Senate, and Legislative Counsel of Senate; compensation. 351

(a) The Majority Leader and the Minority Leader, are each authorized to appoint and fix the compensation of not more than six 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 not more than two individual 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 subsection. The President pro tempore emeritus, of the Senate is authorized to appoint and fix the compensation of one individual 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, President pro tempore emeritus, 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. (Pub. L. 95–26, Title I, § 101, May 4, 1977, 91 Stat. 82; Pub. L. 95–94, Title I, § 110(a), Aug. 5, 1977, 91 Stat. 662; Pub. L. 100–458, §§ 4, 9, Oct. 1, 1988, 102 Stat. 2161, 2162; Pub. L. 101–302, Title III, § 314(a), May 25, 1990, 104 Stat. 245; Pub. L. 102–90, Title I, § 3, Aug. 14, 1991, 105 Stat. 450; Pub. L. 104–2, Feb. 9, 1995, 109 Stat. 45; Pub. L. 105–275, Title I, § 4(a), (b), Oct. 21, 1998, 112 Stat. 2433; Pub. L. 107–20, Title II, § 2803, July 24, 2001; 115 Stat. 185; Pub. L. 107–68, Title I, § 101(a), Nov. 12, 2001, 115 Stat. 563.)

352 § 61h–7. Chiefs of Staff for Senate Majority and Minority Leaders; appointment; compensation.

(a) There is established within the Offices of the Majority and Minority Leaders 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.)

§ 61j–2. Compensation and appointment of employees by Senate Majority and Minority Whips. 353

Effective April 1, 1977, the Majority Whip and the Minority Whip 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 $111,100 each fiscal year for each Whip. (Pub. L. 95–26, Title I, May 4, 1977, 91 Stat. 80.)

§ 61k. Appointment and compensation of employees by President pro tempore of Senate. 354

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. (Pub. L. 96–38, Title I, § 101, July 25, 1979, 93 Stat. 111.)

§ 61*l*. Appointment and compensation of Administrative Assistant, Legislative Assistant, and Executive Secretary for Deputy President pro tempore of Senate. 355

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. (Pub. L. 95–26, Title I, May 4, 1977, 91 Stat. 80.)

§ 62. Limitation on compensation of Sergeant at Arms and Doorkeeper of Senate. 356

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.)

§ 63. Repealed. (Pub. L. 104–186, Title II, § 204(21), Aug. 20, 1996, 110 Stat. 1733) 357

§ 64. Omitted. 358

§ 64–1. Employees of Senate Disbursing Office; designation by Secretary of Senate to administer oaths and affirmations. 359

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). During any period in which he is so designated, any such employee may administer such oaths and affirmations. (Pub. L. 93–145, Nov. 1, 1973, 87 Stat. 532.)

§ 64–2. Transfers of funds by Secretary of Senate; approval of Committee on Appropriations. 360

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.)

361 § 64–3. Reimbursement for Capitol Police salaries paid by Senate for service at Federal Law Enforcement Training Center.

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. (Pub. L. 95–26, Title I, § 111, May 4, 1977, 91 Stat. 87.)

362 § 64a. Death, resignation, or disability of Secretary and Assistant Secretary of Senate; Financial Clerk deemed successor as disbursing officer.

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(a), 98 Stat. 474.)

363 § 64b. Death, resignation, or disability of Secretary of Senate; Assistant Secretary of Senate to act as Secretary; written designation of absent status.

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. (Pub. L. 92–184, § 401, Dec. 15, 1971, 85 Stat. 635; Pub. L. 93–371, § 1, Aug. 13, 1974, 88 Stat. 427; Pub. L. 98–367, § 2(b), July 17, 1984, 98 Stat. 474.)

364 § 65a. Insurance of office funds of Secretary of Senate and Sergeant at Arms; payment of premiums.

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, § 101, 70 Stat. 360.)

§ 65b. Advances to Sergeant at Arms of Senate for extraordinary expenses. 365

The Secretary of the Senate, on and after July 31, 1958, is 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. (Pub. L. 85–570, July 31, 1958, 72 Stat. 442; Pub. L. 94–440, § 108, Oct. 1, 1976, 90 Stat. 1445; Pub. L. 95–26, § 104, May 4, 1977, 91 Stat. 82.)

§ 65c. Expense allowance for Secretary of Senate, Sergeant at Arms and Doorkeeper of Senate, and Secretaries for Senate Majority and Minority. 366

(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 from 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; Pub. L. 98–63, Title I, July 30, 1983, 97 Stat. 334; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

§ 65d. Funds advanced by Secretary of Senate to Sergeant at Arms and Doorkeeper of Senate to defray office expenses; accountability; maximum amount; vouchers. 367

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.)

368 § 65f. Funds for Secretary of Senate to assist in proper discharge within United States of responsibilities to foreign parliamentary groups or other foreign officials.

(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. (Pub. L. 100–71, § 2, July 11, 1987, 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.)

369 § 66a. Restriction on payment of dual compensation by Secretary of Senate.

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.)

370 § 67. Clerks to Senators-elect.

A Senator entitled to receive his own salary may appoint the usual clerical assistants allowed Senators. (Mar.. 2, 1895, Ch. 177, § 1, 28 Stat. 766, June 19, 1934, Ch. 648, Title I, § 1, 48 Stat. 1022.)

371 § 68. Payments from Senate contingent fund.

No payment shall be made from the contingent fund of the Senate unless sanctioned by the Committee on Rules and Administration of the Senate. Payments made upon vouchers or abstracts of disbursements of salaries approved by said Committee 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; Aug. 2, 1946, Ch. 753, § 102, 60 Stat. 814; Pub. L. 93–554, Title

I, Ch. III, § 101, Dec. 27, 1974, 88 Stat. 1776; Pub. L. 104–186, Title I, § 105(c), Aug. 20, 1996, 110 Stat. 1722.)

§ 68–1. Committee on Rules and Administration; designation of employees to approve vouchers for payments from Senate contingent fund. 372

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. (Pub. L. 93–145, § 101, Nov. 1, 1973, 87 Stat. 529; Pub. L. 97–51, § 126, Oct. 1, 1981, 95 Stat. 965; Pub. L. 98–473, § 123A(c), Oct. 12, 1984, 98 Stat. 1970.)

§ 68–2. Appropriations for contingent expenses of Senate; restrictions. 373

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.)

§ 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. 374

(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) of this section 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) of this section for the "Sergeant at Arms and Doorkeeper of the Senate". (Pub. L. 98–51, § 103, July 14, 1983, 97 Stat. 266.)

375 § 68–5. Purchase, lease, exchange, maintenance, and operation of vehicles out of account for Sergeant at Arms and Doorkeeper of Senate within Senate contingent fund; authorization of appropriations.

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 number as is otherwise specifically authorized by law. (Pub. L. 99–88, Title I, § 192, Aug. 15, 1985, 99 Stat. 349; Pub. L. 100–202, § 101(i) [Title I, § 3(a)], Dec. 22, 1987, 101 Stat. 1329–290, 1329–294.)

376 § 68–6. Transfers from appropriations accounts for expenses of Office of Secretary of Senate and Office of Sergeant at Arms and Doorkeeper of Senate.

(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. (Pub. L. 100–458, Title I, § 3, Oct. 1, 1988, 102 Stat. 2161; Pub. L. 101–302, Title III, § 317, May 25, 1990, 104 Stat. 247.)

§ 68–6a. Transfers from appropriations account for expenses of Office of Sergeant at Arms and Doorkeeper of Senate. 377

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.)

§ 68–7. Senate Office of Public Records Revolving Fund. 378

(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.)

379 § 68–8. Vouchering Senate office charges.

(a) Senate support office charges

Charges for expenses of any office, the funds of which are disbursed by the Secretary of the Senate, may be vouchered by a Senate support office paying such expenses or to which such charges are owed for goods or services provided, if—

(1) such charges are paid on behalf of the office incurring such expenses by such Senate support office; or

(2) such charges are payable to such Senate support office for goods or services provided by such office to the office incurring such expenses.

(b) Payment charged to official funds

Payments under this section shall be charged to the official funds of the office on whose behalf the expenses were paid, or which received the goods or services for which payment is required.

(c) Certification

Any voucher submitted by a Senate support office pursuant to this section shall be accompanied by a certification from such office of the amount and that such purchases were of the nature that they could be charged to the official funds of the office on whose behalf charges were paid, or to which goods or services were provided.

(d) Regulations

Vouchers under this section shall be submitted and paid subject to such regulations as may be promulgated by the Committee on Rules and Administration.

(Pub. L. 103–69, Title I, § 1, Aug. 11, 1993, 107 Stat. 695.)

380 § 68a. Materials, supplies, and fuel payments from Senate contingent fund.

Payments from the contingent fund of the Senate for materials and supplies (including fuel) 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(a), 63 Stat. 380.)

§ 68b. Per diem and subsistence expenses from Senate contingent fund.[1] 381

No part of the appropriations made under the heading "Contingent Expenses of the Senate" 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 Administration; 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 section 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. (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.)

§ 68c. Computation of compensation for stenographic assistance of committees payable from Senate contingent fund. 382

Compensation for stenographic assistance of committees paid out of the items under "Contingent Expenses of the Senate" 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, § 101, 70 Stat. 360.)

§ 68e. Advance payments by Secretary of Senate. 383

(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.)

[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.

[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.

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

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 in detail for the expenses so incurred. (Mar. 3, 1879, Ch. 183, 20 Stat. 419; June 10, 1921, Ch. 18, § 305, 42 Stat. 24; 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 **371**).

385 § 69–1. Availability of funds for franked mail expenses.

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.)

386 § 69a. Orientation seminars, etc., for new Senators, Senate officials or members of staffs of Senators or Senate officials; payment of expenses.

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. (Pub. L. 96–38, Title I, § 107(a), July 25, 1979, 93 Stat. 112; Pub. L. 99–88, § 193, Aug. 15, 1985, 99 Stat. 349; Pub. L. 100–202, § 101(i) [Title I, § 6], Dec. 22, 1987, 101 Stat. 1329–290, 1329–294; Pub. L. 102–392, Title I, § 3, Oct. 6, 1992, 106 Stat. 1706.)

387 § 69b. Senate Leader's Lecture Series.

(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.)

§ 72a. Committee staffs. **388**

(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 Senate contingent fund

(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**.)

(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

(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.

(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 Senate or Chief Administrative Officer of House; assistance: pay, tuition, etc. while training; continued employment agreement; service credit: retirement, life insurance and health insurance

(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 pursuant to resolutions, which shall specify the maximum amounts which may be used for such purpose, approved by such respective Houses, 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 of Representatives, 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; Pub. L. 85–462, § 4(o), June 20, 1958, 72 Stat. 209; Pub. L. 88–426, Title II, § 202(j), Aug. 14, 1964, 78 Stat. 414; Pub. L. 91–510, §§ 301(a)-(c), 303–304, Title IV, § 477(a)(3), Oct. 26, 1970, 84 Stat. 1175, 1176, 1179, 1180, 1195; Pub. L. 92–136, § 5, Oct. 11, 1971, 85 Stat. 378; H. Res. 549, Mar. 25, 1980; Pub. L. 100–458, § 312, Oct. 1, 1988, 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.)

§ 72a–1e. Assistance to Senators with committee memberships by employees in office of Senator. **389**

(1) Designation

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) Certification; professional staff privileges

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) Termination

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.)

390 § 72a–1g. Referral of ethics violations by Senate Ethics Committee to General Accounting Office for investigation.

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.)

391 § 72d. Committee on Appropriations; discretionary powers.

(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 October 21, 1998, whichever is later.

(Pub. L. 105–275, Title I, § 10, Oct. 21, 1998, 112 Stat. 2435.)

392 § 72d–1. Transfer of funds from the appropriation accounts for salaries or expenses for the Appropriations Committee of the Senate.

(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.)

§ 74b. Employment of additional administrative assistants. **393**

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.)

§ 88a. Repealed. (Pub. L. 104–186, Title II, § 204(34)(A), Aug. 20, 1996, 110 Stat. 1734.) **394**

§ 88b. Education of other minors who are Senate employees. **395**

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.)

§ 88b–1. Congressional pages. **396**

(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.)

397 § 88b–7. Daniel Webster Senate Page Residence Revolving Fund.

(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.)

398 § 101. Subletting duties of employees of Senate or House.

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.)

399 § 102a. Withdrawal of unexpended balances of appropriations.

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. (Pub. L. 85–58, Ch. XI, June 21, 1957, 71 Stat. 190; Pub. L. 94–303, § 118(a), June 1, 1976, 90 Stat. 615; Pub. L. 104–186, Title II, § 204 (53), Aug. 20, 1996, 110 Stat. 1737.)

§ 104a. Semiannual statements of expenditures by Secretary of Senate and Chief Administrative Officer of House. 400

(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 section 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.

(5)(A) Notwithstanding the requirements of paragraph (1) relating to the level of detail of statement and itemization, each report by the Secretary of the Senate required under such paragraph shall be compiled at a summary level for each office of the Senate authorized to obligate appropriated funds.

(B) Subparagraph (A) shall not apply to the reporting of expenditures relating to personnel compensation, travel and transportation of persons, other contractual services, and acquisition of assets.

(C) In carrying out this paragraph the Secretary of the Senate shall apply the Standard Federal Object Classification of Expenses as the Secretary determines appropriate. (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; Pub. L. 106–554, § 1(a)(2) [Title I, § 1(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–95.)

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

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 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, 30 Stat. 136; June 7, 1924, Ch. 303, § 1, 43 Stat. 586.)

402 § 106. Stationery for Senate; advertisements for.

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.)

§ 107. Opening bids for Senate and House stationery; awarding contracts. 403

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.)

§ 108. Contracts for separate parts of Senate stationery. 404

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.)

§ 109. American goods to be preferred in purchases for Senate and House. 405

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.)

§ 110. Purchase of paper, envelopes, etc., for stationery rooms of Senate and House. 406

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.)

§ 111. Purchase of supplies for Senate and House. 407

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; Ex. Ord. No. 6166, § 1, June 10, 1933; June 30, 1949, ch. 288, § 102, 63 Stat. 380.)

408 § 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.

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.)

409 § 112. Purchases of stationery and materials for folding.

Purchases of stationery and materials for folding shall be made in accordance with sections 106 to 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.)

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

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.)

411 § 114. Fees for copies from Senate journals.

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.)

412 § 117. Sale of waste paper and condemned furniture.

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

[1] Superseded by section 105(a) of Pub. L. 88–454, Aug. 20, 1964, 78 Stat. 550, as amended. See Senate Manual section **400**.

Treasury. (Aug. 7, 1882, ch. 433, § 1, 22 Stat. 337; May 29, 1928, ch. 901, § 1, 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 by Sergeant at Arms and Doorkeeper of Senate; procedure; deposit of receipts. 413

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 appropriation for "Miscellaneous Items" under the heading "Contingent Expenses of the Senate". (Pub. L. 95–94, Title I, § 103, Aug. 5, 1977, 91 Stat. 660; Pub. L. 97–51, § 118, Oct. 1, 1981, 95 Stat. 964.)

§ 117b–1. Receipts from sale of used or surplus furniture and furnishings of Senate. 414

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." (Pub. L. 97–276, § 101(e), Oct. 2, 1982, 96 Stat. 1189.)

§ 117b–2. Transfer of excess or surplus educationally useful equipment to public schools. 415

(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 7801 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.)

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

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 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.)

417 § 118a. Officers of Senate.

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.)

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

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, Title I, §§ 102, 121, 60 Stat. 814, 822; Pub. L. 104–186, Title II, § 204(65), Aug. 20, 1996, 110 Stat. 1739.)

419 § 121. Senate restaurant deficit fund; deposit of proceeds from surcharge on orders.

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 2042 of this title (Senate Manual section **796**).

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

§ 12lb–1. Senate Hair Care Services; personnel; revolving fund. 420

(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 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 5104(c), 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.

(3) Agency contributions for employees of Senate Hair Care Services shall be paid from the appropriations account for "Salaries, Officers and Employees".[1]

(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 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; Pub. L. 106–554, § 1(a)(2) [Title I, § 3(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–96.)

[1] Pub. L. 106–554, § 1(a)(2) [Title I § 3(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–96 amended subsection (c) and added a second paragraph (3) pursuant to a drafting error.

421 § 121c. Office of Senate Health Promotion.

(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 5104(c) 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, Title I, § 2, Aug. 14, 1991, 105 Stat. 450.)

§ 121d. Senate Gift Shop. 422

(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

(1) 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.

(2) The Secretary of the Senate may transfer from the fund to the Capitol Preservation Fund the net profits (as determined by the Secretary) from sales of items by the Senate Gift Shop which are intended to benefit the Capitol Visitor Center.

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

The provisions of section 5104(c) 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; Pub. L. 107–68, Title I, § 107(a), Nov. 12, 2001, 115 Stat. 568.)

423 § 121e. Payment of fees for services of Attending Physician and for use of Senate health and fitness facilities.

(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.)

424 § 121f. Senate Health and Fitness Facility Revolving Fund.

(a) There is established in the Treasury of the United States a revolving fund to be known as the Senate Health and Fitness Facility Revolving Fund ("the revolving fund").

(b) The Architect of the Capitol shall deposit in the revolving fund—

(1) any amounts received as dues or other assessments for use of the Senate Health and Fitness Facility, and

(2) any amounts received from the operation of the Senate waste recycling program.

(c) Subject to the approval of the Committee on Appropriations of the Senate, amounts in the revolving fund shall be available to the Architect of the Capitol, without fiscal year limitation, for payment of costs of the Senate Health and Fitness Facility.

(d) The Architect of the Capitol 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 Architect determines

are in excess of the current and reasonably foreseeable needs of the Senate Health and Fitness Facility.

(e) Subject to the approval of the Committee on Rules and Administration of the Senate, the Architect of the Capitol may issue such regulations as may be necessary to carry out the provisions of this section. (Pub. L. 106–554, § 1(a)(2) [Title I, § 4], Dec. 21, 2000, 114 Stat. 2763, 2763A–96.)

§ 123b. House Recording Studio; Senate Recording Studio and Senate Photographic Studio. 425

(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.)

426 § 123b–1. Senate Recording Studio and Senate Photographic Studio as successors to Senate Recording and Photographic Studios; rules, regulations, and fees for photographs and photographic services.

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

427 § 123c. Data processing equipment, software, and services.

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. (Pub. L. 94–32, Title I, June 12, 1975, 89 Stat. 182; Pub. L. 95–26, Title I, § 103, May 4, 1977, 91 Stat. 82.)

§ 123c–1. Advance payments for computer programming services. 428

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.)

§ 123d. Senate Computer Center. 429

(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. (Pub. L. 94–303, Title I, § 116, June 1, 1976, 90 Stat. 614.)

430 § 123e. Senate legislative information system.

(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.)

431 § 125a. Death gratuity payments as gifts.

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.)

§ 126–2. Designation of reporters. 432

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, Aug. 27, 1966, 80 Stat. 354.)

§ 126b. Substitute reporters of debates and expert transcribers; temporary reporters of debates and expert transcribers; payments from Senate contingent fund. 433

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, July 27, 1965, 79 Stat. 266; Pub. L. 97–12, § 105, June 5, 1981, 95 Stat. 61.)

§ 130a. Nonpay status for Congressional employees studying under Congressional staff fellowships. 434

(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.)

435 § 130b. Jury and witness service by Senate and House employees.

(a) Definitions

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) Service as juror or witness in connection with a judicial proceeding; prohibition against reduction in pay

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) Official duty

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) Prohibition on receipt of jury or witness fees

(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) Travel expenses

(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) Rules and regulations

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) Congressional consent not conferred for production of official records or to testimony concerning activities related to employment

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 that House concerning activities related to his employment. (Pub. L. 91–563, § 6, Dec. 19, 1970, 84 Stat. 1478; Pub. L. 94–310, § 2, June 15, 1976, 90 Stat. 687; Pub. L. 104–186, Title II, § 204(74), (75), Aug. 20, 1996, 110 Stat. 1741.)

§ 130c. Waiver by Secretary of Senate of claims of United States arising out of erroneous payments to Vice President, Senator, or Senate employee paid by Secretary of Senate. 436

(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 employee, 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.)

437 § 130e. Special Services Office.

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.)

438 § 130g. Emergency situations; provisions of facilities, equipment, supplies, personnel, and other support services for use of Senate.

(a) Notwithstanding any other provision of law—

(1) Subject to subsection (b) of this section, the Sergeant at Arms of the Senate and the head of an executive agency (as defined

in section 105 of Title 5), may enter into a memorandum of understanding under which the agency may provide facilities, equipment, supplies, personnel, and other support services for the use of the Senate during an emergency situation; and

(2) The Sergeant at Arms of the Senate and the head of the agency may take any action necessary to carry out the terms of the memorandum of understanding.

(b) The Sergeant at Arms of the Senate may enter into a memorandum of understanding described in subsection (a)(1) of this section consistent with the Senate Procurement Regulations.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year. (Pub. L. 107–117, Div. B, ch. 9, § 902, Jan. 10, 2002, 115 Stat. 2316.)

Chapter 5.—LIBRARY OF CONGRESS

§ 131. Collections composing Library; location. 439

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. 1329–290, 1329–310.)

§ 132. Departments of Library. 440

The Library of Congress shall be arranged in two departments, a general library and a law library. (R.S. § 81.)

§ 132a. Appropriations for increase of general library. 441

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 **444**).

§ 132b. Joint Committee on the Library. 442

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.)

§ 133. Joint Committee during recess of Congress. 443

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.)

444 § 136. Librarian of Congress; appointment; rules and regulations.

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.)

445 § 136a–2. Librarian of Congress and Deputy Librarian of Congress; compensation.

Notwithstanding any other provision of law—

(1) the 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 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.)

446 § 138. Law library; hours kept open.

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.)

447 § 139. Report of Librarian of Congress.

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.)

448 § 141a. Design, installation, and maintenance of security systems; transfer of responsibility.

The responsibility for design, installation, and maintenance of security systems to protect the physical security of the buildings and grounds of the Library of Congress is transferred from the Architect of the Capitol to the Capitol Police Board. Such design, installation, and maintenance shall be carried out under the direction of the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate, and without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5). Any alteration to a structural, mechanical, or architectural feature of the buildings and grounds of the Library of Congress that is required for a security system under the preceding sentence may be carried out only with the approval of the Architect of the Capitol. (Pub. L. 105–277, Div. B, Title II, Oct. 21, 1998, 112 Stat. 2681–570.)

§ 142j. John C. Stennis Center for Public Service Training and Development; disbursement of funds, computation and disbursement of basic pay, and provision of financial management services and support by Library of Congress; payment for services. 449

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 **661** through **670**).

§ 145. Copies of journals and documents. 450

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, and must not be taken therefrom. (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 **1152** 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 **1162**).

§ 145a. Periodical binding of printed hearings of committee testimony. 451

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.)

§ 146. Deposit of Journals of Senate and House. 452

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.)

453 § 154. Library of Congress Trust Fund Board; members; quorum; seal; rules and regulations.

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 and the vice chair 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). Upon request of the chair of the Board, any member whose term has expired may continue to serve on the Trust Fund Board until the earlier of the date on which such member's successor is appointed or the expiration of the 1-year period which begins on the date such member's term expires. Seven 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; Nov. 9, 2000, Pub. L. 106–481, Title II, § 201, 114 Stat. 2190.)

454 § 156. Gifts, etc., to Library of Congress Trust Fund Board.

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. (Mar. 3, 1925, ch. 423, § 2, 43 Stat. 1107; Apr. 13, 1936, ch. 213, 49 Stat. 1205.)

455 § 157. Funds of Library of Congress Trust Fund Board; management of.

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.)

§ 158. Deposits by Library of Congress Trust Fund Board with Treasurer of United States. 456

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.)

§ 158a. Temporary possession of gifts of money or securities to Library of Congress; investment. 457

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.)

§ 159. Perpetual succession and suits by or against Library of Congress Trust Fund Board. 458

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; June 25, 1948, ch. 646, § 32(a), 62 Stat. 991; May 24, 1949, ch. 139, § 127, 63 Stat. 107.)

459 § 160. Disbursement of gifts, etc., to Library.

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.

(Mar. 3, 1925, ch. 423, § 4, 43 Stat. 1108; Oct. 7, 1997, Pub. L. 105–55, Title II, § 208, 111 Stat. 1194.)

460 § 161. Tax exemption of gifts, etc., to Library of Congress.

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. (Mar. 3, 1925, ch. 423, § 5, 43 Stat. 1108; Oct. 2, 1942, ch. 576, 56 Stat. 765.)

461 § 166. Congressional Research Service.

(a) Redesignation of Legislative Reference Service

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".

(b) Functions and objectives

It is the policy of Congress that—

(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.

(c) Appointment and compensation of Director, Deputy Director, and other necessary personnel; minimum grade for Senior Specialists; placement in grades GS–16, 17, and 18 of Specialists and Senior Specialists; appointment without regard to civil service laws and political affiliation and on basis of fitness to perform duties

(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 per annum rate equal to the rate of basic pay provided for level III of the Executive Schedule under section 5314 of Title 5.

(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.

(d) Duties of Service; assistance to Congressional Committees; list of terminating programs and subjects for analysis; legislative data, studies etc.; information research; digest of bills, preparation; legislation, purpose and effect, and preparation of memoranda; information and research capability, development

It shall be the duty of the Congressional Research Service, without partisan bias—

(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.

(e) Specialists and Senior Specialists; appointment; fields of appointment

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:

(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.

(f) Duties of Director; establishment and change of research and reference divisions or other organizational units, or both

The Director is authorized—

(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.

(g) Budget estimates

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.

(h) Experts or consultants, individual or organizational, and persons and organizations with specialized knowledge; procurement of temporary or intermittent assistance; contracts, nonpersonal and personal service; advertisement requirements inapplicable; end product; pay; travel time

(1) 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—

(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.

(i) Special report to Joint Committee on the Library

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.

(j) Authorization of appropriations

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(a), 84 Stat. 1181; 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.)

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

§ 191. Oaths to witnesses. 465

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. (R.S. § 101; June 26, 1884, ch. 123, 23 Stat. 60; June 22, 1938, ch. 594, 52 Stat. 942, 943.)

§ 192. Refusal of witness to testify or produce papers. 466

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. (R.S. § 102; June 22, 1938, ch. 594, 52 Stat. 942.)

§ 193. Privilege of witnesses. 467

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. (R.S. § 103; June 22, 1938, ch. 594, 52 Stat. 942.)

468 § 194. Certification of failure to testify or produce; grand jury action.

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. (R.S. § 104; July 13, 1936, ch. 884, 49 Stat. 2041; June 22, 1938, ch. 594, 52 Stat. 942.)

469 § 194a. Request by Congressional committees to officers or employees of Federal departments, agencies, etc., concerned with foreign countries or multilateral organizations for expression of views and opinions.

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. (Pub. L. 92–352, § 502, July 13, 1972, 86 Stat. 496; Pub. L. 93–126, § 17, Oct. 18, 1973, 87 Stat. 455; Pub. L. 105–277, div G, Title XII, § 1225(g), Title XIII, § 1335(n), Oct. 21, 1998, 112 Stat. 2681–775, 2681–789.)

470 § 194b. Omitted.

471 § 195a. Restriction on payment of witness fees or travel and subsistence expenses to persons subpenaed by Congressional committees.

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. (Pub. L. 86–628, July 12, 1960, 74 Stat. 449.)

§ 195b. Fees for witnesses requested to appear before Majority Policy Committee or Minority Policy Committee. 472

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. (Pub. L. 93–371, § 7, Aug. 13, 1974, 88 Stat. 431.)

§ 196. Senate resolutions for investigations; limit of cost. 473

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.)

§ 198. Adjournment. 474

(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(b), 84 Stat. 1193.)

§§ 261–270 Repealed. 475

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

§ 271. Establishment. 476

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 Legislative Counsel of the Senate. (Feb. 24, 1919, ch. 18, § 1303(a), (d), 40 Stat. 1141; June 2, 1924, ch. 234, Title XI, § 1101, 43 Stat. 353.)

§ 272. Legislative Counsel. 477

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.)

§ 273. Compensation. 478

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.)

479 § 274. Staff, office equipment and supplies.

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.)

480 § 275. Functions.

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.)

481 § 276. Disbursement of appropriations.

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.)

482 § 276a. Expenditures.

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. (Pub. L. 98–51, Title I, § 105, July 14, 1983, 97 Stat. 267.)

483 § 276b. Travel and related expenses.

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. (Pub. L. 98–51, § 106, July 14, 1983, 97 Stat. 267.)

Chapter 9D.—OFFICE OF SENATE LEGAL COUNSEL

§ 288. Office of Senate Legal Counsel. 484

(a) Establishment; appointment of Counsel and Deputy Counsel; Senate approval; reappointment; compensation

(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.

(b) Assistant counsels and other personnel; compensation; appointment; removal

(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.

(c) Consultants

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.

(d) Policies and procedures

The Counsel may establish such policies and procedures as may be necessary to carry out the provisions of this chapter.

(e) Delegation of duties

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.

(f) Attorney-client relationship

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. (Pub. L. 95–521, Title VII, § 701, Oct. 26, 1978, 92 Stat. 1875.)

485 § 288a. Senate Joint Leadership Group.

(a) Accountability of Office

The Office shall be directly accountable to the Joint Leadership Group in the performance of the duties of the Office.

(b) Membership

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.

(c) Assistance of Secretary of Senate

(c) The Joint Leadership Group shall be assisted in the performance of its duties by the Secretary of the Senate. (Pub. L. 95–521, Title VII, § 702, Oct. 26, 1978, 92 Stat. 1877.)

§ 288b. Requirements for authorizing representation activity. 486

(a) Direction of Joint Leadership Group or Senate resolution

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.

(b) Civil action to enforce subpena

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.

(c) Intervention or appearance

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.

(d) Immunity proceedings

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.

(e) Resolution recommendations

(e) The Office shall make no recommendation with respect to the consideration of a resolution under this section. (Pub. L. 95–521, Title VII, § 703, Oct. 26, 1978, 92 Stat. 1877.)

§ 288c. Defending the Senate, committee, subcommittee, member, officer, or employee of Senate. 487

(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. (Pub. L. 95–521, Title VII, § 704, Oct. 26, 1978, 92 Stat. 1877.)

488 § 288d. Enforcement of Senate subpena or order.

(a) Institution of civil actions

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.

(b) Actions in name of committees and subcommittees

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.

(c) Consideration of resolutions authorizing actions

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.

(d) Rules of Senate

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.

(e) Committee reports

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.

(f) Omitted

(g) Certification of failure to testify; contempt

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. (Pub. L. 95–521, Title VII, § 705, Oct. 26, 1978, 92 Stat. 1878; Pub. L. 99–336, § 6(a)(2), June 19, 1986, 100 Stat. 639.)

§ 288e. Intervention or appearance. **489**

(a) Actions or proceedings

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.

(b) Notification; publication

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.

(c) Powers and responsibilities of Congress

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. (Pub. L. 95–521, Title VII, § 706, Oct. 26, 1978, 92 Stat. 1880.)

§ 288f. Immunity proceedings. **490**

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. (Pub. L. 95–521, Title VII, § 707, Oct. 26, 1978, 92 Stat. 1880.)

491 § 288g. Advisory and other functions.

(a) Cooperation with persons, committees, subcommittees, and offices

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.

(b) Legal research files

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.

(c) Miscellaneous duties

The Counsel shall perform such other duties consistent with the purposes and limitations of this chapter as the Senate may direct. (Pub. L. 95–521, Title VII, § 708, Oct. 26, 1978, 92 Stat. 1880.)

492 § 288h. Defense of certain constitutional powers.

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. (Pub. L. 95–521, Title VII, § 709, Oct. 26, 1978, 92 Stat. 1881.)

§ 288i. Representation conflict or inconsistency. **493**

(a) Notification

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.

(b) Solution; publication in Congressional Record; review

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.

(c) Computation of period following publication

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.

(d) Reimbursement

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. (Pub. L. 95–521, Title VII, § 710, Oct. 26, 1978, 92 Stat. 1882.)

494 **§ 288j. Consideration of resolutions to direct counsel.**

(a) Procedure; rules

(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.

(b) "Committee" defined

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.

(c) Rules of the Senate

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. (Pub. L. 95–521, Title VII, § 711, Oct. 26, 1978, 92 Stat. 1882.)

§ 288k. Attorney General relieved of responsibility. **495**

(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 Counsel as required by section 530D of Title 28. (Pub. L. 95–521, Title VII, § 712, Oct. 26, 1978, 92 Stat. 1883; Pub. L. 107–273, § 202(b)(2), Nov. 2, 2002, 116 Stat. 1774.)

§ 288*l*. Procedural provisions. **496**

(a) Intervention or appearance

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.

(b) Compliance with admission requirements

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.

(c) Standing to sue; jurisdiction

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. (Pub. L. 95–521, Title VII, § 713, Oct. 26, 1978, 92 Stat. 1883.)

497 § 288m. Contingent fund.

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. (Pub. L. 95–521, Title VII, § 716, Oct. 26, 1978, 92 Stat. 1885.)

Chapter 11.—CITIZENS' COMMISSION ON PUBLIC SERVICE AND COMPENSATION

500 § 351. Establishment.

There is hereby established a commission to be known as the Citizens' Commission on Public Service and Compensation (hereinafter referred to as the "Commission"). (Pub. L. 90–206, § 225(a), Dec. 16, 1967, 81 Stat. 642; Pub. L. 101–194, Title VII, § 701(a)(1), Nov. 30, 1989, 103 Stat. 1763.)

501 § 352. Membership.

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

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

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

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

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

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

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

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

(B) registered (or required to register) under the Federal Regulation of Lobbying Act [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 Com-

mission 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. (Pub. L. 90–206, § 225(b), Dec. 16, 1967, 81 Stat. 642; Pub. L. 99–190, § 135(a), Dec. 19, 1985, 99 Stat. 1322; Pub. L. 101–194, Title VII, § 701(b), Nov. 30, 1989, 103 Stat. 1763.)

§ 353. Executive Director; additional personnel; detail of personnel of other agencies. 502

(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. (Pub. L. 90–206, Title II, § 225(c), Dec. 16, 1967, 81 Stat. 643; Pub. L. 101–194, Title VII, § 701(c), Nov. 30, 1989, 103 Stat. 1764.)

503 § 354. Use of United States mails.

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. (Pub. L. 90–206, § 225(d), Dec. 16, 1967, 81 Stat. 643.)

504 § 355. Administrative support services.

The Administrator of General Services shall provide administrative support services for the Commission on a reimbursable basis. (Pub. L. 90–206, § 225(e), Dec. 16, 1967, 81 Stat. 643.)

505 § 356. Functions.

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.)

§ 357. Report by Commission to President with respect to pay. 506

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. (Pub. L. 90–206, § 225(g), Dec. 16, 1967, 81 Stat. 644; Pub. L. 99–190, § 135(c), Dec. 19, 1985, 99 Stat. 1322; Pub. L. 101–194, Title VII, § 701(e), Nov. 30, 1989, 103 Stat. 1764.)

§ 358. Recommendations of President with respect to pay. 507

(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. (Pub. L. 90–206, § 225(h), Dec. 16, 1967, 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.)

§ 359. Effective date of recommendations of President. 508

(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. (Pub. L. 90–206, § 225(i), Dec. 16, 1967, 81 Stat. 644; Pub. L. 95–19, § 401(a), Apr. 12, 1977, 91 Stat. 45; Pub. L. 99–190, § 135(e), Dec. 19, 1985, 99 Stat. 1322; Pub. L. 101–194, Title VII, § 701(g), Nov. 30, 1989, 103 Stat. 1765.)

509 § 360. Effect of recommendations on existing law and prior recommendations.

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. (Pub. L. 90–206, § 225(j), Dec. 16, 1967, 81 Stat. 644; Pub. L. 95–19, § 401(b), Apr. 12, 1977, 91 Stat. 46; Pub. L. 95–190, § 135(f), Dec. 19, 1985, 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.)

510 § 361. Publication of recommendations.

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.

§ 362. Requirements applicable to recommendations. 511

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.)

§ 363. Additional function. 512

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.)

§ 364. Provision relating to certain other pay adjustments. 513

(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.)

Chapter 13.—JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS

514 **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

515 **§ 431. Definitions.**

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) 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 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;

(ix) 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;

(x) 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;

(xi) 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;

(xii) 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;

(xiii) any honorarium (within the meaning of section 441i of this title); and

(xiv) any loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, if such loan is made in accordance with applicable law and under commercially reasonable terms and if the person making such loan makes loans derived from an advance on the candidate's brokerage account, credit card, home equity line of credit, or other line of credit in the normal course of the person's business.

(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 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 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) Independent expenditure.—The term "independent expenditure" means an expenditure by a person—

(A) expressly advocating the election or defeat of a clearly identified candidate; and

(B) that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate's authorized political committee, or their agents, or a political party committee, or its agents.

(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.

(20) Federal election activity.—

(A) In general.—The term "Federal election activity" means—

(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot);

(iii) a public communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate); or

(iv) services provided during any month by an employee of a State, district, or local committee of a political party who spends more than 25 percent of that individual's compensated

time during that month on activities in connection with a Federal election.

(B) Excluded activity.—The term "Federal election activity" does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

(i) a public communication that refers solely to a clearly identified candidate for State or local office, if the communication is not a Federal election activity described in subparagaph (A)(i) or (ii);

(ii) a contribution to a candidate for State or local office, provided the contribution is not designated to pay for a Federal election activity described in subparagraph (A);

(iii) the costs of a State, district, or local political convention; and

(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office.

(21) Generic campaign activity.—The term "generic campaign activity" means a campaign activity that promotes a political party and does not promote a candidate or non-Federal candidate.

(22) Public communication.—The term "public communication" means a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.

(23) Mass mailing.—The term "mass mailing" means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.

(24) Telephone bank.—The term "telephone bank" means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period.

(25) Election cycle.—For purposes of sections 315(i) and 315A and paragraph (26), the term "election cycle" means the period beginning on the day after the date of the most recent election for the specific office or seat that a candidate is seeking and ending on the date of the next election for that office or seat. For purposes of the preceding sentence, a primary election and a general election shall be considered to be separate elections.

(26) Personal funds.—The term "personal funds" means an amount that is derived from—

(A) any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had—

(i) legal and rightful title; or

(ii) an equitable interest;

(B) income received during the current election cycle of the candidate, including—

(i) a salary and other earned income from bona fide employment;

(ii) dividends and proceeds from the sale of the candidate's stock and other investments;

(iii) bequests to the candidate;

(iv) income from trusts established before the beginning of the election cycle;

(v) income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary;

(vi) gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and

(vii) proceeds from lotteries and similar legal games of chance.

(C) a portion of assets that are jointly owned by the candidate and the candidate's spouse equal to the candidate's share of the asset under the instrument of conveyance or ownership, but if no specific share is indicated by an instrument of conveyance or ownership, the value of ½ of the property. (Pub. L. 92–225, § 301, Feb. 7, 1972, 86 Stat. 11; Pub. L. 93–443, §§ 201(a), 208(c)(1), Oct. 15, 1974, 88 Stat. 1272, 1286; Pub. L. 94–283, §§ 102, 115(d), (h), May 11, 1976, 90 Stat. 478, 495, 496; Pub. L. 96–187, Title I, § 101, Jan. 8, 1980, 93 Stat. 1339; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 106–346, § 101(a) [Title V, § 502(b)], Oct. 23, 2000, 114 Stat. 1356, 1356A–49; Pub. L. 107–155, §§ 101(b), 103(b)(1), 211, 304(c), Mar. 27, 2002, 116 Stat. 85, 87, 92, 100.)

516 § 432. Organization of political committees.

(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 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) Reports and records, compliance with requirements based on best efforts

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. (Pub. L. 92–225, § 302, Feb. 7, 1972, 86 Stat. 12; Pub. L. 93–443, §§ 202, 208(c)(2), Oct. 15, 1974, 88 Stat. 1275, 1286; Pub. L. 94–283, § 103, May 11, 1976, 90 Stat. 480; Pub. L. 96–187, Title I, § 102, Jan. 8, 1980, 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; Pub. L. 105–61, Title VI, § 637, Oct. 10, 1997, 111 Stat. 1316.)

§ 433. Registration of political committees. **517**

(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.

(Pub. L. 92–225, § 303, Feb. 7, 1972, 86 Stat. 14; Pub. L. 93–443, §§ 203, 208(c)(3), Oct. 15, 1974, 88 Stat. 1276, 1286; Pub. L. 96–187, Title I, § 103, Jan. 8, 1980, 93 Stat. 1347.)

518 § 434. Reporting requirements.

(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 treasurer shall file quarterly reports, which shall be filed not 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 not 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. Notwithstanding the preceding sentence, a national committee of a political party shall file the reports required under subparagraph (B).

(5) If a designation, report, or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or (4)(A)(ii), or subsection (g)(1)) 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) Notification of expenditure from personal funds.—

(i) Definition of expenditure from personal funds.—In this subparagraph, the term "expenditure from personal funds" means—

(I) an expenditure made by a candidate using personal funds; and

(II) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee.

(ii) Declaration of intent.—Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Senator, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed the State-by-State competitive and fair campaign formula with—

(I) the Commission; and

(II) each candidate in the same election.

(iii) Initial notification.—Not later than 24 hours after a candidate described in clause (ii) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of 2 times the threshold amount in connection with any election, the candidate shall file a notification with—

(I) the Commission; and

(II) each candidate in the same election.

(III) Additional notification.—After a candidate files an initial notification under clause (iii), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceed $10,000 with—

(I) the Commission; and

(II) each candidate in the same election.

Such notification shall be filed not later than 24 hours after the expenditure is made.

(v) Contents.—A notification under clause (iii) or (iv) shall include—

(I) the name of the candidate and the office sought by the candidate;

(II) the date and amount of each expenditure; and

(III) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

(C) Notification of disposal of excess contributions.—In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under paragraph (1) of section 315(i)) and the manner in which the candidate or the candidate's authorized committee used such funds.

(D) Enforcement.—For provisions providing for the enforcement of the reporting requirements under this paragraph, see section 309.

(E) 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 nomination 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 promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

(ii) may maintain and file a designation, statement, or report in electronic form or an alternative form if not required to do so, under the regulation promulgated under clause (i).

(B) The Commission shall make a designation, statement, report, or notification that is filed with the Commission under this Act available for inspection by the public in the offices of the Commission and accessible to the public on the Internet not later than 48 hours (or not later than 24 hours in the case of a designation, statement, report or notification filed electronically) after receipt by the Commission.

(C) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

(D) 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.

(12) Software for filing of reports

(A) In general.—The Commission shall—

(i) promulgate standards to be used by vendors to develop software that—

(I) permits candidates to easily record information concerning receipts and disbursements required to be reported under this Act at the time of the receipt or disbursement;

(II) allows the information recorded under subclause (I) to be transmitted immediately to the Commission; and

(III) allows the Commission to post the information on the Internet immediately upon receipt; and

(ii) make a copy of software that meets the standards promulgated under clause (i) available to each person required to file a designation, statement, or report in electronic form under this Act.

(B) Additional information.—To the extent feasible, the Commission shall require vendors to include in the software developed under the standards under subparagraph (A) the ability for any person to file any designation, statement, or report required under this Act in electronic form.

(C) Required use.—Notwithstanding any provision of this Act relating to times for filing reports, each candidate for Federal office (or that candidate's authorized committee) shall use software that meets the

standards promulgated under this paragraph once such software is made available to such candidate.

(D) Required posting.—The Commission shall, as soon as practicable, post on the Internet any information received under this paragraph.

(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 (or election cycle, in the case of an authorized committee of a candidate for Federal office), 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 a 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 (or election cycle, in the case of an authorized committee of a candidate for Federal office), together with the date and amount of any such receipt;

(4) for the reporting period and the calendar year (or election cycle, in the case of an authorized committee of candidate for Federal office), 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 con-

tribution 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 (or election cycle, in the case of an authorized committee of a candidate for Federal office), 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 (or election cycle, in the case of an authorized committee of a candidate for Federal office) 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 (or election cycle, in the case of an authorized committee of a candidate for Federal office) 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 (or election cycle, in the case of an authorized committee of a candidate for Federal office); 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 required 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.

(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all independent 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.

(d) Filing by facsimile device or electronic mail

(1) Any person who is required to file a statement under subsection (c) or (g) of this section, except statements required to be filed electronically pursuant to subsection (a)(11)(A)(i) may file the statement by facsimile device or electronic mail, in accordance with such regulations as the Commission may promulgate.

(2) The Commission shall make a document which is filed electronically with the Commission pursuant to this paragraph accessible to the public on the Internet not later than 24 hours after the document is received by the Commission.

(3) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying the documents covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

(e) Political Committees

(1) National and congressional political committees.—The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

(2) Other political committees to which section 441i applies.—

(A) In general.—In addition to any other reporting requirements applicable under this Act, a political committee (not described in paragraph (1)) to which section 441i(b)(1) applies shall report all receipts and disbursements made for activities described in section 431(20)(A), unless the aggregate amount of such receipts and disbursements during the calendar year is less than $5,000.

(B) Specific disclosure by State and local parties of certain non-Federal amounts permitted to be spent on Federal election activity.—Each report by a political committee under subparagraph (A) of receipts and disbursements made for activities described in section 431(20)(A) shall include a disclosure of all receipts and disbursements described in section 441i(b)(2)(A) and (B).

(3) Itemization.—If a political committee has receipts or disbursements to which this subsection applies from or to any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

(4) Reporting periods.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a)(4)(B).

(f) Disclosure of electioneering communications

(1) Statement required.—Every person who makes a disbursement for the direct costs of producing and airing electioneering communications in an aggregate amount in excess of $10,000 during any calendar year shall, within 2-hours of each disclosure date, file with the Commission a statement containing the information described in paragraph (2).

(2) Contents of statement.—Each statement required to be filed under this subsection shall be made under penalty of perjury and shall contain the following information:

(A) The identification of the person making the disbursement, of any person sharing or exercising direction or control over the activities of such person, and the custodian of the books and accounts of the person making the disbursement.

(B) The principal place of business of the person making the disbursement, not an individual.

(C) The amount of each disbursement of more than $200 during the period covered by the statement and the identification of the person to whom the disbursement was made.

(D) The elections to which the electioneering communications pertain and the names (if known) of the candidates identified or to be identified.

(E) If the disbursements were paid out of a segregated bank account which consists of funds contributed solely by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)) directly to this account for electioneering communications, the names and addresses of all contributors who contributed an aggregate amount of $1,000 or more to that account during the period beginning on the first day of the preceding calendar year and ending on the disclosure date. Nothing in this subparagraph is to be construed as a prohibition on the use of funds in such a segregated account for a purpose other than electioneering communications.

(F) If the disbursements were paid out of funds not described in subparagraph (E), the names and addresses of all contributors who contributed an aggregate amount of $1,000 or more to the person making the disbursement during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

(3) Electioneering communication.—For purpose of this subsection—

(A) In general.—(i) The term "electioneering communication" means any broadcast, cable, or satellite communication which—

(I) refers to a clearly identified candidate for Federal office;

(II) is made within—

(aa) 60 days before a general, special, or runoff election for the office sought by the candidate: or

(bb) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for the office sought by the candidate: and

(III) in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

(ii) If clause (i) is held to be constitutionally insufficient by final judicial decision to support the regulation provided herein, then the term "electioneering communication" means any broadcast, cable, or satellite communication which promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which also is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate. Nothing in this subparagraph shall be construed to affect the interpretation or application of section 100.22(b) of title 11, Code of Federal Regulations.

(B) Exceptions.—The term "electioneering communication" does not include—

(i) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(ii) a communication which constitutes an expenditure or an independent expenditure under this Act;

(iii) a communication which constitutes a candidate debate or forum conducted pursuant to regulations adopted by the Commission, or which solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

(iv) any other communication exempted under such regulations as the Commission may promulgate (consistent with the requirements of this paragraph) to ensure the appropriate implementation of this paragraph, except that under any such regulation a communication may not be exempted if it meets the requirements of this paragraph and is described in section 431(20)(A)(iii).

(C) Targeting to relevant electorate.—For purposes of this paragraph, a communication which refers to a clearly identified candidate for Federal office is "targeted to the relevant electorate" if the communication can be received by 50,000 or more persons—

(i) in the district the candidate seeks to represent, in the case of a candidate for Representative in, or Delegate or Resident Commissioner to, the Congress; or

(ii) in the State the candidate seeks to represent, in the case of a candidate for Senator.

(4) Disclosure date.—For purposes of this subsection, the term "disclosure date" means—

(A) the first date during any calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of $10,000; and

(B) any other date during such calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of $10,000 since the most recent disclosure date for such calendar year.

(5) Contracts to disburse.—For purposes of this subsection, a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

(6) Coordination with other requirements.—Any requirement to report under this subsection shall be in addition to any other reporting requirement under this Act.

(7) Coordination with Internal Revenue Code.—Nothing in this subsection may be construed to establish, modify, or otherwise affect the definition of political activities or electioneering activities (including the definition of participating in, intervening in, or influencing or attempting to influence a political campaign on behalf of or in opposition to any candidate for public office) for purposes of the Internal Revenue Code of 1986.

(g) Time for reporting certain expenditures

(1) Expenditures aggregating $1,000.—

(A) Initial report.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours.

(B) Additional reports.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

(2) Expenditures aggregating $10,000.—

(A) Initial report.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours.

(B) Additional reports.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

(3) Place of filing; Contents.—A report under this subsection—

(A) shall be filed with the Commission; and

(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.

(h) Reports from Inaugural committees

The Federal Election Commission shall make any report filed by an Inaugural committee under section 510 of Title 36, accessible to the public at the offices of the Commission and on the Internet not later than 48 hours after the report is received by the Commission. (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; Pub. L. 106–346, § 101(a) [Title V, § 502(a), (c)], Oct. 23, 2000, 114 Stat. 1356, 1356A–49; Pub. L. 107–155, Mar. 27, 2002, 116 Stat. 81.)

519 § 435. (Repealed.)

520 § 436. (Repealed.)

521 § 437. Reports on convention financing.

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. (Pub. L. 92–225, § 305, formerly § 307, Feb. 7, 1972, 86 Stat. 16; Pub. L. 93–443, § 208(c)(6), Oct. 15, 1974, 88 Stat. 1286; Pub. L. 96–187, Title I, §§ 105(2), 112a, Jan. 8, 1980, 93 Stat. 1354, 1366.)

522 § 437a. (Repealed.)

523 § 437b. (Repealed.)

524 § 437c. Federal Election Commission.

(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 designees, 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 (5 U.S.C. 5315). 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 (5 U.S.C. 5316). 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 (5 U.S.C. 5332).

(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.)

§ 437d. Powers of Commission. **525**

(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, 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.)

526 § 437e. (Repealed).

527 § 437f. Advisory opinions.

(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.)

§ 437g. Enforcement. **528**

(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 Commis-

sion 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 (or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1,000 percent of the amount involved in the 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 Com-

mission 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 (or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1,000 percent of the amount involved in the 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.** (Pub. L. 98–620, § 402(1)(A), Nov. 8, 1984, 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, donation, or expenditure—

(i) aggregating $25,000 or more during a calendar year shall be fined under Title 18, United States Code, or imprisoned for not more than 5 years, or both; or

(ii) aggregating $2,000 or more (but less than $25,000) during a calendar year shall be fined under such title, or imprisoned for not more than 1 year, or both.

(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; Pub. L. 107–155, Title III, § 312(a), Mar. 27, 2002, 116 Stat. 106.)

529 § 437h. Judicial review.

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.

(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.)

530 § 438. Administrative provisions.

(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; and

(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.

(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) of this section, 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; Pub. L. 107–252, § 801(b), Oct. 29, 2002, 116 Stat. 1726.)

§ 439. Statements filed with State officers; "appropriate State" defined; duties of State officers; waiver of duplicate filing requirement for States with electronic access. 531

(a) Statements filed; "appropriate State" defined

(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) Duties of State officers

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 all 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) Waiver; electronic access

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, Feb. 7, 1972, 86 Stat. 18, 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.)

532 § 439a. Use of contributed amounts for certain purposes.

(a) Permitted uses—

A contribution accepted by a candidate, and any other donation received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual—

(1) for otherwise authorized expenditures in connection with the campaign for Federal office of the candidate or individual;

(2) for ordinary and necessary expenses incurred in connection with duties of the indivudual as a holder of Federal office;

(3) for contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986, or

(4) for transfers, without limitation, to a national, State, or local committee of a political party.

(b) Prohibited use

(1) In general.—A contribution or donation described in subsection (a) shall not be converted by any person to personal use.

(2) Conversion.—For the purposes of paragraph (1), a contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal office, including—

(A) a home mortgage, rent, or utility payment;

(B) a clothing purchase;

(C) a non-campaign-related automobile expense;

(D) a country club membership;

(E) a vacation or other non-campaign-related trip;

(F) a household food item;

(G) a tuition payment;

(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and

(I) dues, fees, and other payments to a health club or recreation facility.

(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; Pub. L. 107–155, Title III, § 301, Mar. 27, 2002, 116 Stat. 95)

§ 439b. (Repealed.) **533**

§ 440. (Repealed.) **534**

§ 441. (Repealed.) **535**

§ 441a. Limitations on contributions and expenditures. **536**

(a) Dollar limits on contributions

(1) Except as provided in subsection (i) and section 315A, 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 $2,000;

(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 $25,000;

(C) to any other political committee (other than a committee described in subparagraph (D)) in any calendar year which, in the aggregate, exceed $5,000; or

(D) to a political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $10,000.

(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) During the period which begins on January 1 of an odd-numbered year and ends on December 31 of the next even-numbered year, no individual may make contributions aggregating more than—

(A) $37,500, in the case of contributions to candidates and the authorized committees of candidates;

(B) $57,500, in the case of any other contributions, of which not more than $37,500 may be attributable to contributions to political committees which are not political committees of national political parties.

(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) expenditures made by any person (other than a candidate or candidate's authorized committee) in cooperation, consultation, or concert with, or at the request or suggestion of, a national, State, or local committee of a political party, shall be considered to be contributions made to such party committee; and

(iii) 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) if—

(i) any person makes, or contracts to make, any disbursement for any electioneering communication (within the meaning of section 304(f)(3)); and

(ii) such disbursement is coordinated with a candidate or an authorized committee of such candidate, a Federal, State, or local political party or committee thereof, or an agent or official of any such candidate, party, or committee;

such disbursement or contracting shall be treated as a contribution to the candidate supported by the electioneering communication or that candidate's party and as an expenditure by that candidate or that candidate's party; and

(D) 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 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)(A) 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.

(B) Except as provided in subparagraph (C), in any calendar year after 2002—

(i) a limitation established by subsections (a)(1)(A), (a)(1)(B), (a)(3), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A);

(ii) each amount so increased shall remain in effect for the calendar year; and

(iii) if any amount after adjustment under clause (i) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.

(C) In the case of limitations under subsections (a)(1)(A), (a)(1)(B), (a), (3), and (h), increases shall only be made in odd-numbered years and such increases shall remain in effect for the 2-year period beginning on the first day following the date of the last general election in the year preceding the year in which the amount is increased and ending on the date of the next general election.

(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—

(i) for purposes of subsections (b) and (d), calendar year 1974; and

(ii) for purposes of subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), calendar year 2001.

(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), (3), and (4) 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.

(4) Independent versus coordinated expenditures by party

(A) In general.—On or after the date on which a political party nominates a candidate, no committee of the political party may make—

(i) any coordinated expenditure under this subsection with respect to the candidate during the election cycle at any time after it makes any independent expenditure (as defined in section 431(17)) with respect to the candidate during the election cycle; or

(ii) any independent expenditure (as defined in section 431(17) with respect to the candidate during the election cycle at any time after it makes any coordinated expenditure under this subsection with respect to the candidate during the election cycle.

(B) Application.—For purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

(C) Transfers.—A committee of a political party that makes coordinated expenditures under this subsection with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate.

(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 $35,000 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.

(i) Increased limit to allow response to expenditures from personal funds

(1) Increase.—

(A) In general.—Subject to paragraph (2), if the opposition personal funds amount with respect to a candidate for election to the office of Senator exceeds the threshold amount, the limit under subsection (a)(1)(A) (in this subsection referred to as the "applicable limit") with respect to that candidate shall be the increased limit.

(B) Threshold amount.—

(i) State-by-State competitive and fair campaign formula.—In this subsection, the threshold amount with respect to an election cycle of a candidate described in subparagraph (A) is an amount equal to the sum of—

(I) $150,000; and

(II) $0.04 multiplied by the voting age population.

(ii) Voting age population.—In this subparagraph, the term "voting age population" means in the case of a candidate for

the office of Senator, the voting age population of the State of the candidate (as certified under section 315(e)).

(C) Increased Limit.—Except as provided in clause (ii), for purposes of subparagraph (A), if the opposition personal funds amount is over—

(i) 2 times the threshold amount, but not over 4 times that amount—

(I) the increased limit shall be 3 times the applicable limit; and

(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution;

(ii) 4 times the threshold amount, but not over 10 times that amount—

(I) the increased limit shall be 6 times the applicable limit; and

(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

(iii) 10 times the threshold amount—

(I) the increased limit shall be 6 times the applicable limit;

(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

(III) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party shall not apply.

(D) Opposition personal funds amount.—The opposition personal funds amount is an amount equal to the excess (if any) of—

(i) the greatest aggregate amount of expenditures from personal funds (as defined in section 434(a)(6)(B)) that an opposing candidate in the same election makes; over

(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

(E) Special rule for candidate's campaign funds.—

(i) In general.—For purposes of determining the aggregate amount of expenditures from personal funds under subparagraph (D)(ii), such amount shall include the gross receipts advantage of the candidate's authorized committee.

(ii) Gross receipts advantage.—For purposes of clause (i), the term "gross receipts advantage" means the excess, if any, of—

(I) the aggregate amount of 50 percent of gross receipts of a candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

(II) the aggregate amount of 50 percent of gross receipts of the opposing candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election as determined on June 30 and December 31 of the year preceding the year in which a general election is held.

(2) Time to accept contributions under increased limit.—

(A) In general.—Subject to subparagraph (B), a candidate and the candidate's authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1)—

(i) until the candidate has received notification of the opposition personal funds amount under section 434(a)(6)(B); and

(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 110 percent of the opposition personal funds amount.

(B) Effect of withdrawal of an opposing candidate.—A candidate and a candidate's authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

(3) Disposal of excess contributions.—

(A) In general.—The aggregate amount of contributions accepted by a candidate or a candidate's authorized committee under the increased limit under paragraph (1) and not otherwise expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

(B) Return to contributors.—A candidate or a candidate's authorized committee shall return the excess contribution to the person who made the contribution.

(j) Limitation on repayment of personal loans

Any candidate who incurs personal loans made after the effective date of the Bipartisan Campaign Reform Act of 2002 in connection with the candidate's campaign for election shall not repay (directly or indirectly), to the extent such loans exceed $250,000, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of such election.

(Pub. L. 94–283, § 112(2), May 11, 1976, 90 Stat. 486; Pub. L. 96–187, Title I, § 105(5), Jan. 8, 1980, 93 Stat. 1354; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 107–155, Mar. 27, 2002, 116 Stat. 81.)

537 § 441b. Contributions or expenditures by national banks, corporations, or labor organizations.

(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 what-

ever, 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" includes a contribution or expenditure, as those terms are defined in section 431, and also includes 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 or for any applicable electioneering communication, 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 contributions 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.

(c) Rules relating to electioneering communications

(1) Applicable electioneering communication.—For purposes of this section, the term "applicable electioneering communication" means an electioneering communication (within the meaning of section 434(f)(3)) which is made by any entity described in subsection (a) of this section or by any other person using funds donated by any entity described in subsection (a) of this section.

(2) Exception.—Notwithstanding paragraph (1), the term "applicable electioneering communication" does not include a communication by a section 501(c)(4) organization or a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) made under section 434(f)(2)(E) or (F) if the communication is paid for exclusively by funds provided directly by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)). For purposes of the preceding sentence, the term "provided directly by individuals" does not include funds the source of which is an entity described in subsection (a) of this section.

(3) Special operating rules.—

(A) Definition under paragraph (1).—An electioneering communication shall be treated as made by an entity described in subsection (a) if an entity described in subsection (a) directly or indirectly disburses any amount for any of the costs of the communication.

(B) Exception under paragraph (2).—A section 501(c)(4) organization that derives amounts from business activities or receives funds from any entity described in subsection (a) shall be considered to have paid for any communication out of such amounts unless such organization paid for the communication out of a segregated account to which only individuals can contribute, as described in section 434(f)(2)(E).

(4) Definitions and rules.—For purposes of this subsection—

(A) the term "section 501(c)(4) organization" means—

(i) an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

(ii) an organization which as submitted an application to the Internal Revenue Service for determination of its status as an organization described in clause (i); and

(B) a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

(5) Coordination with Internal Revenue Code.—Nothing in this subsection shall be construed to authorize an organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 to carry out any activity which is prohibited under such Code.

(6) Special rules for targeted communications.—

(A) Exception does not apply.—Paragraph (2) shall not apply in the case of a targeted communication that is made by an organization described in such paragraph.

(B) Targeted communication.—For purposes of subparagraph (A), the term "targeted communication" means an electioneering commu-

nication (as defined in section 434(f)(3)) that is distributed from a television or radio broadcast station or provider of cable or satellite television service and, in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

(C) Definition.—For purposes of this paragraph, a communication is "targeted to the relevant electorate" if it meets the requirements described in section 434(f)(3)(C).

(Pub. L. 94–283, § 112(2), (May 11, 1976, 90 Stat. 490; renumbered and amended Pub. L. 96–187, Title I, §§ 105(5), 112(d), Jan. 8, 1980, 93 Stat. 1354, 1366; Pub. L. 107–155, §§ 203, 204, 214(d), Mar. 27, 2002, 116. Stat. 91, 92, 95.)

538 § 441c. Contributions by government contractors.

(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 purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 441b of this title 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 of this title 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. (Pub. L. 94–283, § 112(2), May 11, 1976, 90 Stat. 492; Pub. L. 96–187, Title I, § 105(5), Jan. 8, 1980, 93 Stat. 1354.)

§ 441d. Publication and distribution of statements and solicitations; charge for newspaper or magazine space. 539

(a) Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever any person makes a disbursement 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, mailing, or any other type of general public political advertising or makes a disbursement for an electioneering communication (as defined in section 434(f)(3)), 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 and permanent street address, telephone number, or World Wide Web address 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.

(c) Specification

Any printed communication described in subsection (a) shall—

(1) be of sufficient type size to be clearly readable by the recipient of the communication;

(2) be contained in a printed box set apart from the other contents of the communication; and

(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

(d) Additional requirements

(1) Communications by candidates or authorized persons.—

(A) By radio.—Any communication described in paragraph (1) or (2) of subsection (a) which is transmitted through radio shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

(B) By television.—Any communication described in paragraph (1) or (2) of subsection (a) which is transmitted through television shall include, in addition to the requirements of that paragraph, a statement that identifies the candidate and states that the candidate has approved the communication. Such statement—

(i) shall be conveyed by—

(I) an unobscured, full-screen view of the candidate making the statement, or

(II) the candidate in voice-over, accompanied by a clearly identifiable photographic or similar image of the candidate; and

(ii) shall also appear in writing at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and printed statements, for a period of at least 4 seconds.

(2) Communications by others.—Any communication described in paragraph (3) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following audio statement: "_____ is responsible for the content of this advertising" (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If transmitted through television, the statement shall be conveyed by an unobscured, full-screen view of a representative of the political committee or other person making the statement, or by a representative of such political committee or other person in voice-over, and shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.

(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; Pub. L. 107–155, § 311, Mar. 27, 2002, 116 Stat. 105.)

540 § 441e. Contributions and donations by foreign nationals.

(a) Prohibition.—It shall be unlawful for—

(1) a foreign national, directly or indirectly, to make—

(A) a contribution or donation of money or other thing of value, or to make an express or implied promise to make a contribution or donation, in connection with a Federal, State, or local election;

(B) a contribution or donation to a committee of a political party; or

(C) an expenditure, independent expenditure, or disbursement for an electioneering communication (within the meaning of section 434(f)(3)); or

(2) a person to solicit, accept, or receive a contribution or donation described in subparagraph (A) or (B) of paragraph (1) 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 611(b) Title 22 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 or a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act) and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of such Act (8 U.S.C. 1101(a)(20)) (Pub. L. 94–283, § 112(2), May 11, 1976, 90 Stat. 493; Pub. L. 96–187, Title I, § 105(5), Jan. 8,

1980, 93 Stat. 1354; Pub. L. 107–155, §§ 303, 317, Mar. 27, 2002, 116 Stat. 96, 109.)

§ 441f. Contributions in name of another prohibited. **541**

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. (Pub. L. 94–283, § 112(2), May 11, 1976, 90 Stat. 494; Pub. L. 96–187, Title I, § 105(5), Jan. 8, 1980, 93 Stat. 1354.)

§ 441g. Limitation on contribution of currency. **542**

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. (Pub. L. 94–283, § 112(2), May 11, 1976, 90 Stat. 494; Pub. L. 96–187, Title I, § 105(5), Jan. 8, 1980, 93 Stat. 1354.)

§ 441h. Fraudulent misrepresentation of campaign authority. **543**

(a) In general.—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).

(b) Fraudulent solicitation of funds.—No person shall—

(1) fraudulently misrepresent the person as speaking, writing, or otherwise acting for or on behalf of any candidate or political party or employee or agent thereof for the purpose of soliciting contributions or donations; or

(2) willfully and knowingly participate in any plan, scheme, or design to violate paragraph (1).

(Pub. L. 94–283, § 112(2), May 11, 1976, 90 Stat. 494; Pub. L. 96–187, Title I, § 105(5), Jan. 8, 1980, 93 Stat. 1354; Pub. L. 107–155, § 309, Mar. 27, 2002, 116 Stat. 104.)

§ 441i. Soft money of political parties **544**

(a) National committees.—

(1) In general.—A national committee of a political party (including a national congressional campaign committee of a political party) may not solicit, receive, or direct to another person a contribution, donation, or transfer of funds or any other thing of value, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et. seq.).

(2) Applicability.—The prohibition established by paragraph (1) applies to any such national committee, any officer or agent acting on behalf of such a national committee, and any entity that is directly or indirectly established, financed, maintained, or controlled by such a national committee.

(b) State, district, and local committees.—

(1) In general.—Except as provided in paragraph (2), an amount that is expended or disbursed for Federal election activity by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity), or by an association or similar group of candidates for State or local office or of individuals holding State or local office, shall be made from funds subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et. seq.).

(2) Applicability.—

(A) In general.—Notwithstanding clause (i) or (ii) of section 431(20)(A), and subject to subparagraph (B), paragraph (1) shall not apply to any amount expended or disbursed by a State, district, or local committee of a political party for an activity described in either such clause to the extent the amounts expended or disbursed for such activity are allocated (under regulations prescribed by the Commission) among amounts—

(i) which consist solely of contributions subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et. seq.) (other than amounts described in subparagraph (B)(iii)); and

(ii) other amounts which are not subject to the limitations, prohibitions and reporting requirements of such Act (other than any requirements of this subsection).

(B) Conditions.—Subparagraph (A) shall only apply if—

(i) the activity does not refer to a clearly identified candidate for Federal office;

(ii) the amounts expended or disbursed are not for the costs of any broadcasting, cable, or satellite communication, other than a communication which refers solely to a clearly identified candidate for State or local office;

(iii) the amounts expended or disbursed which are described in subparagraph (A)(ii) are paid from amounts which are donated in accordance with State law and which meet the requirements of subparagraph (C), except that no person (including any person established, financed, maintained, or controlled by such person) may donate more than $10,000 to a State, district, or local committee of a political party in a calendar year for such expenditures or disbursements; and

(iv) the amounts expended or disbursed are made solely from funds raised by the State, local, or district committee which makes such expenditure or disbursement, and do not include any funds provided to such committee from—

(I) any other State, local, or district committee of any State party,

(II) the national committee of a political party (including a national congressional campaign committee of a political party).

(III) any officer or agent acting on behalf of any committee described in subclause (I) or (II), or

(IV) any entity directly or indirectly established, financed, maintained, or controlled by any committee described in subclause (I) or (II).

(C) Prohibiting involvement of national parties, Federal candidates and officeholders, and State parties acting jointly.—Notwithstanding subsection (e) (other than subsection (e)(3)), amounts specifically authorized to be spent under subparagraph (B)(iii) meet the requirements of this subparagraph only if the amounts—

(i) are not solicited, received, directed, transferred, or spent by or in the name of any person described in subsection (a) or (e); and

(ii) are not solicited, received, or directed through fundraising activities conducted jointly by 2 or more State, local, or district committees of any political party or their agents, or by a State, local, or district committee of a political party on behalf of the State, local, or district committee of a political party or its agent in one or more other States.

(c) Fundraising costs.—An amount spent by a person described in subsection (a) or (b) to raise funds that are used, in whole or in part, for expenditures and disbursements for a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et. seq.).

(d) Tax-exempt organizations.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party), an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, and an officer or agent acting on behalf of any such party committee or entity, shall not solicit any funds for, or make or direct any donations to—

(1) an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application for determination of tax exempt status under such section) and that makes expenditures or disbursements in connection with an election for Federal office (including expenditures or disbursements for Federal election activity); or

(2) an organization described in section 527 of such Code (other than a political committee, a State, district, or local committee of a political party, or the authorized campaign committee of a candidate for State or local office).

(e) Federal candidates.—

(1) In general.—A candidate, individual holding Federal office, agent of a candidate or an individual holding Federal office, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of 1 or more candidates or individuals holding Federal office, shall not—

(A) solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et. seq.); or

(B) solicit, receive, direct, transfer, or spend funds in connection with any election other than an election for Federal office or disburse funds in connection with such an election unless the funds—

(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under paragraphs (1), (2), and (3) of section 441a(a); and

(ii) are not from sources prohibited by the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et. seq.) from making contributions in connection with an election for Federal office.

(2) State law.—Paragraph (1) does not apply to the solicitation, receipt, or spending of funds by an individual described in such paragraph who is or was also a candidate for a State or local office solely in connection with such election for State or local office if the solicitation, receipt, or spending of funds is permitted under State law and refers only to such State or local candidate, or to any other candidate for the State or local office sought by such candidate, or both.

(3) Fundraising events.—Nothwithstanding paragraph (1) or subsection (b)(2)(C), a candidate or an individual holding Federal office may attend, speak, or be a featured guest at a fundraising event for a State, district, or local committee of a political party.

(4) Permitting certain solicitations.—

(A) General solicitations.—Notwithstanding any other provision of this subsection, an individual described in paragraph (1) may make a general solicitation of funds on behalf of any organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application for determination of tax exempt status under such section) (other than an entity whose principal purpose is to conduct activities described in clauses (i) and (ii) of section 431(20)(A)) where such solicitation does not specify how the funds will or should be spent.

(B) Certain specific solicitations.—In addition to the general solicitations permitted under subparagraph (A), an individual described in paragraph (1) may make a solicitation explicitly to obtain funds for carrying out the activities described in clauses (i) and (ii) of section 431(20)(A), or for an entity whose principal purpose is to conduct such activities, if—

(i) the solicitation is made only to individuals; and

(ii) the amount solicited from any individual during any calendar year does not exceed $20,000.

(f) State candidates.—

(1) In general.—A candidate for State or local office, individual holding State or local office, or an agent of such a candidate or individual may not spend any funds for a communication described in section 431(20)(A)(iii) unless the funds are subject to the limitations, prohibitions, and reporting requirements of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et. seq.).

(2) Exception for certain communications.—Paragraph (1) shall not apply to an individual described in such paragraph if the communication involved is in connection with an election for such State or local office and refers only to such individual or to any other candidate for the State or local office held or sought by such individual, or both.

(Pub. L. 107–155, § 101(a), Mar. 27, 2002, 116 Stat. 82.)

§ 441j. (Repealed.) 545

§ 441k. Prohibition of contribution by minors. 546

An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party. (Pub. L. 107–155, § 318, Mar. 27, 2002, 116 Stat. 109.)

§ 442. Authority to procure technical support and other services and incur travel expenses; payment of such expenses. 547

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 72a(i) of this title, (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. (Pub. L. 92–342, § 101, July 10, 1972, 86 Stat. 435.)

Subchapter II—General Provisions

§ 451. Extension of credit by regulated industries; regulations. 548

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.)

§ 452. Prohibition against use of certain Federal funds for election activities. 549

No part of any funds appropriated to carry out the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.] 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

[1] So in original. The comma probably should not appear.

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. (Pub. L. 92–225, § 402, Feb. 7, 1972, 86 Stat. 19; Pub. L. 93–443, § 201(b)(2), Oct. 15, 1974, 88 Stat. 1275.)

550 § 453. State laws affected.

(a) In general.—Subject to subsection (b), the provisions of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et. seq.), and of rules prescribed under such Act, supersede and preempt any provision of State law with respect to election to Federal Office.

(b) State and local committees of political parties.—Notwithstanding any other provision of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et. seq.), a State or local committee of a political party may, subject to State law, use exclusively funds that are not subject to the prohibitions, limitations, and reporting requirements of the Act for the purchase or construction of an office building for such State or local committee. (Pub. L. 92–225, § 403, Feb. 7, 1972, 86 Stat. 20; Pub. L. 93–443, § 301, Oct. 15, 1974, 88 Stat. 1289; Pub. L. 107–155, § 103(b), Mar. 27, 2002, 116 Stat. 87.)

551 § 454. Partial invalidity.

If any provision of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et. seq.), 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. (Pub. L. 92–225, § 404, Feb. 7, 1972, 86 Stat. 20.)

552 § 455. Period of limitations.

(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 5 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. (Pub. L. 92–225, § 406, Feb. 7, 1972, as added, Pub. L. 93–443, § 302, Oct. 15, 1974, 88 Stat. 1289; Pub. L. 94–283, § 115(f), May 11, 1976, 90 Stat. 496; Pub. L. 107–155, § 313, Mar. 27, 2002, 116 Stat. 106.)

553 § 456. (Repealed.)

Chapter 15—OFFICE OF TECHNOLOGY ASSESSMENT

560 § 471. Congressional findings and declaration of purpose.

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 management or regulation of, technological applications. (Pub. L. 92–484, § 2, Oct. 13, 1972, 86 Stat. 797.)

§ 472. Office of Technology Assessment. **561**

(a) Creation

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) Composition

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) Functions and duties

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) of this section may direct.

(d) Initiation of assessment activities

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) Availability of information

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. (Pub. L. 92–484, § 3, Oct. 13, 1972, 86 Stat. 797.)

562 § 473. Technology Assessment Board.

(a) Membership

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) Execution of functions during vacancies; filling of vacancies

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) Chairman and vice chairman; selection procedure

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) Meetings; powers of Board

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. (Pub. L. 92–484, § 4, Oct. 13, 1972, 86 Stat. 798.)

§ 474. Director of Office of Technology Assessment. **563**

(a) Appointment; term; compensation

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) Powers and duties

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) Deputy Director; appointment; functions; compensation

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) Restrictions on outside employment activities of Director and Deputy Director

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 for, any organization, agency, or institution with which the Office makes any contract or other arrangement under this chapter. (Pub. L. 92–484, § 5, Oct. 13, 1972, 86 Stat. 799.)

564 **§ 475. Powers of Office of Technology Assessment.**

(a) Use of public and private personnel and organizations; formation of special ad hoc task forces; contracts with governmental, etc., agencies and instrumentalities; advance, progress, and other payments; utilization of services of voluntary and uncompensated personnel; acquisition, holding, and disposal of real and personal property; promulgation of rules and regulations

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 5 of title 41;

(3) make advance, progress, and other payments which relate to technology assessment without regard to the provisions of section 3324(a) and (b) of title 31;

(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) Recordkeeping by contractors and other parties entering into contracts and other arrangements with Office; availability of books and records to Office and Comptroller General for audit and examination

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) Operation of laboratories, pilot plants, or test facilities

The Office, in carrying out the provisions of this chapter, shall not, itself, operate any laboratories, pilot plants, or test facilities.

(d) Requests to executive departments or agencies for information, suggestions, estimates, statistics, and technical assistance; duty of executive departments and agencies to furnish information, etc.

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) Requests to heads of executive departments or agencies for detail of personnel; reimbursement

On request of the Office, the head of any executive department or agency may detail, with or without reimbursement, any of its personnel to assist the Office in carrying out its functions under this chapter.

(f) Appointment and compensation of personnel

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. (Pub. L. 92–484, § 6, Oct. 13, 1972, 86 Stat. 799.)

§ 476. Technology Assessment Advisory Council. **565**

(a) Establishment; composition

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) Duties

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) Chairman and Vice Chairman; election by Council from members appointed from public; terms and conditions of service

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) Terms of office of members appointed from public; reappointment

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) of this section more than twice. Terms of the members appointed under subsection (a)(1) of this section shall be staggered so as to establish a rotating membership according to such method as the Board may devise.

(e) Payment to Comptroller General and Director of Congressional Research Service of travel and other necessary expenses; payment to members appointed from public of compensation and reimbursement for travel, subsistence, and other necessary expenses

(1) The members of the Council other than those appointed under subsection (a)(1) of this section 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) of this section shall receive compensation for each day engaged in the actual performance 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. (Pub. L. 92–484, § 7, Oct. 13, 1972, 86 Stat. 800; Pub. L. 99–234, Title I, § 107(a), Jan. 2, 1986, 99 Stat. 1759.)

(The Federal Advisory Committee Act (5 U.S.C. App.) provides that each advisory committee in existence on October 6, 1972 shall terminate not later than October 6, 1974 unless its duration is otherwise provided for in law.)

§ 477. Utilization of services of Library of Congress. **566**

(a) Authority of Librarian to make available services and assistance of Congressional Research Service

To carry out the objectives of this chapter, 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) Scope of services and assistance

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) Services or responsibilities performed by Congressional Research Service for Congress not altered or modified; authority of Librarian to establish within Congressional Research Service additional divisions, etc.

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 chapter.

(d) Reimbursement for services and assistance

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. (Pub. L. 92–484, § 8, Oct. 13, 1972, 86 Stat. 801.)

§ 478. Utilization of services of General Accounting Office. **567**

(a) Authority of General Accounting Office to furnish financial and administrative services

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) Scope of services and assistance

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) Services or responsibilities performed by General Accounting Office for Congress not altered or modified

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) Reimbursement for services and assistance

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. (Pub. L. 92–484, § 9, Oct. 13, 1972, 86 Stat. 802.)

568 § 479. Coordination of activities with National Science Foundation.

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.)

569 § 480. Omitted.

CODIFICATION

Section, Pub. L. 92–484, Sec. 11, Oct. 13, 1972, 86 Stat. 802, which required the Office of Technology Assessment to submit an annual report to Congress on technology assessment and technological areas and programs requiring future analysis, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 10 of House Document No. 103–7.

570 § 481. Authorization of appropriations; availability of appropriations.

(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

571 § 502. Select Committee on Standards and Conduct of the Senate.[1]

(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 opin-

[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 **80**.

ions 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 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

572 § 601. Establishment.

(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 consultants, 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 Con-

gress 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.)

573 § 602. Duties and functions.

(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.)

§ 603. Public access to budget data. **574**

(a) Right to copy

Except as provided in subsections (c), (d), and (e) 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.

(e) Level of confidentiality

With respect to information, data, estimates, and statistics obtained under sections 201(d) and 201(e), the Director shall maintain the same level of confidentiality as is required by law of the department, agency, establishment, or regulatory agency or commission from which it is obtained. Officers and employees of the Congressional Budget Office shall be subject to the same statutory penalties for unauthorized disclosure or use as officers or employees of the department, agency, establishment, or regulatory agency or commission from which it is obtained.

(As amended Pub. L. 106–554, § 1(a)(7) [Title III, § 310(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–639.)

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.

575 § 604. Omitted.

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.

576 § 605. Sale or lease of property, supplies, or services.

(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.

§ 606. Disposition of surplus or obsolete personal property. 577

(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, sale, trade-in, or discarding. Amounts received for the sale or trade-in of personal property shall be credited to funds available for the operations of the Congressional Budget Office and be available for the costs of acquiring the same or similar property. Such funds shall be available for such purposes during the fiscal year in which received and the following fiscal year.

(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; Pub. L. 107–68, Title I, § 126, Nov. 12, 2001, 115 Stat. 577.)

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.

§ 607. Lump-sum payments to separated employees for unused annual leave. 578

(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.

§ 608. Lump-sum payments to enhance staff recruitment and to reward exceptional performance 579

(a) The Director of the Congressional Budget Office shall have the authority to make lump-sum payments to enhance staff recruitment and to reward exceptional performance by an employee or a group of employees.

(b) Subsection (a) shall apply with respect to fiscal years beginning after September 30, 1999.

Chapter 17A.—CONGRESSIONAL BUDGET AND FISCAL OPERATIONS

§ 621. Congressional declaration of purpose. 580

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.

581 § 622. Definitions.

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.

[1] So in original. Probably should be "as".

(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);

(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.)

582 § 623. Continuing study of additional budget reform proposals.

(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

583 § 631. Timetable.

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.

On or before:	Action to be completed:
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.)

§ 632. Annual adoption of concurrent resolution on the budget. 584

(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 et seq.] for the fiscal year of the resolution and for each of the 4 succeeding fiscal years; and

(7) For[2] 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;

[1] So in original. Probably should be "for".
[2] So in original. Probably should be "for".

(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.

(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.)

§ 633. Committee allocations. **585**

(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.)

586 § 634. Concurrent resolution on the budget must be adopted before budget-related legislation is considered.

(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.)

§ 635. Permissible revisions of concurrent resolutions on the budget. 587

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.)

588 § 636. Provisions relating to consideration of concurrent resolutions on the budget.

(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.

[1] Recodified at the beginning of the 106th Congress as rule XVIII.

(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, 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.)

§ 637. Legislation dealing with Congressional budget must be handled by Budget Committees. 589

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.)

§ 638. House committee action on all appropriation bills to be completed by June 10. 590

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 subcommittees 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.)

§ 639. Reports, summaries, and projections of Congressional budget actions. 591

(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.)

§ 640. House approval of regular appropriation bills. **592**

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.)

§ 641. Reconciliation. **593**

(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.)

594 **§ 642. Budget-related legislation must be within appropriate levels.**

(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 decrease 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.)

595 § 643. Determinations and points of order.

(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.)

§ 644. Extraneous matter in reconciliation legislation. **596**

(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.)

§ 645. Adjustments. **597**

(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.)

§ 645a. Effect of adoption of a special order of business in the House of Representatives. 598

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

§ 651. Budget-related legislation not subject to appropriations. 599

(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.)

§ 652. Repealed. 600

Pub. L. 105–33, Title X, Sec. 10116(b), Aug. 5, 1997, 111 Stat. 692.

§ 653. Analysis by Congressional Budget Office. 601

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.)

§ 654. Study by General Accounting Office of forms of Federal financial commitment not reviewed annually by Congress. 602

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.)

§ 655. Off-budget agencies, programs, and activities. 603

(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.)

604 **§ 656. Member User Group.**

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

605 **§ 658. Definitions.**

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.)

§ 658a. Exclusions. **606**

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.)

§ 658b. Duties of congressional committees. **607**

(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 resolu-

tion 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.)

§ 658c. Duties of the Director, statements on bills and joint resolutions other than appropriations bills and joint resolutions. 608

(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.)

§ 658d. Legislation subject to point of order. **609**

(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 author-

ity 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 govern-

ment 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.)

610 § 658e. Provisions relating to the House of Representatives.

(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.)

611 § 658f. Requests to the Congressional Budget Office from Senators.

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.)

612 § 658g. Clarification of application.

(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

§ 661. Purposes. **613**

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.)

§ 661a. Definitions. **614**

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, ad-

justed 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.)

§ 661b. OMB and CBO analysis, coordination, and review. **615**

(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.)

616 § 661c. Budgetary treatment.

(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 commit-

ments) 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.)

§ 661d. Authorizations. **617**

(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 subsection 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 bal-

ances 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.)

§ 661e. Treatment of deposit insurance and agencies and other insurance programs. 618

(a) ln 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.)

619 **§ 661f. Effect on other laws.**

(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

620 **§ 665. Repealed.** Pub. L. 105–33, Title X, § 10118(a), Aug. 5, 1997, 111 Stat. 695.

621 **§ 665a. Repealed.** Pub. L. 105–33, Title X, § 10118(a), Aug. 5, 1997, 111 Stat. 695.

622 **§ 665b. Repealed.** Pub. L. 105–33, Title X, § 10118(a), Aug. 5, 1997, 111 Stat. 695.

623 **§ 665c. Repealed.** Pub. L. 105–33, Title X, § 10118(a), Aug. 5, 1997, 111 Stat. 695.

624 **§ 665d. Repealed.** Pub. L. 105–33, Title X, § 10118(a), Aug. 5, 1997, 111 Stat. 695.

625 **§ 665e. Repealed.** Pub. L. 105–33, Title X, § 10118(a), Aug. 5, 1997, 111 Stat. 695.

Chapter 17B.—IMPOUNDMENT CONTROL AND LINE ITEM VETO

626 **§ 681. Disclaimer.**

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.)

§ 682. Definitions. **627**

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.)

§ 683. Rescission of budget authority. **628**

(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 author-

ity 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 rescission 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.)

629 § 684. Proposed deferrals of budget authority.

(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.)

§ 685. Transmission of messages; publication. **630**

(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.)

631 § 686. Reports by Comptroller General.

(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.)

§ 687. Suits by Comptroller General. **632**

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.)

§ 688. Procedure in House of Representatives and Senate. **633**

(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.)

NOTE

634 Exercise of rulemaking powers.

(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

[1] So in law. Probably should read "258A(b)(3)(C)(i)".
[2] So in law. Probably should read "258B(h)(3)".

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)[2], 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.

(2 U.S.C. 621 note.)

Referral of matters dealing with rescissions and deferrals. **635**

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. 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).

636 Joint referral of legislation affecting the budget process.

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 "rescisions" 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).

§ 691. Line item veto authority. **637**

(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.)

§ 691a. Special messages. **638**

(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.)

639 § 691b. Cancellation effective unless disapproved.

(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.)

§ 691c. Deficit reduction. **640**

(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 Balanced 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.)

641 § 691d. Expedited congressional consideration of disapproval bills.

(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 Representatives 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.)

642 § 691e. Definitions.

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 obliga-

tions 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.)

§ 691f. Identification of limited tax benefits. **643**

(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.)

644 § 692. Judicial review.

(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

§ 900. Statement of budget enforcement through sequestration; definitions. 645

(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 3 of the Congressional Budget and Impoundment Control Act of 1974 [2 U.S.C.A. § 622] 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 251(c). 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[1] 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.

(E) The term "conservation spending category" means discretionary appropriations for conservation activities in the following budget accounts or portions thereof providing appropriations to preserve and protect lands, habitat, wildlife, and other natural resources, to provide recreational opportunities, and for related purposes:

(i) 14–5033 Bureau of Land Management Land Acquisition.

(ii) 14–5020 Fish and Wildlife Service Land Acquisition.

(iii) 14–5035 National Park Service Land Acquisition and State Assistance.

(iv) 12–9923 Forest Service Land Acquisition.

(v) 14–5143 Fish and Wildlife Service Cooperative Endangered Species Conservation Fund.

(vi) 14–5241 Fish and Wildlife Service North American Wetlands Conservation Fund.

(vii) 14–1694 Fish and Wildlife Service State Wildlife Grants.

(viii) 14–0804 United States Geological Survey Surveys, Investigations, and Research, the State Planning Partnership programs: Community/Federal Information Partnership, Urban Dynamics, and Decision Support for Resource Management.

(ix) 12–1105 Forest Service State and Private Forestry, the Forest Legacy Program, Urban and Community Forestry, and Smart Growth Partnerships.

(x) 14–1031 National Park Service Urban Park and Recreation Recovery program.

(xi) 14–5140 National Park Service Historic Preservation fund.

(xii) Youth Conservation Corps.

(xiii) 14–1114 Bureau of Land Management Payments in Lieu of Taxes.

(xiv) Federal infrastructure Improvement (as established in title VIII of the Department of the Interior and Related Agencies Appropriations Act, 2001).

(xv) 13–1460 NOAA Procurement Acquisition and Construction, the National Marine Sanctuaries and the National Estuarine Research Reserve Systems.

(xvi) 13–1450 NOAA Operations, Research, and Facilities, the Coastal Zone Management Act programs, the National Marine Sanctuaries, the National Estuarine Research Reserve Systems, and Coral Restoration programs.

(xvii) 13–1451 NOAA Pacific Coastal Salmon Recovery.

(F) The term "Federal and State Land and Water Conservation Fund sub-category" means discretionary appropriations for activities in the accounts described in (E)(i)-(E)(iv) or portions thereof.

(G) The term "State and Other Conservation sub-category" means discretionary appropriations for activities in the accounts described in (E)(v)-(E)(ix), with the exception of Urban and Community Forestry as described in (E)(ix), or portions thereof.

(H) The term "Urban and Historic Preservation sub-category" mans discretionary appropriations for activities in the accounts described in (E)(ix)-(E)(xii), with the exception of Forest Legacy and

Smart Growth Partnerships as described in (E)(ix), or portions thereof.

(I) The term "Payments in Lieu of Taxes sub-category" means discretionary appropriations for activities in the account described in (E)(xiii) or portions thereof.

(J) The term "Federal Deferred Maintenance sub-category" means discretionary appropriations for activities in the account described in (E)(xiv)[2] or portions thereof.

(K) The term "Coastal Assistance sub-category" means discretionary appropriations for activities in the accounts described in (E)(xv)-(E)(xvii) or portions thereof.

(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.

(20) Repealed. Pub. L. 105–33, Title X, § 10202(b)(6), Aug. 5, 1997, 111 Stat. 698

(21) Redesignated (19)

(As amended 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; Pub. L. 105–206, Title IXX, § 9013(b), July 22, 1998, 112 Stat. 865; Pub. L. 106–291, Title VIII, § 801(c), Oct. 11, 2000, 114 Stat. 1028.)

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.]

§ 901. Enforcing discretionary spending limits. 646

(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 nonexempt 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 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) Additional adjustments

(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[1] 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 (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) Final sequester report

(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) Report

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 401(g)(1)(A) of Title 42 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, including 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.

(H) Conservation spending

(i) If a bill or resolution making appropriations for any fiscal year appropriates an amount for the conservation spending category that is less than the limit for the conservation spending category as specified in subsection (c), then the adjustment for new budget authority and outlays for the following fiscal year for that category shall be the amount of new budget authority and outlays that equals the difference between the amount appropriated and the amount of that category specified in subsection (c).

(ii) If a bill or resolution making appropriations for any fiscal year appropriates an amount for any conservation spending sub-category that is less than the limit for that conservation spending sub-category as specified in subsections (c)(11)-(c)(16), then the adjustment for new budget authority for the following fiscal year for that sub-category shall be the amount of new budget authority that equals the difference between the amount of new budget authority that equals the difference between the amount appropriated and the amount of that sub-category specified in subsection (c)(11)-(c)(16).

(iii) The total amount provided for any conservation activity within the conservation spending category may not exceed any authorized ceiling for that activity.

(c) Discretionary spending limit

As used in this part, 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: $637,000,000,000 in new budget authority and $612,695,000,000 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;

(6) with respect to fiscal year 2002—

(A) for the discretionary category: $681,441,000,000 in new budget authority and $670,206,000,000 in outlays;

(B) for the highway category: $26,977,000,000 in outlays;

(C) for the mass transit category: $5,709,000,000 in outlays; and

(D) for the conservation spending category: $1,760,000,000, in new budget authority and $1,473,000,000 in outlays;

(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; and

(C) for the conservation spending category: $1,920,000,000, in new budget authority and $1,872,000,000 in outlays;

(8) with respect to fiscal year 2004 for the conservation spending category: $2,080,000,000, in new budget authority and $2,032,000,000 in outlays;

(9) with respect to fiscal year 2005 for the conservation spending category: $2,240,000,000, in new budget authority and $2,192,000,000 in outlays;

(10) with respect to fiscal year 2006 for the conservation spending category: $2,400,000,000, in new budget authority and $2,352,000,000 in outlays;

(11) with respect to each fiscal year 2002 through 2006 for the Federal and State Land and Water Conservation Fund sub-category of the conservation spending category: $540,000,000 in new budget authority and the outlays flowing therefrom;

(12) with respect to each fiscal year 2002 through 2006 for the State and Other Conservation sub-category of the conservation spending category: $300,000,000 in new budget authority and the outlays flowing therefrom;

(13) with respect to each fiscal year 2002 through 2006 for the Urban and Historic Preservation sub-category of the conservation spending category: $160,000,000 in new budget authority and the outlays flowing therefrom;

(14) with respect to each fiscal year 2002 through 2006 for the Payments in Lieu of Taxes sub-category of the conservation spending category: $50,000,000 in new budget authority and the outlays flowing therefrom;

(15) with respect to each fiscal year 2002 through 2006 for the Federal Deferred Maintenance sub-category of the conservation spending category: $150,000,000 in new budget authority and the outlays flowing therefrom;

(16) with respect to fiscal year 2002 for the Coastal Assistance sub-category of the conservation spending category: $440,000,000 in new budget authority and outlays flowing therefrom; with respect to fiscal year 2003 for the Coastal Assistance sub-category of the conservation spending category: $480,000,000 in new budget authority and the outlays flowing therefrom; with respect to fiscal year 2004 for the Coastal Assistance sub-category of the conservation spending category: $520,000,000 in new budget authority and the outlays flowing therefrom; with respect to fiscal year 2005 for the Coastal Assistance sub-category of the conservation spending category: $560,000,000 in new budget authority and the outlays flowing therefrom; and with respect to fiscal year 2006 for the Coastal Assistance sub-category of the conservation spending category: $600,000,000 in new budget authority and the outlays flowing therefrom;

as adjusted in strict conformance with subsection (b).

(As amended Pub. L. 105–33, Title X, § 10203(a), (b), Aug. 5, 1997, 111 Stat. 698, 701; Pub. L. 105–89, § 201(b)(1), Nov. 19, 1997, 111 Stat. 2125; Pub. L. 105–178, Title VIII, § 801(a), (d), June 9, 1998, 112 Stat. 488, 490; Pub. L. 106–291, Title VIII, § 801(a), (b), Oct. 11, 2000, 114 Stat. 1026, 1027; Pub. L. 106–429, § 101(a) [Title VII, § 701(a)], Nov. 6, 2000, 114 Stat. 1900, 1900A–64; Pub. L. 107–117, Div. C, § 101(a), Jan. 10, 2002, 115 Stat. 2341.)

[1] So in original. Probably should be "years".

EFFECTIVE AND TERMINATION DATES

Section 14002(c)(3) of Pub. L. 103–66, Title XIV, Aug. 10, 1993, 107 Stat. 684, which provided a termination date for this section was repealed by Pub. L. 105–33, Title X, § 10212(b), Aug. 5, 1997, 111 Stat. 712. See Effective and Applicability Provisions note under section 900 of this title.

For effective and termination dates of this section by section 275 of Pub. L. 99–177 as amended through Pub. L. 105–33, Title X, § 10212(a), Aug. 5, 1997, 111 Stat. 712, see Effective and Applicability Provisions note under section 900 of this title.

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."

647 **§ 901a. Repealed.** Pub. L 105–33, Title X, Sec. 10204(a)(1), Aug. 5, 1997, 111 Stat. 702.

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.

648 **§ 902. Enforcing pay-as-you-go.**

(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.)

649 § 903. Enforcing deficit targets.

(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 reestimate 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.)

650 § 904. Reports and orders.

(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 cat-

egory 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] So in original. Probably means "subsection".

(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

(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.)

§ 905. Exempt programs and activities. **651**

(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).

652 § 906. General and special sequestration rules.

(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.)

653 § 907. The baseline.

(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.)

§ 907a. Suspension in event of war or low growth. **654**

EFFECTIVE AND TERMINATION DATES

Section 14002(c)(3) of Pub. L. 103–66, Title XIV, Aug. 10, 1993, 107 Stat. 684, which provided a termination date for this section was repealed by Pub. L. 105–33, Title X, § 10212(b), Aug. 5, 1997, 111 Stat. 712. See Effective and Termination Dates of 1997 Acts note under section 900 of this title.

For effective and termination dates of this section by section 275 of Pub. L. 99–177 as amended through Pub. L. 105–33, Title X, § 10212(a), Aug. 5, 1997, 111 Stat. 712, see Effective and Termination Dates of 1987 Acts note under section 900 of this title.

HISTORICAL AND STATUTORY NOTES

References in Text

Section 254(j) and section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (a)(1), (2)(A), mean section 254 of Pub. L. 99–177, which is classified to section 904 of this title, and was amended by Pub. L. 105–33, Title X, § 10206(1), Aug. 5, 1997, 111 Stat. 704, by redesignating subsecs. (j) and (k) as (i) and (j), respectively.

Prior Provisions

Another section 258 of Pub. L. 99–177, relating to modification of presidential order, was added by Pub. L. 100–119, Title I, § 105(a), classified to section 908 of this title, and repealed by Pub. L. 105–33, Title X, § 10210, August 5, 1997, 111 Stat. 711.

§ 907b. Modification of Presidential order **655**

EFFECTIVE AND TERMINATION DATES

Section 14002(c)(3) of Pub. L. 103–66, Title XIV, Aug. 10, 1993, 107 Stat. 684, which provided a termination date for this section was repealed by Pub. L. 105–33, Title X, § 10212(b), Aug. 5, 1997, 111 Stat. 712. See Effective and Termination Dates of 1997 Acts note under section 900 of this title.

For effective and termination dates of this section by section 275 of Pub. L. 99–177 as amended through Pub. L. 105–33, Title X, § 10212(a), Aug. 5, 1997, 111 Stat. 712, see Effective and Termination Dates of 1987 Acts note under section 900 of this title.

§ 907c. Flexibility among defense programs, projects, and activities **656**

EFFECTIVE AND TERMINATION DATES

Section 14002(c)(3) of Pub. L. 103–66, Title XIV, Aug. 10, 1993, 107 Stat. 684, which provided a termination date for this section was repealed by Pub. L. 105–33, Title X, § 10212(b), Aug. 5, 1997, 111 Stat. 712. See Effective and Termination Dates of 1997 Acts note under section 900 of this title.

For effective and termination dates of this section by section 275 of Pub. L. 99–177 as amended through Pub. L. 105–33, Title X, § 10212(a), Aug. 5, 1997, 111 Stat. 712, see Effective and Termination Dates of 1987 Acts note under section 900 of this title.

§ 907d. Special reconciliation process **657**

EFFECTIVE AND TERMINATION DATES

Section 14002(c)(3) of Pub. L. 103–66, Title XIV, Aug. 10, 1993, 107 Stat. 684, which provided a termination date for this section was repealed by Pub. L. 105–33, Title X, § 10212(b), Aug. 5, 1997, 111 Stat. 712. See Effective and Termination Dates of 1997 Acts note under section 900 of this title.

For effective and termination dates of this section by section 275 of Pub. L. 99–177 as amended through Pub. L. 105–33, Title X, § 10212(a), Aug. 5, 1997, 111 Stat. 712, see Effective and Termination Dates of 1987 Acts note under section 900 of this title.

658 **§ 908. Repealed.** Pub. L. 105–33, Title X, § 10210, Aug. 5, 1997, 111 Stat. 711

HISTORICAL AND STATUTORY NOTES

Section, Pub. L. 99–177, Title II, § 258, as added Pub. L. 100–119, Title I, § 105(a), Sept. 29, 1987, 101 Stat. 778, related to modification of presidential order.

Subchapter II.—Operation and Review

659 **§ 921. Transferred.**

660 **§ 922. Judicial review.**

(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

661 § 1101. Congressional findings.

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.)

662 § 1102. Definitions.

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.)

663 **§ 1103. Establishment of the John C. Stennis Center for Public Service Training and Development.**

(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.)

§ 1104. Purposes and authority of the Center. 664

(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.)

665 § 1105. John C. Stennis Center for Public Service Development Trust Fund.

(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.)

§ 1106. Expenditures and audit of Trust Fund. **666**

(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.)

§ 1107. Executive Director of Center. **667**

(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.)

668 § 1108. Administrative provisions.

(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).

§ 1109. Authorization for appropriations. 669

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.)

§ 1110. Appropriations. 670

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 24.—CONGRESSIONAL ACCOUNTABILITY

Subchapter I.—General

§ 1301 Definitions. 671

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.)

672 § 1302. Application of laws.

(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.)

Subchapter II.—Extension of Rights and Protections

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

673 § 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.

(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.)

§ 1312. Rights and protections under the Family and Medical Leave Act of 1993. 674

(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.)

675 § 1313. Rights and protections under the Fair Labor Standards Act of 1938.

(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.)

§ 1314. Rights and protections under the Employee Polygraph Protection Act of 1988. 676

(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.)

677 § 1315. Rights and protections under the Worker Adjustment and Retraining Notification Act.

(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.)

678 § 1316. Rights and protections relating to veterans' employment and reemployment.

(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.)

1316a. Legislative branch appointments. **679**

(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.)

§ 1317. Prohibition of intimidation or reprisal. 680

(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

§ 1331. Rights and protections under the Americans With Disabilities Act of 1990 relating to public services and accommodations; procedures for remedy of violations. 681

(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.)

Part C.—Occupational Safety and Health Act of 1970

682 **§ 1341. Rights and protections under the Occupational Safety and Health Act of 1970; procedures for remedy of violations.**

(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.)

Part D.—Labor-Management Relations

§ 1351. Application of chapter 71 of Title 5, relating to Federal service labor-management relations; procedures for remedy of violations. 683

(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 Re-

porters 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.)

Part E.—General

684 § 1361. Generally applicable remedies and limitations.

(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.)

Part F.—Study

§ 1371. Study and recommendations regarding General Accounting Office, Government Printing Office, and Library of Congress. 685

(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.)

Subchapter III.—Office of Compliance

686 § 1381. Establishment of Office of Compliance.

(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.)

§ 1382. Officers, staff, and other personnel. 687

(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.)

§ 1383. Procedural rules. **688**

(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.)

689 § 1384. Substantive regulations.

(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 rec-

ommendations 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.)

§ 1385. Expenses. 690

(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.)

Subchapter IV.—Administrative and Judicial Dispute-Resolution Procedures

§ 1401. Procedure for consideration of alleged violations. 691

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.)

692 § 1402. Counseling.

(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.)

693 § 1403. Mediation.

(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.)

§ 1404. Election of proceeding. 694

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.)

§ 1405. Complaint and hearing. 695

(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.)

§ 1406. Appeal to the Board. **696**

(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.)

697 § 1407. Judicial review of Board decisions and enforcement.

(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.)

§ 1408. Civil action. **698**

(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.

(d) Appearances by House Employment Counsel

(1) In general

The House Employment Counsel of the House of Representatives and any other counsel in the Office of House Employment Counsel of the House of Representatives, including any counsel specially retained by the Office of House Employment Counsel, shall be entitled, for the purpose of providing legal assistance and representation to employing offices of the House of Representatives under this chapter, to enter an appearance in any proceeding before any court of the United States or of any State or political subdivision thereof without compliance with any requirements for admission to practice before such court, except that the authorization conferred by this paragraph shall not apply with respect to the admission of any such person to practice before the United States Supreme Court.

(2) House Employment Counsel defined

In this subsection, the term "Office of House Employment Counsel of the House of Representatives" means—

(A) the Office of House Employment Counsel established and operating under the authority of the Clerk of the House of Representatives as of November 12, 2001;

(B) any successor office to the Office of House Employment Counsel which is established after November 12, 2001; and

(C) any other person authorized and directed in accordance with the Rules of the House of Representatives to provide legal assistance and representation to employing offices of the House of Representatives in connection with actions brought under this subchapter.

(Pub. L. 104–1, Title IV, § 408, Jan. 23, 1995, 109 Stat. 37.; Pub. L. 107–68, Title I, § 119(a), Nov. 12, 2001, 115 Stat. 573.)

699 § 1409. Judicial review of regulations.

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.)

700 § 1410. Other judicial review prohibited.

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.)

§ 1411. Effect of failure to issue regulations. 701

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.)

§ 1412. Expedited review of certain appeals. 702

(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.)

§ 1413. Privileges and immunities. 703

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.)

§ 1414. Settlement of complaints. 704

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.)

§ 1415. Payments. 705

(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.)

706 **§ 1416. Confidentiality.**

(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.)

Subchapter V.—Miscellaneous Provisions

§ 1431. Exercise of rulemaking powers. 707

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.)

§ 1432. Political affiliation and place of residence. 708

(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.)

§ 1433. Nondiscrimination rules of the House and Senate. 709

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.)

710 § 1434. Judicial branch coverage study.

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.)

711 § 1435. Savings provisions.

(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.)

712 **§ 1436. Repealed.** Pub.L. 106–57, Title III, § 313, Sept. 29, 1999, 113 Stat. 428.

713 **§ 1437. Sense of Senate regarding adoption of simplified and streamlined acquisition procedures for Senate acquisitions.**

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.)

714 **§ 1438. Severability.**

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.)

Chapter 25.—UNFUNDED MANDATES REFORM

715 **§ 1501. Purposes.**

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.)

§ 1502. Definitions. **716**

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.)

§ 1503. Exclusions. **717**

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.)

718 § 1504. Agency assistance.

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.)

Subchapter I.—Legislative Accountability and Reform

719 § 1511. Cost of regulations.

(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."

720 § 1512. Consideration for Federal funding.

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.)

§ 1513. Impact on local governments. 721

(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 governments 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.)

§ 1514. Enforcement in the House of Representatives. 722

(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.)

§ 1515. Exercise of rulemaking powers. 723

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.)

724 § 1516. Authorization of appropriations.

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.)

Subchapter II.—Regulatory Accountability and Reform

725 § 1531. Regulatory process.

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.)

726 § 1532. Statements to accompany significant regulatory actions.

(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.)

§ 1533. Small government agency plan. **727**

(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.)

§ 1534. State, local, and tribal government input. **728**

(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.)

729 § 1535. Least burdensome option or explanation required.

(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.)

730 § 1536. Assistance to the Congressional Budget Office.

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.)

§ 1537. Pilot program on small government flexibility. 731

(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.)

§ 1538. Annual statements to Congress on agency compliance. 732

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.)

Subchapter III.—Review of Federal Mandates

§ 1551. Baseline study of costs and benefits. 735

(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.)

§ 1552. Report on Federal mandates by Advisory Commission on Intergovernmental Relations. 736

(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.)

737 § 1553. Special authorities of Advisory Commission.

(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.)

738 § 1554. Annual report to Congress regarding Federal court rulings.

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.)

739 § 1555. Definition.

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.)

740 § 1556. Authorization of appropriations.

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.)

Subchapter IV.—Judicial Review

§ 1571. Judicial review. 741

(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.)

Chapter 26.—DISCLOSURE OF LOBBYING ACTIVITIES

742 § 1601. Findings.

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.)

743 § 1602. Definitions.

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.)

§ 1603. Registration of lobbyists. **744**

(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.)

§ 1604. Reports by registered lobbyists. **745**

(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.)

746 § 1605. Disclosure and enforcement.

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.)

747 § 1606. Penalties.

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.)

748 § 1607. Rules of construction.

(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.)

§ 1608. Severability. **749**

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.)

§ 1609. Identification of clients and covered officials. **750**

(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.)

751 **§ 1610. Estimates based on tax reporting system.**

(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 ex-

penditures", "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.)

§ 1611. Exempt organizations. 752

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.)

§ 1612. Sense of the Senate that lobbying expenses should remain nondeductible. 753

(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.)

Chapter 28.—ARCHITECT OF THE CAPITOL

Subchapter I.—General

§ 1801. Appointment of Architect of the Capitol. 755

(a)(1) The Architect of the Capitol shall be appointed by the President by and with the advice and consent of the Senate for a term of 10 years.

(2) There is established a commission to recommend individuals to the President for appointment to the office of Architect of the Capitol. The Commission shall be composed of—

(A) the Speaker of the House of Representatives,

(B) the President pro tempore of the Senate,

(C) the majority and minority leaders of the House of Representatives and the Senate, and

(D) the chairmen and the ranking minority members of the Committee on House Oversight of the House of Representatives, the Committee on Rules Administration of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on Appropriations of the Senate.

The commission shall recommend at least three individuals for appointment to such office.

(3) An individual appointed Architect of the Capitol under paragraph (1) shall be eligible for reappointment to such office.

(b) Subsection (a) of this section shall be effective in the case of appointments made to fill vacancies in the office of Architect of the Capitol which occur on or after November 21, 1989. If no such vacancy occurs within the six-year period which begins on November 21, 1989,

no individual may, after the expiration of such period, hold such office unless the individual is appointed in accordance with subsection (a). (Pub. L. 101–163, Title III, § 319, Nov. 21, 1989, 103 Stat. 1068; Pub. L. 104–19, § 701, July 27, 1995, 109 Stat. 220.)

756 § 1802. Compensation of Architect of Capitol.

The compensation of the Architect of the Capitol shall be at an annual rate 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. (Aug. 14, 1964, Pub. L. 88–426, § 203(c), 78 Stat. 415; Dec. 16, 1967, Pub. L. 90–206, § 219, 81 Stat. 639; Salary Recommendations, Budget, 1970, pursuant to Act Dec. 16, 1967, Pub. L. 90–206, § 225(h), 81 Stat. 634; August 9, 1975, Pub. L. 94–82, Title II, § 204(b), 89 Stat. 421; Dec. 14, 1979, Pub. L. 96–146, § 1(1), 93 Stat. 1086.)

757 § 1803. Delegation of authority by Architect of Capitol.

The Architect of the Capitol is authorized hereafter to delegate to the Assistant Architect and other assistants such authority of the Architect as he may deem proper. (Aug. 5, 1955, ch. 568, 69 Stat. 515.)

758 § 1804. Assistant Architect of Capitol to act in case of absence, disability, or vacancy.

On and after August 18, 1970, the Assistant Architect of the Capitol shall act as Architect of the Capitol during the absence or disability of that official or whenever there is no Architect. (Aug. 18, 1970, Pub. L. 91–382, § 101, 84 Stat. 817; Pub. L. 101–163, § 106(d), 103 Stat. 1057, Nov. 21, 1989.)

Subchapter II.—Powers and Duties

759 § 1811. Architect of the Capitol; powers and duties.

The Architect of the Capitol shall perform all the duties relative to the Capitol Building performed prior to August 15, 1876, by the Commissioner of Public Buildings and Grounds, and shall be appointed by the President: *Provided,* That no change in the architectural features of the Capitol Building or in the landscape features of the Capitol Grounds shall be made except on plans to be approved by Congress. (Aug. 15, 1876, ch. 287, § 1, 19 Stat. 147; Feb. 14, 1902, ch. 17, § 1, 32 Stat. 20; Mar. 3, 1921, ch. 124, § 1, 41 Stat. 1291.)

760 § 1812. Care and superintendence of Capitol by Architect of Capitol.

The Architect of the Capitol shall have the care and superintendence of the Capitol, including lighting. His office shall be in the Capitol Building. (Aug. 15, 1876, ch. 287, § 1, 19 Stat. 147; Mar. 3, 1877, ch. 102, 19 Stat. 298; Oct. 31, 1951, ch. 654, § 3(14), 65 Stat. 708.)

761 § 1813. Exterior of Capitol, duty of Architect.

It shall be the duty of the Architect to clean and keep in proper order the exterior of the Capitol. (July 7, 1884, ch. 332, 23 Stat. 209.)

762 § 1814. Architect of Capitol; repairs of Capitol.

All improvements, alterations, additions, and repairs of the Capitol Building shall be made by the direction and under the supervision of the Architect of the Capitol. (R.S. § 1816; Feb. 14, 1902, ch. 17, § 1,

32 Stat. 20; Mar. 3, 1921, ch. 124, § 1, 41 Stat. 1291; Oct. 31, 1951, ch. 654, § 3(15), 65 Stat. 708.)

CROSS REFERENCE

Changes in architectural features of the Capitol Building or in landscape features of Capitol Grounds, see section 1811 of this title.

NOTE

Section 305 of the Legislative Branch Appropriations Act, 1993, provided that:

"SEC. 305. (a) The Architect of the Capitol, in consultation with the heads of the agencies of the legislative branch, shall develop an overall plan for satisfying the telecommunications requirements of such agencies, using a common system architecture for maximum interconnection capability and engineering compatibility. The plan shall be subject to joint approval by the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, and, upon approval, shall be communicated to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. No part of any appropriation in this Act or any other Act shall be used for acquisition of any new or expanded telecommunications system for an agency of the legislative branch, unless, as determined by the Architect of the Capitol, the acquisition is in conformance with the plan, as approved.

"(b) As used in this section—

"(1) the term "agency of the legislative branch" means, the Office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office; and

"(2) the term "telecommunications system" means an electronic system for voice, data, or image communication, including any associated cable and switching equipment."

"(c) This section shall apply with respect to fiscal years beginning after September 30, 1992." (Pub. L. 102–392, Title III, § 305, Oct. 6, 1992, 106 Stat. 1721.)

NOTE

Section 168 of the Energy Policy Act, 1992, provided Energy Management Requirements for Congressional Buildings as follows:

"(a) In general.—The Architect of the Capitol (hereafter in this section [this note] referred to as the 'Architect') shall undertake a program of analysis and, as necessary, retrofit of the Capitol Building, the Senate Office Buildings, the House Office Buildings, and the Capitol Grounds, in accordance with subsection (b).

"(b) Program.—

"(1) Lighting.—

"(A) Implementation.—

"(i) In general.—Not later than 18 months after the date of the enactment of this Act [Oct. 24, 1992] and subject to the availability of funds to carry out this section [this note], the Architect shall begin implementing a program to replace in each building described in subsection (a) all inefficient office and general use area fluorescent lighting systems with systems that incorporate the best available design and technology and that have payback periods of 10 years or less, as determined by using methods and procedures established under section 544(a) of the National Energy and Conservation Policy Act (42 U.S.C. 8254(a)).

"(ii) Replacement of incandescent lighting.—Whenever practicable in office and general use areas, the Architect shall replace incandescent lighting with efficient fluorescent lighting.

"(B) Completion.—Subject to the availability of funds to carry out this section [this note], the program described in subparagraph (A) shall be completed not later than 5 years after the date of the enactment of this Act [Oct. 24, 1992].

"(2) Evaluation and report.—

"(A) In general.—Not later than 6 months after the date of the enactment of this Act [Oct. 24, 1992], the Architect shall submit to the Speaker

of the House of Representatives and the President pro tempore of the Senate a report evaluating potential energy conservation measures for each building described in subsection (a) in the areas of heating, ventilation, air conditioning equipment, insulation, windows, domestic hot water, food service equipment, and automatic control equipment.

"(B) Costs.—The report submitted under subparagraph (A) shall detail the projected installation cost, energy and cost savings, and payback period of each energy conservation measure, as determined by using methods and procedures established under section 544(a) of the National Energy Conservation Policy Act (42 U.S.C. 8254(a)).

"(3) Review and approval of energy conservation measures.—The Committee on Public Works and Transportation of the House of Representatives and the Committee on Rules and Administration of the Senate shall review the energy conservation measures identified in accordance with paragraph (2) and shall approve any such measure before it may be implemented.

"(4) Utility incentive programs.—In carrying out this section [this note], the Architect is authorized and encouraged to—

"(A) accept any rebate or other financial incentive offered through a program for energy conservation or demand management of electricity, water, or gas that—

"(i) is conducted by an electric, natural gas, or water utility;

"(ii) is generally available to customers of the utility; and

"(iii) provides for the adoption of energy efficiency technologies or practices that the Architect determines are cost-effective for the buildings described in subsection (a); and

"(B) enter into negotiations with electric and natural gas utilities to design a special demand management and conservation incentive program to address the unique needs of the buildings described in subsection (a).

"(5) Use of savings.—The Architect shall use an amount equal to the rebate or other savings from the financial incentive programs under paragraph (4)(A), without additional authorization or appropriation, for the implementation of additional energy and water conservation measures in the buildings under the jurisdiction of the Architect.

"(c) Authorization of appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section [this note]." (Pub. L. 102–486, Title I, § 168, Oct. 24, 1992, 106 Stat. 2862.)

Subchapter III.—Personnel

Part A—General

763 § 1831. Architect of the Capitol human resources program.

(a) Short title

This section may be cited as the "Architect of the Capitol Human Resources Act".

(b) Finding and purpose

(1) Finding

The Congress finds that the Office of the Architect of the Capitol should develop human resources management programs that are consistent with the practices common among other Federal and private sector organizations.

(2) Purpose

It is the purpose of this section to require the Architect of the Capitol to establish and maintain a personnel management system that incorporates fundamental principles that exist in other modern personnel systems.

(c) Personnel management system

(1) Establishment

The Architect of the Capitol shall establish and maintain a personnel management system.

(2) Requirements

The personnel management system shall at a minimum include the following:

(A) A system which ensures that applicants for employment and employees of the Architect of the Capitol are appointed, promoted, and assigned on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition.

(B) An equal employment opportunity program which includes an affirmative employment program for employees and applicants for employment, and procedures for monitoring progress by the Architect of the Capitol in ensuring a workforce reflective of the diverse labor force.

(C) A system for the classification of positions which takes into account the difficulty, responsibility, and qualification requirements of the work performed, and which conforms to the principle of equal pay for substantially equal work.

(D) A program for the training of Architect of the Capitol employees which has among its goals improved employee performance and opportunities for employee advancement.

(E) A formal performance appraisal system which will permit the accurate evaluation of job performance on the basis of objective criteria for all Architect of the Capitol employees.

(F) A fair and equitable system to address unacceptable conduct and performance by Architect of the Capitol employees, including a general statement of violations, sanctions, and procedures which shall be made known to all employees, and a formal grievance procedure.

(G) A program to provide services to deal with mental health, alcohol abuse, drug abuse, and other employee problems, and which ensures employee confidentiality.

(H) A formal policy statement regarding the use and accrual of sick and annual leave which shall be made known to all employees, and which is consistent with the other requirements of this section.

(d) Implementation of personnel management system

(1) Development of plan

The Architect of the Capitol shall—

(A) develop a plan for the establishment and maintenance of a personnel management system designed to achieve the requirements of subsection (c) of this section;

(B) submit the plan to the Speaker of the House of Representatives, the House Office Building Commission, the Committee on Rules and Administration of the Senate, the Joint Committee on the Library, and the Committees on Appropriations of the Senate and the House of Representatives not later than 12 months after July 22, 1994; and

(C) implement the plan not later than 90 days after the plan is submitted to the Speaker of the House of Representatives, the House Office Building Commission, the Committee on Rules and Administration of the Senate, the Joint Committee on the Library,

and the Committees on Appropriations of the Senate and the House of Representatives, as specified in subparagraph (B).

(2) Evaluation and reporting

The Architect of the Capitol shall develop a system of oversight and evaluation to ensure that the personnel management system of the Architect of the Capitol achieves the requirements of subsection (c) of this section and complies with all other relevant laws, rules and regulations. The Architect of the Capitol shall report to the Speaker of the House of Representatives, the House Office Building Commission, the Committee on Rules and Administration of the Senate, and the Joint Committee on the Library on an annual basis the results of its evaluation under this subsection.

(3) Application of laws

Nothing in this section shall be construed to alter or supersede any other provision of law otherwise applicable to the Architect of the Capitol or its employees, unless expressly provided in this section.

(Pub. L. 103–283, title III, § 312, July 22, 1994, 108 Stat. 1443; Pub. L. 104–1, title V, § 504(c)(1), Jan. 23, 1995, 109 Stat. 41.)

CODIFICATION

Section is comprised of section 312 of Pub. L. 103–283. Subsec. (f) of section 312 of Pub. L. 103–283 amended sections 60m, 1201, 1205, and 1212 of Title 2, The Congress.

764 § 1832. Assignment and reassignment of personnel by Architect of the Capitol for personal services.

Notwithstanding any other provisions of law, in order to improve the economic use of the personal services of his employees, the Architect of the Capitol is authorized hereafter to assign and reassign, without increase or decrease in basic salary or wages, any person on the employment rolls of his Office, for personal services in any buildings, facilities or grounds under his jurisdiction or for personal services in connection with any project under his jurisdiction for which appropriations have been made and are available, whenever such action, in his opinion, will be most advantageous to the interest of or result in either specific or overall savings to the Government. Exceptions may be made where there are differences in equipment. No assignment or reassignment of personnel by the Architect of the Capitol pursuant to this provision shall operate in any respect to augment or decrease any general or specific appropriation. (Pub. L. 100–202, § 106, Dec. 22, 1987, 101 Stat. 1329–433.)

765 § 1834. Heating and ventilating Senate wing.

All engineers and others who are engaged in heating and ventilating the Senate wing of the Capitol shall be subject to the orders and in all respects under the direction of the Architect of the Capitol, subject to the approval of the Senate Committee on Rules and Administration. (July 11, 1888, ch. 615, § 1, 25 Stat. 258; Aug. 2, 1946, ch. 753, §§ 102, 224, 60 Stat. 814, 838.)

Part B—Compensation

766 § 1841. Single per annum gross rates of pay.

Whenever the rate of pay of—

(1) an employee of the Office of Architect of the Capitol;

or

(2) an employee of the House Restaurant or of the Senate Restaurant, under the supervision of the Architect of the Capitol as an agent of the House or Senate, respectively, as the case may be,

is fixed or adjusted on or after the effective date of this section, that rate, as so fixed and adjusted, shall be a single per annum gross rate. (Oct. 26, 1970, Pub. L. 91–510, § 481, 84 Stat. 1196.)

§ 1846. Exemptions. 767

Notwithstanding any other provision of sections 1841 to 1846 of this title, the foregoing provisions of such sections do not apply to any employee described in section 1841 of this title whose pay is fixed and adjusted—

(1) in accordance with chapter 51, and subchapter III of chapter 53, of title 5, relating to classification and General Schedule pay rates;

(2) in accordance with subchapter IV of chapter 53 of title 5, relating to prevailing rate pay systems;

(3) at per hour or per diem rates in accordance with section 3 of the Legislative Pay Act of 1929, as amended (46 Stat. 38; 55 Stat. 615), relating to employees performing professional and technical services for the Architect of the Capitol in connection with construction projects and employees under the Office of the Architect of the Capitol whose tenure of employment is temporary or of uncertain duration; or

(4) in accordance with prevailing rates under authority of sections 2042 to 2047 of this title entitled "Joint Resolution transferring the management of the Senate Restaurants to the Architect of the Capitol, and for other purposes", or section 2041 of this title, relating to the duties of the Architect of the Capitol with respect to the House of Representatives Restaurant. (Oct. 26, 1970, Pub. L. 91–510, § 486, 84 Stat. 1197.)

§ 1847. Authorization to fix basic rate of compensation for certain positions. 768

On and after August 21, 1959, the Architect of the Capitol is authorized, without regard to chapter 51 and subchapter III of chapter 53 of title 5, to fix the compensation of four positions under the appropriation "Salaries, Office of the Architect of the Capitol", of two positions under the appropriation "Capitol Buildings", and of one position under the appropriation "House Office Buildings" at a basic rate of $8,200 per annum each: *Provided*, That this provision shall not be applicable to the positions of Architect or Assistant Architect.

On and after August 21, 1959, the Architect of the Capitol is authorized, without regard to chapter 51 and subchapter III of chapter 53 of title 5, to fix the compensation of one position under the appropriation "Senate Office Buildings", at a basic rate of $8,200 per annum.

(Pub. L. 86–176, Aug. 21, 1959, 73 Stat. 407; Pub. L. 89–309, ch. VII, Oct. 31, 1965, 79 Stat. 1147; Pub. L. 90–206, title II, § 214(p), Dec. 16, 1967, 81 Stat. 638; Pub. L. 90–239, ch. IV, Jan. 2, 1968, 81 Stat. 775; Pub. L. 94–157, title I, ch. IV, Dec. 18, 1975, 89 Stat. 835; Pub. L. 101–163, title I, § 106(c), Nov. 21, 1989, 103 Stat. 1056.)

CODIFICATION

"Chapter 51 and subchapter III of chapter 53 of title 5" substituted for "the Classification Act of 1949, as amended" in text on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

769 § 1848. Compensation of certain positions in Office of Architect of Capitol.

(a) Amount of compensation to be that specified in appropriations Acts

Notwithstanding any other provision of law, the pay for positions described in subsection (b) shall be the amounts specified for such positions in appropriations Acts.

(b) Positions covered

The positions referred to in subsection (a) of this section are—

(1) the position of assistant referred to in the proviso in the first undesignated paragraph under the center subheadings "Office of the Architect of the Capitol" and "salaries" in the first section of the Legislative Branch Appropriation Act, 1971 (2 U.S.C. 1804), and

(2) the eight positions provided for in the third and fourth undesignated paragraphs under the center subheadings "Office of the Architect of the Capitol" and "salaries" in the first section of the Legislative Branch Appropriation Act, 1960 (2 U.S.C. 1847).

(c) Calculation of amounts

The pay for each position described in subsection (b) shall be the pay payable for such position with respect to the last pay period before this section takes effect, subject to any applicable adjustment during fiscal year 1988 under, or by reference to any applicable adjustment during fiscal year 1988 under, subchapter I of chapter 53 of title 5.

(d) Effective date

This section shall apply in fiscal years beginning after September 30, 1987, with respect to pay periods beginning after December 22, 1987. (Pub. L. 100–202, § 101(i) [Title III, § 308], Dec. 22, 1987, 101 Stat. 1329–309; Pub. L. 101–163, Title I, § 106(e), Nov. 21, 1989, 103 Stat. 1057.)

770 § 1849. Compensation of certain positions under jurisdiction of Architect of Capitol.

(a) Director of Engineering

Effective as of the first day of the first applicable pay period beginning on or after November 5, 1990, the compensation of the Director of Engineering (under the Architect of the Capitol) shall be equal to such rate as the Architect considers appropriate, not to exceed 90 percent of the highest total rate of pay for the Senior Executive Service under chapter 53 of title 5 for the locality involved.

(b) Other listed positions

(1) Effective beginning with any pay period beginning on or after November 5, 1990, the Architect of the Capitol may fix the rate of basic pay—

(A) for not more than one of the positions under paragraph (2) at a rate not to exceed 90 percent of the highest total rate of pay for the Senior Executive Service under chapter 53 of title 5 for the locality involved; and

(B) for any other position under paragraph (2), at such rate as the Architect considers appropriate for such position, not to exceed 85 percent of the highest total rate of pay for the Senior Executive Service under chapter 53 of title 5 for the locality involved.

(2) Authority under paragraph (1) may be exercised with respect to any of the following positions under the jurisdiction of the Architect of the Capitol:

(A) The Senior Landscape Architect.
(B) The Administrative Assistant.
(C) The Executive Officer.
(D) The Budget Officer.
(E) The General Counsel.
(F) The Superintendent of the Senate Office Buildings.
(G) The Superintendent of the House Office Buildings.
(H) The Supervising Engineer of the United States Capitol.

(c) Authority to list additional positions

Effective beginning with any pay period beginning on or after August 14, 1991, the rate of basic pay for up to 8 positions under the jurisdiction of the Architect of the Capitol may be fixed at such rate as the Architect considers appropriate for each, not to exceed 135 percent of the minimum rate payable for grade GS–15 of the General Schedule.

(Pub. L. 101–520, title I, § 108, Nov. 5, 1990, 104 Stat. 2268; Pub. L. 102–90, title I, § 104, Aug. 14, 1991, 105 Stat. 459; Pub. L. 105–55, title III, § 311(a), (b), Oct. 7, 1997, 111 Stat. 1201.)

§ 1850. Registered nurses compensated under appropriations for Capitol Buildings, Senate Office Buildings, and House Office Buildings; allocation to General Schedule salary grade. 771

Notwithstanding any other provision of law, effective on the first day of the first applicable pay period which begins on or after December 27, 1974, the positions of registered nurses compensated under appropriations for Capitol Buildings, Senate Office Buildings, and House Office Buildings shall be allocated by the Architect of the Capitol at not to exceed grade 12 of the General Schedule.

Notwithstanding any other provision of law, effective January 1, 1975, none of the funds appropriated to the Architect of the Capitol shall thereafter be available for any nursing position unless the position is occupied by a Registered Nurse: *Provided,* That such provision shall not be applicable to the present incumbents of such positions. (June 20, 1958, Pub. L. 85–462, 72 Stat. 208; Dec. 27, 1974, Pub. L. 93–554, § 101, 88 Stat. 1777; Pub. L. 101–520, § 109, Nov. 5, 1990, 104 Stat. 2269; Pub. L. 103–283, Title I, § 103, July 22, 1994, 108 Stat. 1435.)

Subchapter IV—Appropriations and Expenditures

§ 1861. Appropriations under control of Architect of Capitol. 772

Appropriations under the control of the Architect of the Capitol shall be available for expenses of advertising and personal and other services.

(Feb. 28, 1929, ch. 367, 45 Stat. 1395; June 6, 1930, ch. 407, 46 Stat. 513.)

CODIFICATION

Section consolidates provisions from the Legislative Branch Appropriation Acts for fiscal years 1930 and 1931. Section was formerly classified to section 689 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.

773 § 1862. Transfer of funds by Architect of Capitol.

During fiscal year 1997 and fiscal years thereafter, amounts appropriated to the Architect of the Capitol (including amounts relating to the Botanic Garden) may be transferred among accounts available to the Architect of the Capitol upon the approval of—

(1) the Committee on Appropriations of the House of Representatives, in the case of amounts transferred from the appropriation for Capitol buildings and grounds under the heading "HOUSE OFFICE BUILDINGS";

(2) the Committee on Appropriations of the Senate, in the case of amounts transferred from the appropriation for Capitol buildings and grounds under the heading "SENATE OFFICE BUILDINGS"; and

(3) the Committees on Appropriations of the Senate and the House of Representatives, in the case of amounts transferred from any other appropriation.

(Pub. L. 104–197, title III, § 306, Sept. 16, 1996, 110 Stat. 2413.)

774 § 1865. Capitol Police Buildings and Grounds Fund.

(a) There is hereby established in the Treasury of the United States an account for the Architect of the Capitol to be known as "Capitol Police Buildings and Grounds" (hereinafter in this section referred to as the "account").

(b) Funds in the account shall be used by the Architect of the Capitol for all necessary expenses for the maintenance, care, and operation of buildings and grounds of the United States Capitol Police.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year. Any amounts provided to the Architect of the Capitol prior to the date of the enactment of this Act for the maintenance, care, and operation of buildings of the United States Capitol Police during fiscal year 2002 shall be transferred to the account.

(Pub. L. 107–206, § 906, Aug. 2, 2002, 116 Stat. 877.)

775 § 1866. Certification of vouchers by Architect of Capitol.

It shall not be a duty of the Architect of the Capitol to certify any payroll or other voucher covering any expenditure from any appropriation for the Senate Office Building, or for any other building or activity, unless the obligation involved was incurred by him or under his direction. (June 8, 1942, ch. 396, § 1, 56 Stat. 343.)

776 § 1868. Semiannual report of expenditures by Architect of Capitol.

(1) Commencing with the semiannual period beginning January 1, 1965, and for each semiannual period thereafter, the Architect of the Capitol shall compile and, not later than sixty days following the close of the semiannual period, submit to the Senate and the House of Representatives a report of all expenditures made from monies appropriated to the Architect of the Capitol, based on payrolls and other vouchers

transmitted during such period to the Treasury Department for disbursement, such report to include (1) the name, title, and gross salary payment to each employee; (2) a list of government contributions to retirement, health insurance, and other similar funds; and (3) name of payee, brief description of service rendered or items furnished under contract, purchase order or other agreement. Such report shall be printed as a Senate document.

(2) The report by the Architect of the Capitol 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 Architect of the Capitol 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. (As amended Pub. L. 94–303, Title I, § 118(c), June 1, 1976, 90 Stat. 616.)

Chapter 29.—CAPITOL POLICE

Subchapter I.—Organization and Administrative

Part A—General

§ 1901. Capitol police; appointment; Chief of the Capitol Police. 777

There shall be a Capitol police. The captain and lieutenants shall be selected jointly by the Sergeant at Arms of the Senate and the Sergeant at Arms of the House of Representatives; and one-half of the privates shall be selected by the Sergeant at Arms of the Senate and one-half by the Sergeant at Arms of the House of Representatives. The Capitol Police shall be headed by a Chief who shall be appointed by the Capitol Police Board and shall serve at the pleasure of the Board. (R.S. § 1821; Apr. 28, 1902, ch. 594, § 1, 32 Stat. 124; June 28, 1943, ch. 173, § 101, 57 Stat. 230; Dec. 20, 1979, Pub. L. 96–152, § 1(a), 93 Stat. 1099.)

Part B—Compensation and Other Personnel Matters

§ 1921. Payment of Capitol Police. 778

The said police shall be paid on the order of the Sergeant at Arms of the Senate and the Sergeant at Arms of the House, or of either of them. (R.S. § 1822.)

§ 1922. Unified payroll administration for Capitol Police. 779

Payroll administration for the Capitol Police and civilian support personnel of the Capitol Police shall be carried out on a unified basis by a single disbursing authority. The Capitol Police Board, with the approval of the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate, acting jointly, shall, by contract or otherwise, provide for such unified payroll administration. (July 31, 1946, ch. 707, § 9C, as added Oct. 6, 1992, Pub. L. 102–397, Title I, § 102, 106 Stat. 1950; Pub. L. 104–186, Title II, § 221(12), Aug. 21, 1996, 110 Stat. 1750.)

NOTE

EFFECTIVE DATE

Section 104 of Pub. L. 102–397, as amended Pub. L. 102–392, Title III, § 321, Oct. 6, 1992, 106 Stat. 1726, provided that: "The unified payroll administration under the amendment made by section 102 [enacting this section] shall apply with respect to pay periods beginning after September 30, 1993."

780 § 1925. Emergency duty overtime pay for Capitol Police from funds disbursed by Secretary of the Senate; compensatory time off in place of additional pay; election, accrual and transfer of time off; rules and regulations.

Each officer or member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate, who performs duty in addition to the number of hours of his regularly scheduled tour of duty for any day on or after July 1, 1974, is entitled to be paid compensation (when ordered to perform such duty by proper authority) or receive compensatory time off for each such additional hour of duty, except that an officer shall be entitled to such compensation only upon a determination made by the Capitol Police Board with respect to any additional hours. Compensation of an officer or member for each additional hour of duty shall be paid at a rate equal to his hourly rate of compensation in the case of an officer, and at a rate equal to one and one-half times his hourly rate of compensation for a member of such force. The hourly rate of compensation of such officer or member shall be determined by dividing his annual rate of compensation by 2,080. Any officer or member entitled to be paid compensation for such additional hours shall make a written election, which is irrevocable, whether he desires to be paid that compensation or to receive compensatory time off instead for each such hour. Compensation due officers and members under this paragraph shall be paid by the Secretary, upon certification by the Chief of the Capitol Police at the end of each calendar quarter and approval of the Capitol Police Board, from funds available in the Senate appropriation, "Salaries, Officers and Employees" for the fiscal year in which the additional hours of duty are performed without regard to the limitations specified therein. Any compensatory time off accrued and not used by an officer or member at the time he is separated from service on the Capitol Police force may not be transferred to any other department, agency, or establishment of the United States Government or the government of the District of Columbia, and no lump-sum amount shall be paid for such accrued time. The Capitol Police Board is authorized to prescribe regulations to carry out this section. (Pub. L. 92–51, § 101, July 9, 1971; 85 Stat. 130, amended Pub. L. 93–145, § 101, Nov. 1, 1973, 87 Stat. 532; Pub. L. 93–371, § 101(5), Aug. 13, 1974, 88 Stat. 430.)

781 § 1928. Suspension of Capitol Police members.

The captain of the Capitol police may suspend any member of the force, subject to the approval of the two Sergeants at Arms and of the Architect of the Capitol. (R.S. § 1823; Mar. 3, 1921, ch. 124, § 1, 41 Stat. 1291.)

782 § 1929. Pay of Capitol Police members under suspension.

Whenever a member of the Capitol police or watch force is suspended from duty for cause, said policeman or watchman shall receive no com-

pensation for the time of such suspension if he shall not be reinstated. (Mar. 3, 1875, ch. 129, § 1, 18 Stat. 345.)

Part C—Uniforms and Arms

§ 1941. Uniform; belts and arms; Capitol Police. 783

The Sergeant at Arms of the Senate and the Sergeant at Arms of the House of Representatives shall select and regulate the pattern for a uniform for the Capitol police and watchmen, and furnish each member of the force with the necessary belts and arms, payable out of the contingent fund of the Senate and House of Representatives upon the certificate of the officers above named. Such arms so furnished shall be carried by each officer and member of the Capitol Police, while in the Capitol Building (as defined in section 16(a)(1) of the Act of July 31, 1946, as amended (40 U.S.C. 5101)), and while within or outside of the boundaries of the United States Capitol Grounds (as defined in the first section of the Act of July 31, 1946, as amended (40 U.S.C. 5102)), in such manner and at such times as the Sergeant at Arms of the Senate and the Sergeant at Arms of the House of Representatives may, by regulations, prescribe. (R.S. § 1824; Oct. 31, 1972, Pub. L. 92–607, § 507, 86 Stat. 1508; May 4, 1977, Pub. L. 95–26, § 112, 91 Stat. 87.)

§ 1943. Uniform; at whose expense; Capitol Police. 784

The members of the Capitol police shall furnish at their own expense, each his own uniform, which shall be in exact conformity to that required by regulation of the Sergeants at Arms. (R.S. § 1825.)

§ 1944. Wearing uniform on duty; Capitol Police. 785

The officers, privates, and watchmen of the Capitol police shall, when on duty, wear the regulation uniform. (Mar. 18, 1904, ch. 716, § 1, 33 Stat. 89.)

Subchapter II.—Powers and Duties

§ 1961. Policing of Capitol buildings and grounds; powers of Capitol police; arrests by Capitol Police for crimes of violence; arrests by District of Columbia police. 786

The Capitol Police shall police the United States Capitol Buildings and Grounds under the direction of the Capitol Police Board, consisting of the Sergeant at Arms of the United States Senate, the Sergeant at Arms of the House of Representatives, and the Architect of the Capitol, and shall have the power to enforce the provisions of sections 193a to 193m, 212a, 212a–2, and 212b of this title and regulations promulgated under section 212b of this title, and to make arrests within the United States Capitol Buildings and Grounds for any violations of any law of the United States, of the District of Columbia, or of any State, or any regulation promulgated pursuant thereto: *Provided,* That for the fiscal year for which appropriations are made by this Act the Capitol Police shall have the additional authority to make arrests within the District of Columbia for crimes of violence, as defined in section 16 of title 18, committed within the Capitol Buildings and Grounds and shall have the additional authority to make arrests, without a warrant, for crimes of violence, as defined in section 16 of title 18, committed in the presence of any member of the Capitol Police

performing official duties: *Provided further,* That the Metropolitan Police force of the District of Columbia are authorized to make arrests within the United States Capitol Buildings and Grounds for any violation of any such laws or regulations, but such authority shall not be construed as authorizing the Metropolitan Police force, except with the consent or upon the request of the Capitol Police Board, to enter such buildings to make arrests in response to complaints or to serve warrants or to patrol the United States Capitol Buildings and Grounds. For the purpose of this section, the word "grounds" shall include the House Office Buildings parking areas and that part or parts of property which have been or hereafter are acquired in the District of Columbia by the Architect of the Capitol, or by an officer of the Senate or the House, by lease, purchase, intergovernment transfer, or otherwise, for the use of the Senate, the House, or the Architect of the Capitol. (July 31, 1946, ch. 707, § 9, 60 Stat. 719; Dec. 24, 1973, Pub. L. 93–198, title VII, § 739(g)(4), (5), 87 Stat. 829; Pub. L. 101–520, Nov. 5, 1990, 104 Stat. 2264; Pub. L. 102–392, Title III, § 310, Oct. 6, 1992, 106 Stat. 1723; Pub. L. 102–397, Title I, § 103, Oct. 6, 1992, 106 Stat. 1950.)

787 § 1962. Capitol grounds and Library of Congress grounds; detail of police.

The Capitol Police Board is authorized to detail police from the House Office, Senate Office, and Capitol Buildings for police duty on the Capitol Grounds and on the Library of Congress Grounds. (Pub. L. 96–432, § 5, Oct. 10, 1980, 94 Stat. 1853.)

788 § 1963. Protection of grounds.

It shall be the duty of the Capitol police to prevent any portion of the Capitol Grounds and terraces from being used as playgrounds or otherwise, so far as may be necessary to protect the public property, turf and grass from destruction or injury. (Apr. 29, 1876, ch. 86, 19 Stat. 41.)

789 § 1966. Protection of Members of Congress, officers of Congress, and members of their families.

(a) Authority of the Capitol Police

Subject to the direction of the Capitol Police Board, the United States Capitol Police is authorized to protect, in any area of the United States, the person of any Member of Congress, officer of the Congress, as defined in section 60–1(b) of Title 2, and any member of the immediate family of any such Member or officer, if the Capitol Police Board determines such protection to be necessary.

(b) Detail of police

In carrying out its authority under this section, the Capitol Police Board, or its designee, is authorized, in accordance with regulations issued by the Board pursuant to this section, to detail, on a case-by-case basis, members of the United States Capitol Police to provide such protection as the Board may determine necessary under this section.

(c) Arrest of suspects

In the performance of their protective duties under this section, members of the United States Capitol Police are authorized (1) to make arrests without warrant for any offense against the United States com-

mitted in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and (2) to utilize equipment and property of the Capitol Police.

(d) Fines and penalties

Whoever knowingly and willfully obstructs, resists, or interferes with a member of the Capitol Police engaged in the performance of the protective functions authorized by this section, shall be fined not more than $300 or imprisoned not more than one year, or both.

(e) Construction of provisions

Nothing contained in this section shall be construed to imply that the authority, duty, and function conferred on the Capitol Police Board and the United States Capitol Police are in lieu of or intended to supersede any authority, duty, or function imposed on any Federal department, agency, bureau, or other entity, or the Metropolitan Police of the District of Columbia, involving the protection of any such Member, officer, or family member.

(f) "United States" defined

As used in this section, the term "United States" means each of the several States of the United States, the District of Columbia, and territories and possessions of the United States. (Pub. L. 97–143, § 1(a), Dec. 29, 1981, 95 Stat. 1723.)

NOTE

Supplemental Appropriations Act, 1977, Pub. L. 95–26, chapter VIII, § 113.91 Stat. 87, provided:

"Sec. 113. The Chairman of the Capitol Police Board is authorized, subject to such conditions as he may impose, to authorize the assignment of a police motor vehicle for use by instructor personnel of the Capital Police Force while assigned to the Federal Law Enforcement Training Center."

CROSS REFERENCE

For the definition of Capitol Buildings, see section 193m of this title.

§ 1967. Law enforcement authority of Capitol Police oversight. 790

(a) Scope

Subject to such regulations as may be prescribed by the Capitol Police Board and approved by the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate, a member of the Capitol Police shall have authority to make arrests and otherwise enforce the laws of the United States, including the laws of the District of Columbia—

(1) within the District of Columbia, with respect to any crime of violence committed within the United States Capitol Grounds;

(2) within the District of Columbia, with respect to any crime of violence committed in the presence of the member, if the member is in the performance of official duties when the crime is committed;

(3) within the District of Columbia, to prevent imminent loss of life or injury to person or property, if the officer is in the performance of official duties when the authority is exercised; and

(4) within the area described in subsection (b) of this section.

(b) Area

The area referred to in subsection (a)(4) of this section is that area bounded by the north curb of H Street from 3rd Street, N.W. to 7th Street, N.E., the east curb of 7th Street from H Street, N.E., to M Street, S.E., the south curb of M Street from 7th Street, S.E., to 1st Street, S.E., the east curb of 1st Street from M Street, S.E., to Potomac Avenue S.E., the southeast curb of Potomac Avenue from 1st Street, S.E. to South Capitol Street, S.W., the west curb of South Capitol Street from Potomac Avenue, S.W. to P Street, S.W., the north curb of P Street from South Capitol Street, S.W. to 3rd Street, S.W., and the west curb of 3rd Street from P Street, S.W. to H Street, N.W.

(c) Authority of Metropolitan Police force unaffected

This section does not affect the authority of the Metropolitan Police force of the District of Columbia with respect to the area described in subsection (b) of this section.

(d) "Crime of violence" defined

As used in this section, the term "crime of violence" has the meaning given that term in section 16 of title 18. (July 31, 1946, ch. 707, § 9B, as added Oct. 6, 1992, Pub. L. 102–397, Title I, § 101, 106 Stat. 1949; Aug. 20, 1996, Pub. L. 104–186, Title II, § 221(13), 110 Stat. 1750.)

791 § 1969. Regulation of traffic by Capitol Police Board.

(a) The Capitol Police Board, consisting of the Sergeant at Arms of the United States Senate, the Sergeant at Arms of the House of Representatives, and the Architect of the Capitol, shall have exclusive charge and control of the regulation and movement of all vehicular and other traffic, including the parking and impounding of vehicles and limiting the speed thereof, within the United States Capitol Grounds; and said Board is authorized and empowered to make and enforce all necessary regulations therefor and to prescribe penalties for violation of such regulations, such penalties not to exceed a fine of $300 or imprisonment for not more than ninety days. Notwithstanding the foregoing provisions of this section those provisions of the Superior Court of the District of Columbia Traffic Act of 1925, as amended, for the violation of which specific penalties are provided in said Act, as amended, shall be applicable to the United States Capitol Grounds. Prosecutions for violation of such regulations shall be in the Superior Court of the District of Columbia, upon information by the Corporation Counsel of the District of Columbia or any of his assistants.

(b) Regulations authorized to be promulgated under this section shall be promulgated by the Capitol Police Board and such regulations may be amended from time to time by the Capitol Police Board whenever it shall deem it necessary: *Provided,* That until such regulations are promulgated and become effective, the traffic regulations of the District of Columbia shall be applicable to the United States Capitol Grounds.

(c) All regulations promulgated under the authority of this section shall, when adopted by the Capitol Police Board, be printed in one or more of the daily newspapers published in the District of Columbia, and shall not become effective until the expiration of ten days after the date of such publication, except that whenever the Capitol Police Board deems it advisable to make effective immediately any regulation relating to parking, diverting of vehicular traffic, or the closing of streets

to such traffic, the regulation shall be effective immediately upon placing at the point where it is to be in force conspicuous signs containing a notice of the regulation. Any expenses incurred under this subsection shall be payable from the appropriation "Uniforms and Equipment, Capitol Police".

(d) It shall be the duty of the Commissioners of the District of Columbia, or any officer or employee of the government of the District of Columbia designated by said Commissioners, upon request of the Capitol Police Board, to cooperate with the Board in the preparation of the regulations authorized to be promulgated under this section, and any future amendments thereof. (July 31, 1946, ch. 707, § 14, 60 Stat. 720; July 11, 1947, ch. 211, §§ 1, 2, 61 Stat. 308; July 8, 1963, Pub. L. 88–60, 77 Stat. 78; Dec. 24, 1973, Pub. L. 93–198, Title VII, § 739(g)(6), 87 Stat. 829.)

Chapter 30.—OPERATION AND MAINTENANCE OF CAPITOL COMPLEX

Subchapter II.—Senate

§ 2021. Additional Senate office building. **792**

Upon completion of the additional office building[1] for the United States Senate, the building and the grounds and sidewalks surrounding the same shall be subject to the provisions of sections 5101 through 5109 of Title 40 and 1961, 1969, 2023, and 2024 of this title, in the same manner and to the same extent as the present Senate Office Building[1] and the grounds and sidewalks surrounding the same. (June 25, 1948, ch. 658, § 1, 62 Stat. 1029.)

CITY POST OFFICE BUILDING; LEASED PROPERTY AS PART OF SENATE OFFICE BUILDINGS

(a) Notwithstanding any other provision of law, the Architect of the Capitol, subject to the approval of the Committee on Rules and Administration, is authorized to lease, for use by the United States Senate, and for such other purposes as such committee may approve, 150,000 square feet of space, more or less, in the property located at 2 Massachusetts Avenue, N.E., Washington, District of Columbia, known as the City Post Office Building: *Provided,* That rental payments shall be paid from the account 'Architect of the Capitol, Senate Office Buildings' upon vouchers approved by the Architect of the Capitol: *Provided further,* That nothing in this section shall be construed so as to obligate the Senate or any of its Members, officers, or employees to enter into any such lease or to imply any obligation to enter into any such lease.

(b) Notwithstanding any other provision of law, property leased under authority of subsection (a) shall be maintained by the Architect of the Capitol as part of the 'Senate Office Buildings' subject to the laws, rules, and regulations governing such buildings, and the Architect is authorized to incur such expenses as may be necessary to provide for such occupancy.

(c) There is hereby authorized to be appropriated to the 'Architect of the Capitol, Senate Office Buildings' such sums as may be necessary to carry out the provisions of subsections (a) and (b).

(d) There is authorized to be appropriated to the Sergeant at Arms of the United States Senate such sums as may be necessary to provide for the planning and relocation of offices and equipment to the property described in subsection (a), subject to direction by the Committee on Rules and Administration.

(e) The authority under this section shall continue until otherwise provided by law. (Pub. L. 101–520, Title I. § 107, Nov. 5, 1990, 104 Stat. 2267.)

[1] See Senate Manual sections **79.8, 79.9.**

ACQUISITION OF PROPERTY FOR USE AS RESIDENTIAL FACILITY FOR UNITED STATES SENATE PAGES

(a) Acquisition of property.—The Architect of the Capitol, under the direction of the Senate Committee on Rules and Administration, may acquire, on behalf of the United States Government, by purchase, condemnation, transfer or otherwise, as an addition to the United States Capitol Grounds, all publicly and privately owned real property in lots 34 and 35 in square 758 in the District of Columbia as those lots appear on the records in the Office of the Surveyor of the District of Columbia as the date of the enactment of this Act [Aug. 3, 1992], extending to the outer face of the curbs of the square in which such lots are located and including all alleys or parts of alleys and streets within the lot lines and curb lines surrounding such real property, together with all improvements thereon.

(b) United States Capitol Grounds and Buildings.—Immediately upon the acquisition by the Architect of the Capitol, on behalf of the United States, of the real property, and the improvements thereon, as provided under subsection (a), the real property acquired shall be a part of the United States Capitol Grounds, and the improvements on such real property shall be a part of the Senate Office Buildings. Such real property and improvements shall be subject to the Act of July 31, 1946 (40 U.S.C. 193a et seq.) [sections 5101 to 5109 of title 40 and 1961, 1966, and 1969 of this title and provisions set out as notes under sections 5102 and 5109 of title 40], and the Act of June 8, 1942 (2 U.S.C. 2024-2025).

(c) Building codes.—The real property and improvements acquired in accordance with subsection (a) shall be repaired and altered, to the maximum extent feasible as determined by the Architect of the Capitol, in accordance with a nationally recognized model building code, and other applicable nationally recognized codes (including electrical codes, fire and life safety codes, and plumbing codes, as determined by the Architect of the Capitol), using the most current edition of the nationally recognized codes referred to in this subsection.

(d) Repairs; expenditures.—The Architect of the Capitol is authorized, without regard to the provisions of section 3709 of the Revised Statutes of the United States [section 5 of Title 41, Public Contracts], to enter into contracts and to make expenditures for necessary repairs to, and refurbishment of, the real property and the improvements on such real property acquired in accordance with subsection (a), including expenditures for personal and other services as may be necessary to carry out the purposes of this Act [this note]. In no event shall the aggregate value of contracts and expenditures under this subsection exceed an amount equal to that authorized to be appropriated pursuant to subsection (e).

(e) Authorization.—There is authorized to be appropriated to the account under the heading "Architect of the Capitol" and the subheadings "Capitol Buildings and Grounds" and "Senate Office Buildings", $2,000,000 for carrying out the purposes of this Act [this note]. Moneys appropriated pursuant to this authorization may remain available until expended.

(f) Use of property.—The real property, and improvements thereon, acquired in accordance with subsection (a) shall be available to the Sergeant at Arms and Doorkeeper of the Senate for use as a residential facility for United States Senate Pages, and for such other purposes as the Senate Committee on Rules and Administration may provide. (Pub. L. 102–330, Aug. 3, 1992, 106 Stat 849.)

793 § 2023. Control, care, and supervision of Senate office building.

The Senate Office Building,[1] and the employment of all services (other than for officers and privates of the Capitol Police) necessary for its protection, care, and occupancy, together with all other items that may be appropriated for by the Congress for such purposes, shall be under the control and supervision of the Architect of the Capitol, subject to the approval of the Senate Committee on Rules and Administration as to matters of general policy; and the Architect of the Capitol shall submit annually to the Congress estimates in detail for all services (other than for officers and privates of the Capitol Police) and for all other expenses in connection with said office building and necessary

[1] See Senate Manual sections **79.8, 79.9.**

for its protection, care, and occupancy. (June 8, 1942, ch. 396, § 1, 56 Stat. 343; Aug. 2, 1946, ch. 753, §§ 102, 224, 60 Stat. 814, 838.)

§ 2024. Assignment of space in Senate office building. **794**

The assignment of rooms and other space in the Senate Office Building[1] shall be under the direction and control of the Senate Committee on Rules and Administration and shall not be a part of the duties of the Architect of the Capitol. (June 8, 1942, ch. 396, § 1, 56 Stat. 343; Aug. 2, 1946, ch. 753, §§ 102, 224, 60 Stat. 814, 838.)

§ 2025. Senate garage; control, supervision, servicing of official motor vehicles. **795**

(a) The employees of the Senate garage engaged by the Architect of the Capitol for the primary purpose of servicing official motor vehicles, together with the functions performed by such employees, shall, on October 1, 1980, be transferred to the jurisdiction of the Sergeant at Arms and Doorkeeper of the Senate: *Provided further,* That, effective July 1, 1965, the underground space in the north extension of the Capitol Grounds, known as the Legislative Garage shall hereafter be known as the Senate Garage and shall be under the jurisdiction and control of the Architect of the Capitol, subject to such regulations respecting the use thereof as may be promulgated by the Senate Committee on Rules and Administration: *Provided further,* That, such regulations shall provide for the continued assignment of space and the continued furnishing of service in such garage for official motor vehicles of the House and the Senate and the Architect of the Capitol and Capitol Grounds maintenance equipment.

(b) As used in subsection (a) of this section, the term "servicing" includes, with respect to an official motor vehicle, the washing and fueling of such vehicle, the checking of its tires and battery, and checking and adding oil. (June 30, 1932, ch. 314, § 1, 47 Stat. 391; Aug. 20, 1964, Pub. L. 88–454, 78 Stat. 545; Oct. 13, 1980, Pub. L. 96–444, § 1(a)(1), (b), 94 Stat. 1889.)

Subchapter III.—Restaurants

§ 2042. Senate Restaurants; management by Architect of Capitol. **796**

Effective August 1, 1961, the management of the Senate Restaurants and all matters connected therewith, heretofore under the direction of the Senate Committee on Rules and Administration, shall be under the direction of the Architect of the Capitol under such rules and regulations as the Architect may prescribe for the operation and the employment of necessary assistance for the conduct of said restaurants by such business methods as may produce the best results consistent with economical and modern management, subject to the approval of the Senate Committee on Rules and Administration as to matters of general policy: *Provided,* That the management of the Senate Restaurant by the Architect of the Capitol shall cease and the restaurants revert from the jurisdiction of the Architect of the Capitol to the jurisdiction of the Senate Committee on Rules and Administration upon adoption by that committee of a resolution ordering such transfer of jurisdiction at any time hereafter. (Pub. L. 87–82, § 1, July 6, 1961, 75 Stat. 199.)

[1] See Senate Manual sections **79.8, 79.9**

797 § 2043. Authorization and direction to effectuate purposes of sections 2042 to 2047 of this title

The Architect of the Capitol is authorized and directed to carry into effect for the United States Senate the provisions of sections 2042 to 2047 of this title and to exercise the authorities contained herein, and any resolution of the Senate amendatory hereof or supplementary hereto hereafter adopted. Such authority and direction shall continue until the United States Senate shall by resolution otherwise order, or until the Senate Committee on Rules and Administration shall by resolution order the restaurants to be returned to the committee's jurisdiction. (Pub. L. 87–82, § 3, July 6, 1961, 75 Stat. 199.)

798 § 2044. Special deposit account; establishment; appropriations; approval of payments.

There is established with the Treasurer of the United States a special deposit account in the name of the Architect of the Capitol for the United States Senate Restaurants, into which shall be deposited all sums received pursuant to sections 2042 to 2047 of this title or any amendatory or supplementary resolutions hereafter adopted and from the operations thereunder and from which shall be disbursed the sums necessary in connection with the exercise of the duties required under section 2042 to 2047 of this title or any amendatory or supplementary resolutions and the operations thereunder. Any amounts appropriated for fiscal year 1973 and thereafter from the Treasury of the United States, which shall be part of a "Contingent Expenses of the Senate" item for the particular fiscal year involved, shall be paid to the Architect of the Capitol by the Secretary of the Senate at such times and in such sums as the Senate Committee on Rules and Administration may approve. Any such payment shall be deposited by the Architect in full under such special deposit account. (July 6, 1961, Pub. L. 87–82, § 4, 75 Stat. 199; July 9, 1971, Pub. L. 92–51, § 101, 85 Stat. 129; July 10, 1972, Pub. L. 92–342, § 101, 86 Stat. 435.)

799 § 2045. Deposits and disbursements under special deposit account.

Deposits and disbursements under such special deposit account (1) shall be made by the Architect, or, when directed by him, by such employees of the Architect as he may designate, and (2) shall be subject to audit by the General Accounting Office at such times and in such manner as the Comptroller General may direct: *Provided,* That payments made by or under direction of the Architect of the Capitol from such special deposit account shall be conclusive upon all officers of the Government. (Pub. L. 87–82, § 5, July 6, 1961, 75 Stat. 200.)

800 § 2046. Bond of Architect, Assistant Architect, and other employees.

The Architect, Assistant Architect, and any employees of the Architect designated by the Architect under section 2045 of this title shall each give bond in the sum of $5,000 with such surety as the Secretary of the Treasury may approve for the handling of the financial transactions under such special deposit account. (Pub. L. 87–82, § 6, July 6, 1961, 75 Stat. 200.)

§ 2047. Supersedure of prior provisions for maintenance and operation of Senate Restaurants. 801

This Act shall supersede any other Acts or resolutions heretofore approved for the maintenance and operation of the Senate Restaurants: *Provided, however,* That any Acts or resolutions now in effect shall again become effective, should the restaurants at any future time revert to the jurisdiction of the Senate Committee on Rules and Administration. (Pub. L. 87–82, § 7, July 6, 1961, 75 Stat. 200.)

§ 2048. Management personnel and miscellaneous expenses; availability of appropriations; annual and sick leave. 802

Hereafter, appropriations for the "Senate Office Buildings" shall be available for employment of management personnel of the Senate restaurant facilities and miscellaneous restaurant expenses (except cost of food and cigar stand sales) and, in fixing the compensation of such personnel, the compensation of four positions hereafter to be designated as Director of Food Service, Assistant Director of Food Service, Manager (special functions), and Administrative Officer shall be fixed by the Architect of the Capitol without regard to chapter 51 and subchapters III and IV of chapter 53 of title 5, and shall thereafter be adjusted in accordance with section 5307 of title 5. Annual and sick leave balances of such personnel, as of July 9, 1971, shall be credited to the leave accounts of such personnel, subject to the provisions of section 6304 of title 5, upon their transfer to the appropriation for Senate Office Buildings and such personnel shall continue, while employed by the Architect of the Capitol, to earn leave at rates not less than their present accrual rates. (Pub. L. 92–51, § 101, July 9, 1971, 85 Stat. 138, amended Pub. L. 94–59, Title V, § 500, July 25, 1975, 89 Stat. 289; Pub. L. 101–509, 104 Stat. 1440, Nov. 5, 1990.)

§ 2049. Loans for Senate Restaurants. 803

(a) Borrowing authority

Subject to the approval of the Senate Committee on Rules and Administration, the Architect of the Capitol shall have authority to borrow (and be accountable for), from time to time, from the appropriation account, within the contingent fund of the Senate, for "Miscellaneous Items", such amount as he may determine necessary to carry out the provisions of the joint resolution entitled "Joint Resolution transferring the management of the Senate Restaurants to the Architect of the Capitol, and for other purposes", approved July 6, 1961, as amended (2 U.S.C. 2042 through 2048), and resolutions of the Senate amendatory thereof or supplementary thereto.

(b) Amount and period of loan; voucher

Any such loan authorized pursuant to subsection (a) of this section shall be for such amount and for such period as the Senate Committee on Rules and Administration shall prescribe and shall be made by the Secretary of the Senate to the Architect of the Capitol upon a voucher approved by the Chairman of the Senate Committee on Rules and Administration.

(c) Deposit, credit, and future availability of proceeds from repayment

All proceeds from the repayment of any such loan shall be deposited in the appropriation account, within the contingent fund of the Senate, for "Miscellaneous Items", shall be credited to the fiscal year during which such loan was made, and shall thereafter be available for the same purposes for which the amount loaned was initially appropriated. (Pub. L. 98–396, Title I, § 101, Aug. 22, 1984, 98 Stat. 1395.)

Subchapter IV.—Child Care

804 § 2061. Designation of Capitol grounds as play area for children of Members and employees of Senate or House of Representatives.

(a) Authority of Capitol Police Board

Notwithstanding any other provision of law and subject to the provisions of paragraph (1) of subsection (b) of this section, the Capitol Police Board is authorized to designate certain portions of the Capitol grounds (other than a portion within the area bounded on the North by Constitution Avenue, on the South by Independence Avenue, on the East by First Street, and on the West by First Street) for use exclusively as play areas for the benefit of children attending a day care center which is established for the primary purpose of providing child care for the children of Members and employees of the Senate or the House of Representatives.

(b) Required approval; fences; termination of authority

(1) In the case of any such designation referred to in subsection (a) of this section involving a day care center established for the benefit of children of Members and employees of the Senate, the designation shall be with the approval of the Senate Committee on Rules and Administration, and in the case of such a center established for the benefit of children of Members and employees of the House of Representatives, the designation shall be with the approval of the House Committee on House Oversight, with the concurrence of the House Office Building Commission.

(2) The Architect of the Capitol shall enclose with a fence any area designated pursuant to subsection (a) of this section as a play area.

(3) The authority to use an area designated pursuant to subsection (a) of this section as a play area may be terminated at any time by the Committee which approved such designation.

(c) Playground equipment; required approval

Nothing in this or any other Act shall be construed as prohibiting any day care center referred to in subsection (a) of this section from placing playground equipment within an area designated pursuant to subsection (a) of this section for use solely in connection with the operation of such center, subject to, in the case of a day care center established for the benefit of children of Members and employees of the Senate, the approval of the Senate Committee on Rules and Administration, and in the case of such a center established for the benefit of children of Members and employees of the House of Representatives, the approval of the House Committee on House Oversight, with the concurrence of the House Office Building Commission.

(d) Day care center

The day care center referred to in S. Res. 269, Ninety-eighth Congress, first session, is a day care center for which space may be designated under subsection (a) of this section for use as a play area. (Pub. L. 98–392, § 3, Aug. 21, 1984, 98 Stat. 1362; Pub. L. 104–186, Title II, § 221(14), Aug. 20, 1996, 110 Stat. 1750.)

§ 2063. Senate Employee Child Care Center. **805**

(a) Applicability of provisions

The provisions of this section shall apply to any individual who is employed by the Senate day care center (known as the "Senate Employee Child Care Center" and hereafter in this section referred to as the "Center") established pursuant to Senate Resolution 269, Ninety-eighth Congress, and section 214b of this title.

(b) Employee election of health care insurance coverage

Any individual described under subsection (a) of this section who is employed by the Center on or after August 14, 1991, shall be deemed an employee under section 8901(1) of title 5, for purposes of health insurance coverage under chapter 89 of such title 5. An individual described under subsection (a) of this section who is an employee of the Center on August 14, 1991, may elect coverage under this subsection during the 31-day period beginning on August 14, 1991, and during such periods as determined by the Office of Personnel Management for employees of the Center employed after such date.

(c) Deductions and withholding from employee pay

The Center shall make such deductions and withholdings from the pay of an individual described under subsection (a) of this section who is an employee of the Center in accordance with subsection (d) of this section.

(d) Employee records; amount of deductions

The Center shall—

(1) maintain records on all employees covered under this section in such manner as the Secretary of the Senate may require for administrative purposes; and

(2) after consultation with the Secretary of the Senate—

(A) make deductions from the pay of employees of amounts determined in accordance with section 8906 of title 5; and

(B) transmit such deductions to the Secretary of the Senate for deposit and remittance to the Office of Personnel Management.

(e) Government contributions

Government contributions for individuals receiving benefits under this section, as computed under section 8906 of title 5, shall be made by the Secretary of the Senate from the appropriations account, within the contingent fund of the Senate, "miscellaneous items".

(f) Regulations

The Office of Personnel Management may prescribe regulations to carry out provisions of this section. (Pub. L. 102–90, Title III, § 311, Aug. 14, 1991, 105 Stat. 467.)

806 § 2064. Child care center employee benefits.

(a) Election for coverage

The provisions of this section shall apply to any individual who—

(1)(A) On October 6, 1992, is employed by the Senate day care center (known as the "Senate Employee Child Care Center") established pursuant to Senate Resolution 269, Ninety-eighth Congress, and section 2061 of this title; and

(B) makes an election to be covered by this section with the Secretary of the Senate, no later than 60 days after October 6, 1992; or

(2) is hired by the Center after October 6, 1992, and makes an election to be covered by this section with the Secretary of the Senate, no later than 60 days after the date such individual begins employment.

(b) Payment of deposit; payroll deduction

(1) Any individual described under subsection (a) of this section may be credited, under section 8411 of title 5 for service as an employee of the Senate day care center before January 1, 1993, if such employee makes a payment of the deposit under section 8411(f)(2) of such title without application of the provisions of section 8411(b)(3) of such title.

(2) An individual described under subsection (a) of this section shall be credited under section 8411 of title 5 for any service as an employee of the Senate day care center on or after October 6, 1992, if such employee has such amounts deducted and withheld from his pay as determined by the Office of Personnel Management (in accordance with regulations prescribed by such Office subject to subsection (h) of this section) which would be deducted and withheld from the basic pay of an employee under section 8422 of title 5.

(c) Survivor annuities and disability benefits

Notwithstanding any other provision of this section, any service performed by an individual described under subsection (a) of this section as an employee of the Senate day care center is deemed to be civilian service creditable under section 8411 of title 5 for purposes of qualifying for survivor annuities and disability benefits under subchapters IV and V of chapter 84 of such title, if such individual makes payment of an amount, determined by the Office of Personnel Management, which would have been deducted and withheld from the basic pay of such individual if such individual had been an employee subject to section 8422 of title 5 for such period so credited, together with interest thereon.

(d) Participation in Thrift Savings Plan

An individual described under subsection (a) of this section shall be deemed a congressional employee for purposes of chapter 84 of title 5 including subchapter III thereof and may make contributions under section 8432 of such title effective for the first applicable pay period beginning on or after October 6, 1992.

(e) Life insurance coverage

An individual described under subsection (a) of this section shall be deemed an employee under section 8701(a)(3) of title 5 for purposes of life insurance coverage under chapter 87 of such title.

(f) Source of contributions for benefits

Government contributions for individuals receiving benefits under this section, as computed under sections 8423, 8432, and 8708, shall be made by the Secretary of the Senate from the appropriations account, within the contingent fund of the Senate, "Miscellaneous Items".

(g) Certification of creditable service

The Office of Personnel Management shall accept the certification of the Secretary of the Senate concerning creditable service for the purpose of this section.

(h) Payment to Center of amounts equal to Federal tax on employers

(1) Subject to the provisions of paragraph (2), the Secretary of the Senate shall pay such amounts to the Senate day care center equal to the tax on employers under section 3111 of the Internal Revenue Code of 1986 with respect to each employee of the Senate day care center. Such payments shall be made from the appropriations account, within the contingent fund of the Senate, "Miscellaneous Items".

(2) The Senate day care center shall provide appropriate documentation to the Secretary of the Senate of payment by such center of the tax described under paragraph (1), before the Secretary of the Senate may pay any amount to such center as provided under paragraph (1).

(i) Administrative provisions

The Center shall—

(1) consult with the Secretary of the Senate on the administration of this section;

(2) maintain records on all employees covered under this section in such manner as the Secretary of the Senate may require for administrative purposes;

(3) make deductions and withholdings from the pay of employees in the amounts determined under sections 8422, 8432, and 8707 of title 5; and

(4) transmit such deductions and withholdings to the Secretary of the Senate for deposit and remittance to the Office of Personnel Management.

(j) Regulations

The Office of Personnel Management may prescribe regulations to carry out the provisions of this section. (Pub. L. 102–392, Title III, § 320, Oct. 6, 1992, 106 Stat. 1725; Pub. L. 103–50, § 1203, July 2, 1993, 107 Stat. 268.)

§ 2065. Reimbursement of Senate day care center employees. **807**

(a) Cost of training classes, conferences, and related expenses

Notwithstanding section 1345 of title 31, the Secretary of the Senate may reimburse any individual employed by the Senate day care center for the cost of training classes and conferences in connection with the provision of child care services and for travel, transportation, and subsistence expenses incurred in connection with the training classes and conferences.

(b) Documentation

The Senate day care center shall certify and provide appropriate documentation to the Secretary of the Senate with respect to any reimbursement under this section. Reimbursements under this section shall be made from the appropriations account "MISCELLANEOUS ITEMS" within the contingent fund of the Senate on vouchers approved by the Secretary of the Senate.

(c) Regulations and limitations

Reimbursements under this section shall be subject to the regulations and limitations prescribed by the Committee on Rules and Administration of the Senate for travel and related expenses for which payment is authorized to be made from the contingent fund of the Senate.

(d) Effective date

This section shall be effective on and after October 1, 1996.

(Pub. L. 104–197, title I, § 6, Sept. 16, 1996, 110 Stat. 2397.)

Subchapter V.—Historical Preservation and Fine Arts

Part A—United States Preservation Commission

808 § 2081. United States Capitol Preservation Commission.

(a) Establishment and purposes

There is established in the Congress the United States Capitol Preservation Commission (hereinafter in sections 2081 to 2086 of this title referred to as the "Commission") for the purposes of——

(1) providing for improvements in, preservation of, and acquisitions for, the United States Capitol;

(2) providing for works of fine art and other property for display in the United States Capitol and at other locations under the control of the Congress; and

(3) conducting other activities that directly facilitate, encourage, or otherwise support any purposes specified in paragraph (1) or (2).

(b) Membership

The Commission shall be composed of the following Members of Congress:

(1) The President pro tempore of the Senate and the Speaker of the House of Representatives, who shall be co-chairmen.

(2) The Chairman and Vice-Chairman of the Joint Committee on the Library.

(3) The Chairman and the ranking minority party member of the Committee on Rules and Administration of the Senate, and the Chairman and the ranking minority party member of the Committee on House Oversight of the House of Representatives.

(4) The majority leader and the minority leader of the Senate.

(5) The majority leader and the minority leader of the House of Representatives.

(6) The Chairman of the Commission on the Bicentennial of the United States Senate and the Chairman of the Commission of the House of Representatives Bicentenary, to be succeeded upon expiration of such commissions, by a Senator or Member of the House

of Representatives, as appropriate, appointed by the Senate or House of Representatives co-chairman of the Commission, respectively.

(7) One Senator appointed by the President pro tempore of the Senate and one Senator appointed by the minority leader of the Senate.

(8) One Member of the House of Representatives appointed by the Speaker of the House of Representatives and one Member of the House of Representatives appointed by the minority leader of the House of Representatives.

(c) Designees

Each member of the Commission specified under subsection (b) of this section (other than a member under paragraph (7) or (8) of such subsection) may designate a Senator or Member of the House of Representatives, as the case may be, to serve as a member of the Commission in place of the member so specified.

(d) Architect of the Capitol

In addition to the members under subsection (b) of this section, the Architect of the Capitol shall participate in the activities of the Commission, ex officio, and without the right to vote.

(e) Staff support and assistance

The Senate Commission on Art, the House of Representatives Fine Arts Board, and the Architect of the Capitol shall provide to the Commission such staff support and assistance as the Commission may request. (Pub. L. 100–696, Title VIII, § 801, Nov. 18, 1988, 102 Stat. 4608; Pub. L. 104–186, Title II, § 221(7), Aug. 20, 1996, 110 Stat. 1749.)

§ 2082. Authority of Commission to accept gifts and conduct other transactions relating to works of fine art and other property. 809

(a) In general

In carrying out the purposes referred to in section 2081(a) of this title the Commission is authorized—

(1) to accept gifts of works of fine art, gifts of other property, and gifts of money; and

(2) to acquire property, administer property, dispose of property, and conduct other transactions related to such purposes.

(b) Transfer and disposition of works of fine art and other property

The Commission shall, with respect to works of fine art and other property received by the Commission—

(1) in consultation with the Joint Committee on the Library, the Senate Commission on Art, or the House of Representatives Fine Arts Board, as the case may be, transfer such property to the entity consulted;

(2) if a transfer described in paragraph (1) is not appropriate, dispose of the work of fine art by sale or other transaction; and

(3) in the case of property that is not directly related to the purposes referred to in section 2081(a) of this title, dispose of such property by sale or other transaction.

(c) Requirements for conduct of transactions

In conducting transactions under this section, the Commission shall—

(1) accept money only in the form of a check or similar instrument made payable to the Treasury of the United States and shall deposit any such check or instrument in accordance with section 2083 of this title;

(2) in making sales and engaging in other property transactions, take into consideration market conditions and other relevant factors; and

(3) assure that each transaction is directly related to the purposes referred to in section 2081(a) of this title. (Pub. L. 100–696, Title VIII, § 802, Nov. 18, 1988, 102 Stat. 4609; Pub. L. 101–302, Title III, § 312(a), May 25, 1990, 104 Stat. 245.)

810 § 2083. Capitol Preservation Fund.

(a) In general

There is established in the Treasury a fund, to be known as the "Capitol Preservation Fund" (hereafter in sections 2081 to 2086 of this title referred to as the "fund"), which shall consist of (1) amounts deposited, and interest and proceeds credited, under subsection (d) of this section, (2) obligations obtained under subsection (e) of this section, and (3) all surcharges received by the Secretary of the Treasury from the sale of coins minted under the Bicentennial of the United States Congress Commemorative Coin Act.

(b) Availability of fund

The fund shall be available to the Commission—

(1) for payment of transaction costs and similar expenses incurred under section 2082 of this title;

(2) subject to the approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, for improvement and preservation projects for the United States Capitol;

(3) for disbursement with respect to works of fine art and other property as provided in section 2082 of this title; and

(4) for such other payments as may be required to carry out section 2081 of this title or section 2082 of this title.

(c) Transaction costs and proportionality

In carrying out this section, the Commission shall, to the extent practicable, take such action as may be necessary—

(1) to minimize disbursements under subsection (b)(1) of this section; and

(2) to equalize disbursements under subsection (b) of this section between the Senate and the House of Representatives.

(d) Deposits, credits, and disbursements

The Commission shall deposit in the fund gifts of money and proceeds of transactions under section 2082 of this title. The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund. Disbursements from the fund shall be made on vouchers approved by the Commission and signed by the co-chairmen.

(e) Investments

The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Commission, is not required to meet current withdrawals. Each investment 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 that, as determined by the Commission has a maturity suitable for the fund. In carrying out this subsection, the Secretary may make such purchases, sales, and redemptions of obligations as may be approved by the Commission.

(Pub. L. 100–696, Title VIII, § 803, Nov. 18, 1988, 102 Stat. 4609; Pub. L. 101–302, Title III, § 312(b), May 25, 1990, 104 Stat. 245.)

§ 2084. Audits by the Comptroller General. **811**

The Comptroller General shall conduct annual audits of the transactions of the Commission and shall report the results of each audit to the Congress. (Pub. L. 100–696, Title VIII, § 804, Nov. 18, 1988, 102 Stat. 4610.)

§ 2085. Advisory boards. **812**

The Commission may establish appropriate boards to provide advice and assistance to the Commission and to further the purposes of the Commission. The boards shall be composed of members (including chairmen) who shall be appointed by the Commission from public and private life and shall serve at the pleasure of the Commission and each co-chairman of the Commission may appoint one member to any such board. The members of boards under this section may be reimbursed for actual and necessary expenses incurred in the performance of the duties of the boards, at the discretion of the Commission. (Pub. L. 100–696, Title VIII, § 805, Nov. 18, 1988, 102 Stat. 4610.)

§ 2086. "Members of the House of Representatives" defined. **813**

As used in sections 188a to 188a–5 of this title, the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress. (Pub. L. 100–696, Title VIII, § 806, Nov. 18, 1988, 102 Stat. 4610.)

Part B—Senate Commission on Art

§ 2101. Senate Commission on Art. **814**

(a) Establishment

There is hereby established a Senate Commission on Art (hereinafter referred to as "the Commission") consisting of the President pro tempore of the Senate, the chairman and ranking minority member of the Committee on Rules and Administration of the Senate, and the majority and minority leaders of the Senate.

(b) Chairman and Vice Chairman; quorum; Executive Secretary

The Commission shall elect a Chairman and a Vice Chairman at the beginning of each Congress. Three members of the Commission shall constitute a quorum for the transaction of business, except that the Commission may fix a lesser number which shall constitute a quorum

for the taking of testimony. The Secretary of the Senate shall be the Executive Secretary of the Commission [1]

(c) Selection of Curator of Art and Antiquities of the Senate; availability of professional and clerical assistance

The Commission shall select a Curator of Art and Antiquities of the Senate who shall be appointed by and be an employee of the Secretary of the Senate. The Curator shall serve at the pleasure of the Commission, shall perform such duties as it may prescribe, and shall receive compensation at a gross rate, not to exceed $22,089 per annum to be fixed by the Commission. At the request of the Commission the Secretary of the Senate shall detail to the Commission such additional professional, clerical, and other assistants as, from time to time, it deems necessary.

(d) Hearings and meetings

The Commission shall be empowered to hold hearings, summon witnesses, administer oaths, employ reporters, request the production of papers and records, take such testimony, and adopt such rules for the conduct of its hearings and meetings, as it deems necessary. (Pub. L. 100–696, Title IX, § 901(a), (b)(1), (3), Nov. 18, 1988, 102 Stat. 4610, 4611.)

815 § 2102. Duties of Commission.

(a) In general

The Commission is hereby authorized and directed to supervise, hold, place, protect, and make known all works of art, historical objects, and exhibits within the Senate wing of the United States Capitol, any Senate Office Buildings, and in all rooms, spaces, and corridors thereof, which are the property of the United States, and in its judgment to accept any works of art, historical objects, or exhibits which may hereafter be offered, given, or devised to the Senate, its committees, and its officers for placement and exhibition in the Senate wing of the Capitol, the Senate Office Buildings, or in rooms, spaces, or corridors thereof.

(b) Issuance and publication of regulations

The Commission shall prescribe such regulations as it deems necessary for the care, protection, and placement of such works of art, exhibits, and historical objects in the Senate wing of the Capitol and the Senate Office Buildings, and for their acceptance on behalf of the Senate, its committees, and officers. Such regulations shall be published in the Congressional Record at such time or times as the Commission may deem necessary for the information of the Members of the Senate and the public.

(c) Consistency of regulations

Regulations authorized by the provisions of section 193 of this title to be issued by the Sergeant at Arms of the Senate for the protection of the Capitol, and any regulations issued, or activities undertaken, by the Committee on Rules and Administration of the Senate, or the Architect of the Capitol, in carrying out duties relating to the care, preservation, and protection of the Senate wing of the Capitol and the Senate Office Buildings, shall be consistent with such rules and regula-

[1] So in original. Probably should end with a period.

tions as the Commission may issue pursuant to subsection (b) of this section.

(d) Responsibilities of Committee on Rules and Administration of the Senate

The Committee on Rules and Administration of the Senate in consultation with the Architect of the Capitol and consistent with regulations prescribed by the Commission under subsection (b) of this section, shall have responsibility for the supervision, protection, and placement of all works of art, historical objects, and exhibits which shall have been accepted on behalf of the Senate by the Commission or acknowledged as United States property by inventory of the Commission, and which may be lodged in the Senate wing of the Capitol or the Senate Office Building by the Commission. (Pub. L. 100–696, Title IX, § 901(a), (b)(2), Nov. 18, 1988, 102 Stat. 4610, 4611.)

§ 2103. Supervision and maintenance of Old Senate Chamber. **816**

The Commission shall have responsibility for the supervision and maintenance of the Old Senate Chamber on the principal floor of the Senate wing of the Capitol insofar as it is to be preserved as a patriotic shrine in the Capitol for the benefit of the people of the United States. (Pub. L. 100–696, Title IX, § 901(a), Nov. 18, 1988, 102 Stat. 4610.)

§ 2104. Publication of list of works of art, historical objects, and exhibits. **817**

The Commission shall, from time to time, but at least once every ten years, publish as a Senate document a list of all works of art, historical objects, and exhibits currently within the Senate wing of the Capitol and the Senate Office Buildings, together with their description, location, and with such notes as may be pertinent to their history. (Pub. L. 100–696, Title IX, § 901(a), Nov. 18, 1988, 102 Stat. 4610.)

§ 2105. Authorization of appropriations. **818**

There is hereby authorized to be appropriated out of the contingent fund of the Senate for the expenses of the Commission the sum of $15,000 each fiscal year, to be disbursed by the Secretary of the Senate on vouchers signed by the Chairman or Vice Chairman of the Commission: *Provided*, That no payment shall be made from such appropriation as salary. (Pub. L. 100–696, Title IX, § 901(a), Nov. 18, 1988, 102 Stat. 4610.)

§ 2106. Additional authority for Senate Commission on Art to acquire works of art, historical objects, documents, or exhibits. **819**

(a) The Senate Commission on Art, in addition to any authority conferred upon it by sections 2101 to 2105 of this title, is authorized to acquire any work of art, historical object, document or material relating to historical matters, or exhibit for placement or exhibition in the Senate wing of the Capitol, the Senate Office Buildings, or in rooms, spaces, or corridors thereof.

(b) This section shall be effective as of March 1, 1971. (Pub. L. 100–696, Title IX, § 901(a), (c), Nov. 18, 1988, 102 Stat. 4610, 4611.)

820 § 2107. Conservation, restoration, replication, or replacement of items in United States Senate Collection.

(a) Use of moneys in Senate contingent fund

Effective with the fiscal year ending September 30, 2000, and each fiscal year thereafter, subject to the approval of the Committee on Appropriations of the Senate, any unexpended and unobligated funds in the appropriation account for the "Secretary of the Senate" within the contingent fund of the Senate which have not been withdrawn in accordance with section 102a of this title shall be available for the expenses incurred, without regard to the fiscal year in which incurred, for the conservation, restoration, and replication or replacement, in whole or in part, of items of art, fine art, and historical items within the Senate wing of the United States Capitol, any Senate Office Building, or any room, corridor, or other space therein. In the case of replication or replacement of such items, the funds available under this subsection shall be available for any such items previously contained within the Senate wing of the Capitol, or an item historically accurate.

(b) United States Senate Collection

All such items of art referred to in subsection (a) of this section shall be known as the "United States Collection".

(c) Approval of disbursements by Chairman or Executive Secretary of Senate Commission on Art

Disbursements for expenses incurred for the purposes in subsection (a) of this section shall be made upon vouchers approved by the Chairman of the Senate Commission on Art or the Executive Secretary of the Senate Commission on Art. (Pub. L. 101–302, Title III, § 316, May 25, 1990, 104 Stat. 246; Pub. L. 101–520, Title III, § 323, Nov. 5, 1990, 104 Stat. 2285; Pub. L. 102–90, Title III, § 310, Aug. 14, 1991, 105 Stat. 467; Pub. L. 102–392, Title III, § 312, Oct. 6, 1992, 106 Stat. 1723; Pub. L. 104–53, § 311, Nov. 19, 1995, 109 Stat. 538; Pub. L. 104–197, Title III, § 313, Sept. 16, 1996, 110 Stat. 2415; Pub. L. 105–55, Title III, § 309, Oct. 7, 1997, 111 Stat. 1198; Pub. L. 105–275, Title III, § 311, Oct. 21, 1998, 112 Stat. 2457, Sept. 29, 1999, Pub. L. 106–57, § 309, 113 Stat. 427.)

Part D.—Miscellaneous

821 § 2131. National Statuary Hall.

Suitable structures and railings shall be erected in the old hall of Representatives for the reception and protection of statuary, and the same shall be under the supervision and direction of the Architect of the Capitol. And the President is authorized to invite all the States to provide and furnish statues, in marble or bronze, not exceeding two in number for each State, of deceased persons who have been citizens thereof, and illustrious for their historic renown or for distinguished civic or military services, such as each State may deem to be worthy of this national commemoration; and when so furnished, the same shall be placed in the old hall of the House of Representatives, in the Capitol of the United States, which is set apart, or so much thereof as may be necessary, as a national statuary hall for the purpose indicated in this section. (R.S. § 1814; Aug. 15, 1876, ch. 287, § 1, 19 Stat. 147; Mar. 3, 1921, ch. 124, § 1, 41 Stat. 1291.)

§ 2133. Works of fine arts. 822

The Joint Committee on the Library, whenever, in their judgment, it is expedient, are authorized to accept any work of the fine arts, on behalf of Congress, which may be offered, and to assign the same such place in the Capitol as they may deem suitable, and shall have the supervision of all works of art that may be placed in the Capitol. (R.S. § 1831.)

LOCATION OF STATUES

House Concurrent Resolution 47, passed Feb. 24, 1933, 47 Stat. Part 2, 1784, provided:

"That the Architect of the Capitol, upon the approval of the Joint Committee on the Library, with the advice of the Commission on Fine Arts, is hereby authorized and directed to relocate within the Capitol any of the statues already received and placed in Statuary Hall, and to provide for the reception and location of the statues received hereafter from the States."

§ 2134. Art exhibits. 823

No work of art or manufacture other than the property of the United States shall be exhibited in the National Statuary Hall, the Rotunda, or the corridors of the Capitol. (Mar. 3, 1879, ch. 182, § 1, 20 Stat. 391.)

§ 2135. Private studios and works of art. 824

No room in the Capitol shall be used for private studios or works of art, without permission from the Joint Committee on the Library, given in writing; and it shall be the duty of the Architect of the Capitol to carry this provision into effect. (Mar. 3. 1875, ch. 130, § 1, 18 Stat. 376.)

Subchapter VI.—Botanical Garden and National Garden

§ 2141. Supervision of Botanical Garden. 825

The supervision of the Capitol police shall extend over the Botanical Garden. (R.S. § 1826.)

§ 2142. Superintendent, etc., of Botanical Garden and greenhouses. 826

There shall be a superintendent and assistants in the Botanical Garden and greenhouses, who shall be under the direction of the Joint Committee on the Library. (R.S. § 1827.)

§ 2145. Restriction on use of appropriation for Botanical Garden. 827

On and after July 31, 1958, no part of any appropriation for the Botanic Garden shall be used for the distribution, by congressional allotment, of trees, plants, shrubs, or other nursery stock. (July 31, 1958, Pub. L. 85–570, § 101, 72 Stat. 450.)

Subchapter VII.—Other Entities and Services

§ 2161. John W. McCormack Residential Page School. 828

(a) Construction authorization for dormitory and classroom facilities complex

There is hereby authorized to be constructed, on a site jointly approved by the Senate Office Building Commission and the House Office Building Commission, in accordance with plans which shall be prepared by or

under the direction of the Architect of the Capitol and which shall be submitted to and jointly approved by the Senate Office Building Commission and the House Office Building Commission, a fireproof building containing dormitory and classroom facilities, including necessary furnishings and equipment, for pages of the Senate, the House of Representatives, and the Supreme Court of the United States.

(b) Acquisition of property in District of Columbia

The Architect of the Capitol, under the joint direction and supervision of the Senate Office Building Commission and the House Office Building Commission, is authorized to acquire on behalf of the United States, by purchase, condemnation, transfer, or otherwise, such publicly or privately owned real property in the District of Columbia (including all alleys, and parts of alleys, and streets within the curblines surrounding such real property) located in the vicinity of the United States Capitol Grounds, as may be approved jointly by the Senate Office Building Commission and the House Office Building Commission, for the purpose of constructing on such real property, in accordance with this section, a suitable dormitory and classroom facilities complex for pages of the Senate, the House of Representatives, and the Supreme Court of the United States.

(c) Condemnation proceedings

Any proceeding for condemnation instituted under subsection (b) of this section shall be conducted in accordance with subchapter IV of chapter 13 of title 16 of the District of Columbia Code.

(d) Transfer of United States owned property

Notwithstanding any other provision of law, any real property owned by the United States, and any alleys, or parts of alleys and streets, contained within the curblines surrounding the real property acquired on behalf of the United States under this section shall be transferred, upon the request of the Architect of the Capitol made with the joint approval of the Senate Office Building Commission and the House Office Building Commission, to the jurisdiction and control of the Architect of the Capitol.

(e) Alley and street closures by Mayor of District of Columbia

Notwithstanding any other provision of law, any alleys, or parts of alleys and streets, contained within the curblines surrounding the real property acquired on behalf of the United States under this section shall be closed and vacated by the Mayor of the District of Columbia in accordance with any request therefor made by the Architect of the Capitol with the joint approval of the Senate Office Building Commission and the House Office Building Commission.

(f) United States Capitol Grounds provisions applicable

Upon the acquisition on behalf of the United States of all real property under this section, such property shall be a part of the United States Capitol Grounds and shall be subject to the provisions of sections 5101 to 5109 of title 40 and 1961, 1966 and 1969 of this title.

(g) Designation; employment of services under supervision and control of Architect of Capitol; joint approval and direction of Speaker and President pro tempore; annual estimates to Congress; regulations governing Architect of Capitol

The building constructed on the real property acquired under this section shall be designated the "John W. McCormack Residential Page School". The employment of all services (other than that of the United States Capitol Police) necessary for its protection, care, maintenance, and use, for which appropriations are made by Congress, shall be under the control and supervision of the Architect of the Capitol. Such supervision and control shall be subject to the joint approval and direction of the Speaker and the President pro tempore. The Architect shall submit annually to the Congress estimates in detail for all services, other than those of the United States Capitol Police or those provided in connection with the conduct of school operations and the personal supervision of pages, and for all other expenses in connection with the protection, care, maintenance, and use of the John W. McCormack Residential Page School. The Speaker and the President pro tempore shall prescribe, from time to time, regulations governing the Architect in the provision of services and the protection, care, and maintenance, of the John W. McCormack Residential Page School.

(h) Joint appointee for supervision and control over page activities; regulations; Residence Superintendent of Pages; appointment, compensation, and duties; additional personnel: appointment and compensation

The Speaker of the House of Representatives and the President pro tempore of the Senate jointly shall designate an officer of the House and an officer of the Senate, other than a Member of the House or Senate, who shall jointly exercise supervision and control over the activities of the pages resident in the John W. McCormack Residential Page School. With the approval of the Speaker and the President pro tempore, such officers so designated shall prescribe regulations governing—

(1) the actual use and occupancy of the John W. McCormack Residential Page School including, if necessary, the imposition of a curfew for pages;

(2) the conduct of pages generally; and

(3) other matters pertaining to the supervision, direction, safety, and well-being of pages in off-duty hours.

Such officers, subject to the approval of the Speaker and the President pro tempore, jointly shall appoint and fix the per annum gross rate of pay of a Residence Superintendent of Pages, who shall perform such duties with respect to the supervision of pages resident therein as those officials shall prescribe. In addition, such officers, subject to the approval of the Speaker and the President pro tempore, jointly shall appoint and fix the per annum gross rates of pay of such additional personnel as may be necessary to assist those officers and the Residence Superintendent of Pages in carrying out their functions under this section.

(i) Sections 88(a) and 88(b) of title 2 unaffected

Nothing in section 88b–1 of title 2 and this section shall affect the operation of section 88b of title 2, relating to educational facilities of pages and other minors who are congressional employees. (Oct. 26, 1970, Pub. L. 91–510, § 492, 84 Stat. 1199; Dec. 24, 1973, Pub. L. 93–198,

§ 421, 87 Stat. 789; Aug. 20, 1996, Pub. L. 104–186, Title II, § 204(34)(c), 110 Stat. 1734.)

ACQUISITION OF PROPERTY AS AN ADDITION TO THE CAPITOL GROUNDS

To enable the Architect of the Capitol to acquire on behalf of the United States, as an addition to the United States Capitol Grounds, by purchase, condemnation, transfer, or otherwise, all publicly or privately owned property contained in square 764 in the District of Columbia, and all alleys or parts of alleys contained within the curblines surrounding such square, as such square appears on the records in the office of the surveyor of the District of Columbia as of the date of the approval of this Act: *Provided,* That any proceeding for condemnation brought under this paragraph shall be conducted in accordance with the Act of December 23, 1963 (16 D.C. Code, secs. 1351–1368): *Provided further,* That for the purposes of this paragraph, square 764 shall be deemed to extend to the outer face of the curbs surrounding such square: *Provided further,* That notwithstanding any other provision of law, any real property owned by the United States and any public alleys or parts of alleys and streets contained within the curblines surrounding such square shall, upon request of the Architect of the Capitol, be transferred to the jurisdiction and control of the Architect of the Capitol without reimbursement or transfer of funds, and any alleys or parts of alleys or streets contained within the curblines of said square shall be closed and vacated by the Commissioner of the District of Columbia, appointed pursuant to part III of Reorganization Plan numbered 3 of 1967, in accordance with any request therfor made by the Architect of the Capitol: *Provided further,* That, upon acquisition of such real property pursuant to this paragraph, the Architect of the Capitol is authorized to use such property as a green park area, pending its development for permanent use as the site of the John W. McCormack Residential Page School, subject to the approval of the Senate Office Building Commission and the House Office Building Commission: *Provided further,* That the jurisdiction of the Capitol Police shall extend over any real property acquired under this paragraph and such property shall become a part of the United States Capitol Grounds and be subject to the provisions of sections 193a–193m, 212a, and 212b of title 40, United States Code: *Provided further,* That the Architect of the Capitol, under the direction of the Senate Office Building Commission and the House Office Building Commission, is authorized and directed to enter into such contracts, incur such obligations, and make such expenditures, including expenditures for personal and other services, as may be necessary to carry out the provisions of this paragraph; $1,450,000, to remain available until expended. (Oct. 31, 1972, Pub. L. 92–607, 86 Stat. 1512.)

829 § 2163. Capitol Grounds shuttle service; purchase, etc., of vehicles.

Funds appropriated for the Capitol Grounds after October 1, 1976, shall be available for the purchase or rental, maintenance and operation of passenger motor vehicles to provide shuttle service for Members and employees of Congress to and from the buildings in the Legislative group. (Pub. L. 94–440, Title VI, § 601, Oct. 1, 1976, 90 Stat. 1453.)

830 § 2165. Capitol educational and information center and information and distribution stations; operation agreements.

Notwithstanding any other provision of law, the Architect of the Capitol, in consultation with the House Office Building Commission and the Senate Office Building Commission, is hereby authorized and directed to provide adequate space and facilities in the Capitol Building for an educational and informational center and information and distribution stations to afford visitors to the Capitol Building an opportunity to acquire (1) information relative to Congressional offices, (2) assistance relative to their visit to the Capitol, (3) pamphlets, books, drawings, slides and photographs, and related materials, and (4) information about the Capitol and the history of the Capitol Building and past and present Congresses. All materials distributed by such edu-

cational and informational center and such stations shall first be approved by the Architect of the Capitol, after consultation with the House Committee on House Oversight of the House of Representatives, the Senate Committee on Rules and Administration, the United States Capitol Historical Society, and such other educational and historical groups as the Architect of the Capitol deems appropriate. The Architect of the Capitol is hereby authorized to enter into such agreements as may be reasonably necessary to operate such educational and informational center and stations. (Mar. 12, 1968, Pub. L. 90–264, § 301, 82 Stat. 46; Aug. 20, 1996, Pub. L. 104–186, Title II, § 221(16), 110 Stat. 1750.)

§ 2166. Capitol Guide Service. **831**

(a) Establishment; designation; Supervision of Capitol Guide Board; membership of Board

There is hereby established an organization under the Congress of the United States, to be designated the "Capitol Guide Service", which shall be subject to the direction, supervision, and control of a Capitol Guide Board consisting of the Architect of the Capitol, the Sergeant at Arms of the Senate, and the Sergeant at Arms of the House of Representatives.

(b) Guided tours; regulations

The Capitol Guide Service is authorized and directed to provide guided tours of the interior of the United States Capitol Building for the education and enlightenment of the general public, without charge for such tours. All such tours shall be conducted in compliance with regulations prescribed by the Capitol Guide Board.

(c) Duties of Capitol Guide Board; positions of guide in Capitol Guide Service; establishment and revision; Chief, Deputy Chief, and Assistant Chief Guide and Guides: appointment, duties, pay and termination of employment

The Capitol Guide Board is authorized—

(1) with the prior approval of the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, to establish and revise such number of positions of Guide in the Capitol Guide Service as the Board considers necessary to carry out effectively the activities of the Capitol Guide Service;

(2) to appoint, on a permanent basis, without regard to political affiliation, and solely on the basis of fitness to perform their duties, a Chief Guide, a Deputy Chief Guide, and an Assistant Chief Guide, and, in addition, such number of Guides as may be authorized under subparagraph (1) of this subsection;

(3) to prescribe their duties and responsibilities;

(4) with the prior approval of the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, to fix, and adjust from time to time, their respective rates of pay at single per annum (gross) rates; and

(5) to terminate their employment as the Board considers appropriate.

(d) Uniforms

The Capitol Guide Board shall—

(1) prescribe a uniform dress, including appropriate insignia, which shall be worn by personnel of the Capitol Guide Service when on duty; and

(2) from time to time, as may be necessary, procure and furnish such uniforms to such personnel without charge to such personnel.

(e) Acceptance of fees; prohibition

An employee of the Capitol Guide Service shall not charge or accept any fee, or accept any gratuity, for or on account of his official services.

(f) Personnel detail

The Capitol Guide Board may detail personnel of the Capitol Guide Service to assist the United States Capitol Police by providing ushering and informational services, and other services not directly involving law enforcement, in connection with the inauguration of the President and Vice President of the United States, the official reception of representatives of foreign nations and other persons by the Senate or House of Representatives, and other special or ceremonial occasions in the United States Capitol Building or on the United States Capitol Grounds which require the presence of additional Government personnel and which cause the temporary suspension of the performance of the regular duties of the Capitol Guide Service.

(g) Historical and educational information

The Capitol Guide Board may receive and consider advice and information from any private historical or educational organization, association, or society with respect to those operations of the Capitol Guide Service which involve the furnishing of historical and educational information to the general public.

(h) Regulations for operation of service

With the prior approval of the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives, the Capitol Guide Board shall prescribe such regulations as the Board considers necessary and appropriate for the operation of the Capitol Guide Service.

(i) Disciplinary action

The Capitol Guide Board may take appropriate disciplinary action, including, when circumstances warrant, suspension from duty without pay, reduction in pay, demotion, or removal from employment with the Capitol Guide Service, against any employee who violates any provision of this section or any regulation prescribed by the Board pursuant to this section.

(j) Volunteers

(1) Notwithstanding section 1342 of title 31, the Capitol Guide Service is authorized to accept voluntary personal services.

(2) No person shall be permitted to donate personal services under this subsection unless the person has first agreed, in writing, to waive any claim against the United States arising out of or in connection with such services, other than a claim under chapter 81 of title 5.

(3) No person donating personal services under this section shall be considered an employee of the United States for any purposes other than for purposes of chapter 81 of title 5.

(4) In no case shall the acceptance of personal services under this section result in the reduction of pay or displacement of any employee of the Capitol Guide Service.

(As amended Pub. L. 104–186, Title II, § 221(17), Aug. 20, 1996, 110 Stat. 1750; Pub. L. 104–279, Oct. 9, 1996, 110 Stat. 3358.)

Subchapter VIII.—Miscellaneous

§ 2181. Assignment of space for meetings of joint committees, conference committees, etc. 832

The President pro tempore of the Senate and the Speaker of the House of Representatives shall cause a survey to be made of available space within the Capitol which could be utilized for joint committee meetings, meetings of conference committees, and other meetings, requiring the attendance of both Senators and Members of the House of Representatives; and shall recommend the reassignment of such space to accommodate such meetings. (Aug. 2, 1946, ch. 753, § 242, 60 Stat. 839.)

§ 2183. Protection of buildings and property. 833

The Sergeants at Arms of the Senate and of the House of Representatives are authorized to make such regulations as they may deem necessary for preserving the peace and securing the Capitol from defacement, and for the protection of the public property therein, and they shall have power to arrest and detain any person violating such regulations, until such person can be brought before the proper authorities for trial. (R.S. § 1820.)

CROSS REFERENCES

Policing of Capitol building and grounds, see section 1961 of this title.

§ 2184. Purchase of furniture or carpets for House or Senate. 834

No furniture or carpets for either House shall be purchased without the written order of the chairman of the Committee on Rules and Administration, for the Senate, or without the written order of the chairman of the Committee on House Oversight of the House of Representatives, for the House of Representatives. (R.S. § 1816; Aug. 2, 1946, ch. 753, §§ 102, 121, 224, 60 Stat. 814, 822, 838; Aug. 20, 1996, Pub. L. 104–186, Title II, § 221(2), 110 Stat. 1748.)

TITLE 3.—THE PRESIDENT

Chapter 1.—PRESIDENTIAL ELECTIONS AND VACANCIES

850 § 1. Time of appointing electors.

The electors of President and Vice President shall be appointed, in each State, on the Tuesday next after the first Monday in November, in every fourth year succeeding every election of a President and Vice President. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

851 § 2. Failure to make choice on prescribed day.

Whenever any State has held an election for the purpose of choosing electors, and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such a manner as the legislature of such State may direct. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

852 § 3. Number of electors.

The number of electors shall be equal to the number of Senators and Representatives to which the several States are by law entitled at the time when the President and Vice President to be chosen come into office; except, that where no apportionment of Representatives has been made after any enumeration, at the time of choosing electors, the number of electors shall be according to the then existing apportionment of Senators and Representatives. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

853 § 4. Vacancies in electoral college.

Each State may, by law, provide for the filling of any vacancies which may occur in its college of electors when such college meets to give its electoral vote. (June 25, 1948, ch. 644, § 1, 62 Stat. 673.)

854 § 5. Determination of controversy as to appointment of electors.

If any State shall have provided, by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination made pursuant to such law so existing on said day, and made at least six days prior to said time of meeting of the electors, shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated, so far as the ascertainment of the electors appointed by such State is concerned. (June 25, 1948, ch. 644, § 1, 62 Stat. 673.)

855 § 6. Credentials of electors; transmission to Archivist of the United States and to Congress; public inspection.

It shall be the duty of the executive of each State, as soon as practicable after the conclusion of the appointment of the electors in such State by the final ascertainment, under and in pursuance of the laws

of such State providing for such ascertainment, to communicate by registered mail under the seal of the State to the Archivist of the United States, a certificate of such ascertainment of the electors appointed, setting forth the names of such electors and the canvass or other ascertainment under the laws of such State of the number of votes given or cast for each person for whose appointment any and all votes have been given or cast; and it shall also thereupon be the duty of the executive of each State to deliver to the electors of such State, on or before the day on which they are required by section 7 of this title to meet, six duplicate-originals of the same certificate under the seal of the State; and if there shall have been any final determination in a State in the manner provided for by law of a controversy or contest concerning the appointment of all or any of the electors of such State, it shall be the duty of the executive of such State, as soon as practicable after such determination, to communicate under the seal of the State to the Archivist of the United States, a certificate of such determination in form and manner as the same shall have been made; and the certificate or certificates so received by the Archivist of the United States, shall be preserved by him for one year and shall be a part of the public records of his office and shall be open to public inspection; and the Archivist of the United States, at the first meeting of Congress thereafter shall transmit to the two Houses of Congress copies in full of each and every such certificate so received at the National Archives and Records Administration. (June 25, 1948, ch. 644, 62 Stat. 673; Oct. 31, 1951, ch. 655, § 6, 65 Stat. 711; Oct. 19, 1984, Pub. L. 98–497, Title I, § 107(e)(1), (2)(A), 98 Stat. 2291.)

§ 7. Meeting and vote of electors. **856**

The electors of President and Vice President of each State shall meet and give their votes on the first Monday after the second Wednesday in December next following their appointment at such place in each State as the legislature of such State shall direct. (June 25, 1948, ch. 644, § 1, 62 Stat. 673.)

§ 8. Manner of voting. **857**

The electors shall vote for President and Vice President, respectively, in the manner directed by the Constitution. (June 25, 1948, ch. 644, § 1, 62 Stat. 674.)

§ 9. Certificates of votes for President and Vice President. **858**

The electors shall make and sign six certificates of all the votes given by them, each of which certificates shall contain two distinct lists, one of the votes for President and the other of the votes for Vice President, and shall annex to each of the certificates one of the lists of the electors which shall have been furnished to them by direction of the executive of the State. (June 25, 1948, ch. 644, § 1, 62 Stat. 674.)

§ 10. Sealing and endorsing certificates. **859**

The electors shall seal up the certificates so made by them, and certify upon each that the lists of all the votes of such States given for President, and of all the votes given for Vice President, are contained therein. (June 25, 1948, ch. 644, § 1, 62 Stat. 674.)

860 § 11. Disposition of certificates.

The electors shall dispose of the certificates so made by them and the lists attached thereto in the following manner:

First. They shall forthwith forward by registered mail one of the same to the President of the Senate at the seat of government.

Second. Two of the same shall be delivered to the secretary of state of the State, one of which shall be held subject to the order of the President of the Senate, the other to be preserved by him for one year and shall be a part of the public records of his office and shall be open to public inspection.

Third. On the day thereafter they shall forward by registered mail two of such certificates and lists to the Archivist of the United States at the seat of government, one of which shall be held subject to the order of the President of the Senate. The other shall be preserved by the Archivist of the United States for one year and shall be a part of the public records of his office and shall be open to public inspection.

Fourth. They shall forthwith cause the other of the certificates and lists to be delivered to the judge of the district in which the electors shall have assembled. (Oct. 31, 1951, ch. 655, § 7, 65 Stat. 712; Oct. 19, 1984, Pub. L. 98–497, Title I, § 107(e)(1), 98 Stat. 2291.)

861 § 12. Failure of certificates of electors to reach President of Senate or Archivist of the United States; demand on State for certificate.

When no certificate of vote and list mentioned in sections 9 and 11 of this title from any State shall have been received by the President of the Senate or by the Archivist of the United States by the fourth Wednesday in December, after the meeting of the electors shall have been held, the President of the Senate or, if he be absent from the seat of government, the Archivist of the United States shall request, by the most expeditious method available, the secretary of state of the State to send up the certificate and list lodged with him by the electors of such State; and it shall be his duty upon receipt of such request immediately to transmit same by registered mail to the President of the Senate at the seat of government. (Oct. 31, 1951, ch. 655, § 8, 65 Stat. 712; Oct. 19, 1984, Pub. L. 98–497, Title I, § 107(e)(1), (2)(B), 98 Stat. 2291.)

862 § 13. Same; demand on district judge for certificate.

When no certificates of votes from any State shall have been received at the seat of government on the fourth Wednesday in December, after the meeting of the electors shall have been held, the President of the Senate or, if he be absent from the seat of government, the Archivist of the United States shall send a special messenger to the district judge in whose custody one certificate of votes from the State has been lodged, and such judge shall forthwith transmit that list by the hand of such messenger to the seat of government. (Oct. 31, 1951, ch. 655, § 9, 65 Stat. 712; Oct. 19, 1984, Pub. L. 98–497, Title I, § 107(e)(1), 98 Stat. 2291.)

863 § 14. Forfeiture for messenger's neglect of duty.

Every person who, having been appointed, pursuant to section 13 of this title, to deliver the certificates of the votes of the electors to the President of the Senate, and having accepted such appointment,

shall neglect to perform the services required from him, shall forfeit the sum of $1,000. (June 25, 1948, ch. 644, § 1, 62 Stat. 675.)

§ 15. Counting electoral votes in Congress. **864**

Congress shall be in session on the sixth day of January succeeding every meeting of the electors. The Senate and House of Representatives shall meet in the Hall of the House of Representatives at the hour of 1 o'clock in the afternoon on that day, and the President of the Senate shall be their presiding officer. Two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted according to the rules in this subchapter provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses. Upon such reading of any such certificate or paper, the President of the Senate shall call for objections, if any. Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one Member of the House of Representatives before the same shall be received. When all objections so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw, and such objections shall be submitted to the Senate for its decision; and the Speaker of the House of Representatives shall, in like manner, submit such objections to the House of Representatives for its decision; and no electoral vote or votes from any State which shall have been regularly given by electors whose appointment has been lawfully certified to according to section 6 of this title from which but one return has been received shall be rejected, but the two Houses concurrently may reject the vote or votes when they agree that such vote or votes have not been so regularly given by electors whose appointment has been so certified. If more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate, those votes, and those only, shall be counted which shall have been regularly given by the electors who are shown by the determination mentioned in section 5 of this title to have been appointed, if the determination in said section provided for shall have been made, or by such successors or substitutes, in case of a vacancy in the board of electors so ascertained, as have been appointed to fill such vacancy in the mode provided by the laws of the State; but in case there shall arise the question which of two or more of such State authorities determining what electors have been appointed, as mentioned in section 5 of this title, is the lawful tribunal of such State, the votes regularly given of those electors, and those only, of such State shall be counted whose title as electors the two Houses, acting separately, shall concurrently

decide is supported by the decision of such State so authorized by its law; and in such case of more than one return or paper purporting to be a return from a State, if there shall have been no such determination of the question in the State aforesaid, then those votes, and those only, shall be counted which the two Houses shall concurrently decide were cast by lawful electors appointed in accordance with the laws of the State, unless the two Houses, acting separately, shall concurrently decide such votes not to be the lawful votes of the legally appointed electors of such State. But if the two Houses shall disagree in respect of the counting of such votes, then, and in that case, the votes of the electors whose appointment shall have been certified by the executive of the State, under the seal thereof, shall be counted. When the two Houses have voted, they shall immediately again meet, and the presiding officer shall then announce the decision of the questions submitted. No votes or papers from any other State shall be acted upon until the objections previously made to the votes or papers from any State shall have been finally disposed of. (June 25, 1948, ch. 644, § 1, 62 Stat. 675.)

865 § 16. Same; seats for officers and Members of two Houses in joint meeting.

At such joint meeting of the two Houses seats shall be provided as follows: For the President of the Senate, the Speaker's chair; for the Speaker, immediately upon his left; the Senators, in the body of the Hall upon the right of the presiding officer; for the Representatives, in the body of the Hall not provided for the Senators; for the tellers, Secretary of the Senate, and Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon each side of the Speaker's platform. Such joint meeting shall not be dissolved until the count of electoral votes shall be completed and the result declared; and no recess shall be taken unless a question shall have arisen in regard to counting any such votes, or otherwise under this subchapter, in which case it shall be competent for either House, acting separately, in the manner hereinbefore provided, to direct a recess of such House not beyond the next calendar day, Sunday excepted, at the hour of 10 o'clock in the forenoon. But if the counting of the electoral votes and the declaration of the result shall not have been completed before the fifth calendar day next after such first meeting of the two Houses, no further or other recess shall be taken by either House. (June 25, 1948, ch. 644, § 1, 62 Stat. 676.)

866 § 17. Same; limit of debate in each House.

When the two Houses separate to decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or other question arising in the matter, each Senator and Representative may speak to such objection or question five minutes, and not more than once; but after such debate shall have lasted two hours it shall be the duty of the presiding officer of each House to put the main question without further debate. (June 25, 1948, ch. 644, § 1, 62 Stat. 676.)

§ 18. Same; parliamentary procedure at joint meeting. 867

While the two Houses shall be in meeting as provided in this chapter, the President of the Senate shall have power to preserve order; and no debate shall be allowed and no question shall be put by the presiding officer except to either House on a motion to withdraw. (Sept. 3, 1954, ch. 1263, § 3, 68 Stat. 1227.)

§ 19. Vacancy in offices of both President and Vice President; officers eligible to act. 868

(a)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is neither a President nor Vice President to discharge the powers and duties of the office of President, then the Speaker of the House of Representatives shall, upon his resignation as Speaker and as Representative in Congress, act as President.

(2) The same rule shall apply in the case of the death, resignation, removal from office, or inability of an individual acting as President under this subsection.

(b) If, at the time when under subsection (a) of this section a Speaker is to begin the discharge of the powers and duties of the office of President, there is no Speaker, or the Speaker fails to qualify as Acting President, then the President pro tempore of the Senate shall, upon his resignation as President pro tempore and as Senator, act as President.

(c) An individual acting as President under subsection (a) or subsection (b) of this section shall continue to act until the expiration of the then current Presidential term, except that—

(1) if his discharge of the powers and duties of the office is founded in whole or in part on the failure of both the President-elect and the Vice-President-elect to qualify, then he shall act only until a President or Vice President qualifies; and

(2) if his discharge of the powers and duties of the office is founded in whole or in part on the inability of the President or Vice President, then he shall act only until the removal of the disability of one of such individuals.

(d)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of Health and Human Services, Secretary of Housing and Urban Development, Secretary of Transportation, Secretary of Energy, Secretary of Education, Secretary of Veterans' Affairs.

(2) An individual acting as President under this subsection shall continue to do so until the expiration of the then current Presidential term, but not after a qualified and prior-entitled individual is able to act, except that the removal of the disability of an individual higher on the list contained in paragraph (1) of this subsection or the ability to qualify on the part of an individual higher on such list shall not terminate his service.

(3) The taking of the oath of office by an individual specified in the list in paragraph (1) of this subsection shall be held to constitute his resignation from the office by virtue of the holding of which he qualifies to act as President.

(e) Subsections (a), (b), and (d) of this section shall apply only to such officers as are eligible to the office of President under the Constitution. Subsection (d) of this section shall apply only to officers appointed, by and with the advice and consent of the Senate, prior to the time of the death, resignation, removal from office, inability, or failure to qualify, of the President pro tempore, and only to officers not under impeachment by the House of Representatives at the time the powers and duties of the office of President devolve upon them.

(f) During the period that any individual acts as President under this section, his compensation shall be at the rate then provided by law in the case of the President. (June 25, 1948, ch. 644, § 1, 62 Stat. 677; Sept. 9, 1965, Pub. L. 89–174, § 6(a), 79 Stat. 669; Oct. 15, 1966, Pub. L. 89–670, § 10(a), 80 Stat. 948; Aug. 12, 1970, Pub. L. 91–375, § 6(b), 84 Stat. 775; Aug. 4, 1977, Pub. L. 95–91, Title VII, § 709(g), 91 Stat. 609; Oct. 17, 1979, Pub. L. 96–88, Title V, § 508(a), 93 Stat. 692; Oct. 25, 1988, Pub. L. 100–527, § 13(a), 102 Stat. 2643.)

869 § 20. Resignation or refusal of office.

The only evidence of a refusal to accept, or of a resignation of the office of President or Vice President, shall be an instrument in writing, declaring the same, and subscribed by the person refusing to accept or resigning, as the case may be, and delivered into the office of the Secretary of State. (June 25, 1948, ch. 644, § 1, 62 Stat. 678.)

870 § 21. Definitions.

As used in this chapter the term—

(a) "State" includes the District of Columbia.

(b) "executives of each State" includes the Board of Commissioners of the District of Columbia. (Oct. 4, 1961, Pub. L. 87–389, § 2(a), 75 Stat. 820.)

Chapter 2.—OFFICE AND COMPENSATION OF PRESIDENT

871 § 101. Commencement of term of office.

The term of four years for which a President and Vice President shall be elected, shall, in all cases, commence on the 20th day of January next succeeding the day on which the votes of the electors have been given. (June 25, 1948, ch. 644, § 1, 62 Stat. 678.)

872 § 104. Salary of the Vice President.

(a) The per annum rate of salary of the Vice President of the United States shall be the rate determined for such position under chapter 11 of title 2, as adjusted under this section. Subject to subsection (b), effective at the beginning of the first month in which an adjustment takes effect under section 5303 of title 5 in the rates of pay under the General Schedule, the salary of the Vice President shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the nearest higher multiple of $100), equal to the percentage of such per annum 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 the second and third sentences of subsection (a) in any calendar year (before rounding) exceed the percentage adjustment taking effect in such calendar year under section 5303 of title 5 in the rates of pay under the General Schedule. (June 25, 1948, ch. 644, 62 Stat. 678; Jan. 19, 1949, ch. 2, § 1(b), 63 Stat. 4; Mar. 2, 1955, ch. 9, § 4(c), 69 Stat. 11; Pub. L. 88–426, Title III, § 304(a), Aug. 14, 1964, 78 Stat. 422; Pub. L. 91–67, § 1, Sept. 15, 1969, 83 Stat. 106; Pub. L. 94–82, Title II, § 203, Aug. 9, 1975, 89 Stat. 420; Pub. L. 97–257, Title I, § 105(b), Sept. 10, 1982, 96 Stat. 849; Pub. L. 101–194, Title VII, § 704(a)(2)(A), Nov. 30, 1989, 103 Stat. 1769; Pub. L. 101–509, Title V, § 529 (Title I, § 101(b)(4)(I)), Nov. 5, 1990, 104 Stat. 1427, 1440; Pub. L. 103–356, Title I, § 101(2), Oct. 13, 1994, 108 Stat. 3410.)

§ 111. Expense allowance of Vice President. **873**

There shall be paid to the Vice President in equal monthly installments an expense allowance of $10,000 per annum to assist in defraying expenses relating to or resulting from the discharge of his official duties, for which no accounting, other than for income tax purposes, shall be made by him. (Jan. 19, 1949 ch. 2, § 1(c), 63 Stat. 4; Oct. 20, 1951, ch. 521, § 619(b), 65 Stat. 570.)

TITLE 4.—FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES

Chapter 4.—THE STATES

875 § 113. Residence of Members of Congress for State income tax laws.

(a) No State, or political subdivision thereof, in which a Member of Congress maintains a place of abode for purposes of attending sessions of Congress may, for purposes of any income tax (as defined in section 110(c) of this title) levied by such State or political subdivision thereof—

(1) treat such Member as a resident or domiciliary of such State or political subdivision thereof; or

(2) treat any compensation paid by the United States to such Member as income for services performed within, or from sources within, such State or political subdivision thereof,

unless such Member represents such State or a district in such State.

(b) For purposes of subsection (a)—

(1) the term "Member of Congress" includes the delegates from the District of Columbia, Guam, and the Virgin Islands, and the Resident Commissioner from Puerto Rico; and

(2) the term "State" includes the District of Columbia.

(Dec. 22, 1987, Pub. L. 100–202, § 106, 101 Stat. 1329–433.)

TITLE 5.—GOVERNMENT ORGANIZATION AND EMPLOYEES

Chapter 8.—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

§ 801. Congressional review. **880**

(a)(1)(A) Before a rule can take effect, the Federal agency promulgating such rule shall submit to each House of the Congress and the Comptroller General a report containing—

(i) a copy of the rule;

(ii) a concise general statement relating to the rule, including whether it is a major rule; and

(iii) the proposed effective date of the rule.

(B) On the date of the submission of the report under subparagraph (A), the Federal agency promulgating the rule shall submit to the Comptroller General and make available to each House of Congress—

(i) a complete copy of the cost-benefit analysis of the rule, if any;

(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

(iv) any other relevant information or requirements under any other Act and any relevant Executive orders.

(C) Upon receipt of a report submitted under subparagraph (A), each House shall provide copies of the report to the chairman and ranking member of each standing committee with jurisdiction under the rules of the House of Representatives or the Senate to report a bill to amend the provision of law under which the rule is issued.

(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction in each House of the Congress by the end of 15 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

(3) A major rule relating to a report submitted under paragraph (1) shall take effect on the latest of—

(A) the later of the date occurring 60 days after the date on which—

(i) the Congress receives the report submitted under paragraph (1); or

(ii) the rule is published in the Federal Register, if so published;

(B) if the Congress passes a joint resolution of disapproval described in section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

(i) on which either House of Congress votes and fails to override the veto of the President; or

(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

(C) the date of rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802.

(b)(1) A rule shall not take effect (or continue), if the Congress enacts a joint resolution of disapproval, described under section 802, of the rule.

(2) A rule that does not take effect (or does not continue) under paragraph (1) may not be reissued in substantially the same form, and a new rule that is substantially the same as such a rule may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule.

(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of subsection (a)(3) may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

(2) Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

(A) necessary because of an imminent threat to health or safety or other emergency;

(B) necessary for the enforcement of criminal laws;

(C) necessary for national security; or

(D) issued pursuant to any statute implementing an international trade agreement.

(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule for which a report was submitted in accordance with subsection (a)(1)(A) during the period beginning on the date occurring—

(A) in the case of the Senate; 60 session days, or

(B) in the case of the House of Representatives; 60 legislative days,

before the date the Congress adjourns a session of Congress through the date on which the same or succeeding Congress first convenes its next session, section 802 shall apply to such rule in the succeeding session of Congress.

(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

(i) such rule were published in the Federal Register (as a rule that shall take effect) on—

(I) in the case of the Senate, the 15th session day, or

(II) in the case of the House of Representatives, the 15th legislative day, after the succeeding session of Congress first convenes; and

(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a rule can take effect.

(3) A rule described under paragraph (1) shall take effect as otherwise provided by law (including other subsections of this section).

(e)(1) For purposes of this subsection, section 802 shall also apply to any major rule promulgated between March 1, 1996, and the date of the enactment of this chapter.

(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

(A) such rule were published in the Federal Register on the date of enactment of this chapter; and

(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

(f) Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

(g) If the Congress does not enact a joint resolution of disapproval under section 802 respecting a rule, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

(Added Pub. L. 104–121, Title II, § 251, Mar. 29, 1996, 110 Stat. 868.)

§ 802. Congressional disapproval procedure. **881**

(a) For purposes of this section, the term "joint resolution" means only a joint resolution introduced in the period beginning on the date on which the report referred to in section 801(a)(1)(A) is received by Congress and ending 60 days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: "That Congress disapproves the rule submitted by the _____ relating to _____, and such rule shall have no force or effect." (The blank spaces being appropriately filled in).

(b)(1) A joint resolution described in subsection (a) shall be referred to the committees in each House of Congress with jurisdiction.

(2) For purposes of this section, the term "submission or publication date" means the later of the date on which—

(A) the Congress receives the report submitted under section 801(a)(1); or

(B) the rule is published in the Federal Register, if so published.

(c) In the Senate, if the committee to which is referred a joint resolution described in subsection (a) has not reported such joint resolution (or an identical joint resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

(d)(1) In the Senate, when the committee to which a joint resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of a joint resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. 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 joint resolution shall remain the unfinished business of the Senate until disposed of.

(2) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

(3) In the Senate, immediately following the conclusion of the debate on a joint resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

(4) 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 (a) shall be decided without debate.

(e) In the Senate the procedure specified in subsection (c) or (d) shall not apply to the consideration of a joint resolution respecting a rule—

(1) after the expiration of the 60 session days beginning with the applicable submission or publication date, or

(2) if the report under section 801(a)(1)(A) was submitted during the period referred to in section 801(d)(1), after the expiration of the 60 session days beginning on the 15th session day after the succeeding session of Congress first convenes.

(f) If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply:

(1) The joint resolution of the other House shall not be referred to a committee.

(2) With respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(B) the vote on final passage shall be on the joint resolution of the other House.

(g) This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure 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.

(Added Pub. L. 104–121, Title II, § 251, Mar. 29, 1996, 110 Stat. 871.)

§ 803. Special rule on statutory, regulatory, and judicial deadlines. **882**

(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of enactment of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

(b) The term "deadline" means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

(Added Pub. L. 104–121, Title II, § 251, Mar. 29, 1996, 110 Stat. 873.)

§ 804. Definitions. **883**

For purposes of this chapter—

(1) The term "Federal agency" means any agency as that term is defined in section 551(1).

(2) The term "major rule" means any rule that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in—

(A) an annual effect on the economy of $100,000,000 or more;

(B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

The term does not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.

(3) The term "rule" has the meaning given such term in section 551, except that such term does not include—

(A) any rule of particular applicability, including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing; thereof, or accounting practices or disclosures bearing on any of the foregoing;

(B) any rule relating to agency management or personnel; or

(C) any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

(Added Pub. L. 104–121, Title II, § 251, Mar. 29, 1996, 110 Stat. 873.)

884 § 805. Judicial review.

No determination, finding, action, or omission under this chapter shall be subject to judicial review.

(Added Pub. L. 104–121, Title II, § 251, Mar. 29, 1996, 110 Stat. 873.)

885 § 806. Applicability; severability.

(a) This chapter shall apply notwithstanding any other provisions of law.

(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

(Added Pub. L. 104–121, Title II, § 251, Mar. 29, 1996, 110 Stat. 873.)

886 § 807. Exemption for monetary policy.

Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

(Added Pub. L. 104–121, Title II, § 251, Mar. 29, 1996, 110 Stat. 874.)

887 § 808. Effective date of certain rules.

Notwithstanding section 801—

(1) any rule that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity related to hunting, fishing, or camping, or

(2) any rule which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest,

shall take effect at such time as the Federal agency promulgating the rule determines.

(Added Pub. L. 104–121, Title II, § 251, Mar. 29, 1996, 110 Stat. 874.)

Chapter 29.—COMMISSIONS, OATHS, RECORDS, AND REPORTS

Subchapter I.—Commissions, Oaths, and Records

§ 2905. Oath; renewal.[1] **890**

* * * * * * *

(b) An individual who, on appointment, as an employee of a House of Congress, subscribed to the oath of office required by section 3331 of this title is not required to renew the oath so long as his service as an employee of that House of Congress is continuous. (Sept. 6, 1966, Pub. L. 89–554, 80 Stat. 412.)

Subchapter II.—Reports

§ 2954. Information to committees of Congress on request. **891**

An Executive agency, on request of the Committee on Government Operations of the House of Representatives, or of any seven members thereof, or on request of the Committee on Governmental Affairs of the Senate, or any five members thereof, shall submit any information requested of it relating to any matter within the jurisdiction of the committee. (Sept. 6, 1966, Pub. L. 89–554, 80 Stat. 413; Nov. 2, 1994, Pub. L. 103–437, § 3(b), 108 Stat. 4581.)

Chapter 31.—AUTHORITY FOR EMPLOYMENT

§ 3110. Employment of relatives; restrictions. **892**

(a) For the purpose of this section—

(1) "agency" means—

(A) an Executive agency;

(B) an office, agency, or other establishment in the legislative branch;

(C) an office, agency, or other establishment in the judicial branch; and

(D) the government of the District of Columbia;

(2) "public official" means an officer (including the President and a Member of Congress), a member of the uniformed service, and employee and any other individual, in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals, or to recommend individuals for appointment, employment, promotion, or advancement, in connection with employment in an agency; and

(3) "relative" means, with respect to a public official, an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(b) A public official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position in the agency in which he is serving or over

[1] For text of oath to be taken by employees of the Senate and House of Representatives, see section 3331 of title 5, United States Code (not included herein).

which he exercises jurisdiction or control any individual who is a relative of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a civilian position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the agency, who is a relative of the individual.

(c) An individual appointed, employed, promoted, or advanced in violation of this section is not entitled to pay, and money may not be paid from the Treasury as pay to an individual so appointed, employed, promoted, or advanced.

(d) The Office of Personnel Management may prescribe regulations authorizing the temporary employment, in the event of emergencies resulting from natural disasters or similar unforeseen events or circumstances, of individuals whose employment would otherwise be prohibited by this section.

(e) This section shall not be construed to prohibit the appointment of an individual who is a preference eligible in any case in which the passing over of that individual on a certificate of eligibles furnished under section 3317(a) of this title will result in the selection for appointment of an individual who is not a preference eligible. (Dec. 16, 1967, Pub. L. 90–206, § 221(a), 81 Stat. 640; Oct. 13, 1978, Pub. L. 95–454, § 906(a)(2), 92 Stat. 1224.)

Chapter 33.—EXAMINATION, SELECTION, AND PLACEMENT

Subchapter II.—Oath of Office

893 § 3333. Employee affidavit; loyalty and striking against the Government.

(a) Except as provided by subsection (b) of this section, an individual who accepts office or employment in the Government of the United States or in the government of the District of Columbia shall execute an affidavit within 60 days after accepting the office or employment that his acceptance and holding of the office or employment does not or will not violate section 7311 of this title. The affidavit is prima facie evidence that the acceptance and holding of office or employment by the affiant does not or will not violate section 7311 of this title.

(b) An affidavit is not required from an individual employed by the Government of the United States or the government of the District of Columbia for less than 60 days for sudden emergency work involving the loss of human life or the destruction of property. This subsection does not relieve an individual from liability for violation of section 7311 of this title. (Sept. 6, 1966, Pub. L. 89–554, 80 Stat. 424.)

Chapter 55.—PAY ADMINISTRATION

Subchapter I.—General Provisions

894 § 5503. Recess appointments.[1]

(a) Payment for services may not be made from the Treasury of the United States to an individual appointed during a recess of the Senate

[1] For proceedings on nominations see rule XXXI of the Standing Rules of the Senate (Senate Manual section **31**).

to fill a vacancy in an existing office, if the vacancy existed while the Senate was in session and was by law required to be filled by and with the advice and consent of the Senate, until the appointee has been confirmed by the Senate. This subsection does not apply—

(1) if the vacancy arose within 30 days before the end of the session of the Senate;

(2) if, at the end of the session, a nomination for the office, other than the nomination of an individual appointed during the preceding recess of the Senate, was pending before the Senate for its advice and consent; or

(3) if a nomination for the office was rejected by the Senate within 30 days before the end of the session and an individual other than the one whose nomination was rejected thereafter receives a recess appointment.

(b) A nomination to fill a vacancy referred to by paragraph (1), (2), or (3) of subsection (a) of this section shall be submitted to the Senate not later than 40 days after the beginning of the next session of the Senate. (Sept. 6, 1966, Pub. L. 89–554, 80 Stat. 475.)

Subchapter IV.—Dual Pay and Dual Employment

§ 5531. Definitions. 895

For the purpose of section 5533 of this title—

(1) "member" has the meaning given such term by section 101(23) of title 37;

(2) "position" means a civilian office or position (including a temporary, part-time, or intermittent position), appointive or elective, in the legislative, executive, or judicial branch of the Government of the United States (including a Government corporation and a nonappropriated fund instrumentality under the jurisdiction of the armed forces) or in the government of the District of Columbia;

(3) "retired or retainer pay" means retired pay, as defined in section 8311(3) of this title, determined without regard to subparagraphs (B) through (D) of such section 8311(3); except that such term does not include an annuity payable to an eligible beneficiary of a member or former member of a uniformed service under chapter 73 of title 10;

(4) "agency in the legislative branch" means the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Office of the Architect of the Capitol, the United States Botanic Garden, and the Congressional Budget Office;

(5) "employee of the House of Representatives" means a congressional employee whose pay is disbursed by the Chief Administrative Officer of the House of Representatives;

(6) "employee of the Senate" means a congressional employee whose pay is disbursed by the Secretary of the Senate; and

(7) "congressional employee" has the meaning given that term by section 2107 of this title, excluding an employee of an agency in the legislative branch. (Dec. 5, 1991; Pub. L. 102–290; 105 Stat. 1391; Pub. L. 104–186, Title II, § 215(6), Aug. 20, 1996, 110 Stat. 1745; Pub. L. 106–398, § 1, Oct. 30, 2000, 114 Stat. 1654, 1654A–293.)

896 **§ 5532. Repealed.** Pub. L. 106–65, Title VI, § 651(a)(1), Oct. 5, 1999, 113 Stat. 664.

* * * * * * *

897 **§ 5533. Dual pay from more than one position; limitations; exceptions.**

* * * * * * *

(c)(1) Unless otherwise authorized by law and except as otherwise provided by paragraph (2) or (4) of this subsection, appropriated funds are not available for payment to an individual of pay from more than one position if the pay of one of the positions is paid by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives, or one of the positions is under the Office of the Architect of the Capitol, and if the aggregate gross pay from the positions exceeds $7,724 a year ($10,540,[1] in the case of pay disbursed by the Secretary of the Senate).

(2) Notwithstanding paragraph (1) of this subsection, appropriated funds are not available for payment to an individual of pay from more than one position, for each of which the pay is disbursed by the Chief Administrative Officer of the House of Representatives, if the aggregate gross pay from those positions exceeds the maximum per annum gross rate of pay authorized to be paid to an employee out of the clerk hire allowance of a Member of the House.

(3) For the purposes of this subsection, "gross pay" means the annual rate of pay (or equivalent thereof in the case of an individual paid on other than an annual basis) received by an individual.

(4) Paragraph (1) of this subsection does not apply to pay on a when-actually-employed basis received from more than one consultant or expert position if the pay is not received for the same day. (Sept. 6, 1966, Pub. L. 89–554, 80 Stat. 483; July 28, 1967, Pub. L. 90–57, § 105(h), 81 Stat. 143; Dec. 16, 1967, Pub. L. 90–206, § 214(o), 81 Stat. 637; June 12, 1968, Order of President pro tempore, Cong. Rec. Vol. 114, p. S7074 (June 12, 1968, daily ed.), pursuant to Act Dec. 16, 1967, Pub. L. 90–206, § 214(o), 81 Stat. 637; Oct. 26, 1970, Pub. L. 91–510, § 477, 84 Stat. 1195; Nov. 1, 1973, Pub. L. 93–145, § 101, 87 Stat. 532; Oct. 1, 1976, Pub. L. 94–440, § 103, 90 Stat. 1443; Pub. L. 95–454, Title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96–70, Title III, § 3302(e)(8), Sept. 27, 1979, 93 Stat. 498; Pub. L. 104–186, Title II, § 215(7), Aug. 20, 1996, 110 Stat. 1745.)

Chapter 57.—TRAVEL, TRANSPORTATION, AND SUBSISTENCE

898 **§ 5702. Per diem; employees traveling on official business.**

(a)(1) Under regulations prescribed pursuant to section 5707 of this title, an employee when traveling on official business away from the employee's designated post of duty, or away from the employee's home or regular place of business (if the employee is described in section 5703 of this title), is entitled to any one of the following:

[1] Effective January 1, 2002, for individuals whose pay is disbursed by the Secretary of the Senate, the figure is "$26,329". (Dec. 20, 2001, Order of the President pro tempore, pursuant to Act Jan. 8, 1971, Pub. L. 91–656, § 4, 84 Stat. 1952.)

(A) a per diem allowance at a rate not to exceed that established by the Administrator of General Services for travel within the continental United States, and by the President or his designee for travel outside the continental United States;

(B) reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by the Administrator for travel within the continental United States or an amount established by the President or his designee for travel outside the continental United States; or

(C) a combination of payments described in subparagraphs (A) and (B) of this paragraph.

(2) Any per diem allowance or maximum amount of reimbursement shall be established to the extent feasible, by locality.

(3) For travel consuming less than a full day, the payment prescribed by regulation shall be allocated in such manner as the Administrator may prescribe.

(b)(1) Under regulations prescribed under section 5707 of this title, an employee who is described in subsection (a) of this section and who abandons the travel assignment prior to its completion—

(A) because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and to payments pursuant to subsection (a) of this section until that location is reached; or

(B) because of a personal emergency situation (such as serious illness, injury, or death of a member of the employee's family, or an emergency situation such as fire, flood, or act of God), may be allowed, with the approval of an appropriate official of the agency concerned, reimbursement for expenses of transportation to the employee's designated post of duty, or home or regular place of business, as the case may be, and payments pursuant to subsection (a) of this section until that location is reached.

(2)(A) Under regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who, with the approval of an appropriate official of the agency concerned, interrupts the travel assignment prior to its completion for a reason specified in subparagraph (A) or (B) of paragraph (1) of this subsection, may be allowed (subject to the limitation provided in subparagraph (B) of this paragraph)—

(i) reimbursement for expenses of transportation to the location where necessary medical services are provided or the emergency situation exists,

(ii) payments pursuant to subsection (a) of this section until that location is reached, and

(iii) such reimbursement and payments for return to such assignment.

(B) The reimbursement which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be the employee's actual costs of transportation to the location where necessary medical services are provided or the emergency exists, and return to assignment from such location, less the costs of transportation which the employee would have incurred had such travel begun and ended at the employee's des-

ignated post of duty or home or regular place of business, as the case may be. The payments which an employee may be allowed pursuant to subparagraph (A) of this paragraph shall be based on the additional time (if any) which was required for the employee's transportation as a consequence of the transportation's having begun and ended at a location on the travel assignment (rather than at the employee's designated post of duty, or home or regular place of business, as the case may be).

(3) Subject to the limitations contained in regulations prescribed pursuant to section 5707 of this title, an employee who is described in subsection (a) of this section and who interrupts the travel assignment prior to its completion because of an incapacitating illness or injury which is not due to the employee's own misconduct is entitled to payments pursuant to subsection (a) of this section at the location where the interruption occurred.

(c) This section does not apply to a justice or judge, except to the extent provided by section 456 of title 28. (Sept. 6, 1966, Pub. L. 89–554, 80 Stat. 498; Nov. 10, 1969, Pub. L. 91–114, § 1, 83 Stat. 190; May 19, 1975, Pub. L. 94–22, § 3, 89 Stat. 84; Aug. 14, 1979, Pub. L. 96–54, § 2(a)(36), 93 Stat. 383; Sept. 10, 1980, Pub. L. 96–346, § 1, 94 Stat. 1148; Pub. L. 99–234, § 102, Jan. 2, 1986, 99 Stat. 1756; Pub. L. 102–378, § 2(47), Oct. 2, 1992, 106 Stat. 1353.)

899 § 5704. Mileage and related allowances.

(a)(1) Under regulations prescribed under section 5707 of this title, an employee who is engaged on official business for the Government is entitled to a rate per mile established by the Administrator of General Services, instead of the actual expenses of transportation, for the use of a privately owned automobile when that mode of transportation is authorized or approved as more advantageous to the Government. In any year in which the Internal Revenue Service establishes a single standard mileage rate for optional use by taxpayers in computing the deductible costs of operating their automobiles for business purposes, the rate per mile established by the Administrator shall not exceed the single standard mileage rate established by the Internal Revenue Service.

(2) Under regulations prescribed under section 5707 of this title, an employee who is engaged on official business for the Government is entitled to a rate per mile established by the Administrator of General Services, instead of the actual expenses of transportation, for the use of privately owned airplane or a privately owned motorcycle when that mode of transportation is authorized or approved as more advantageous to the Government.

(b) A determination that travel by a privately owned vehicle is more advantageous to the Government is not required under subsection (a) of this section when payment on a mileage basis is limited to the cost of travel by common carrier including per diem.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, in any case in which an employee who is engaged on official business for the Government chooses to use a privately owned vehicle in lieu of a Government vehicle, payment on a mileage basis is limited to the cost of travel by a Government vehicle.

(d) In addition to the rate per mile authorized under subsection (a) of this section, the employee may be reimbursed for—

(1) parking fees;
(2) ferry fees;
(3) bridge, road, and tunnel costs; and
(4) airplane landing and tie-down fees.

(Sept. 6, 1966, Pub. L. 89–554, 80 Stat. 499; May 19, 1975, Pub. L. 94–22, § 5, 89 Stat. 85; Sept. 10, 1980, Pub. L. 96–346, § 2, 94 Stat. 1148; Sept. 30, 1994, Pub. L. 103–329, Title VI, § 634(a), 108 Stat. 2428.)

§ 5706. Allowable travel expenses. **900**

Except as otherwise permitted by this subchapter or by statutes relating to members of the uniformed services, only actual and necessary travel expenses may be allowed to an individual holding employment or appointment under the United States. (Sept. 6, 1966, Pub. L. 89–554, 80 Stat. 500.)

§ 5708. Effect on other statutes. **901**

This subchapter does not modify or repeal—

* * * * * * *

(2) any statute providing for mileage allowances for Members of Congress;

(3) any statute fixing or permitting rates higher than the maximum rates established under this subchapter; or

(4) any appropriation statute item for examination of estimates in the field. (Sept. 6, 1966, Pub. L. 89–554, 80 Stat. 500.)

§ 5742. Transportation of remains, dependents, and effects; death occurring away from official station or abroad. **902**

(a) For the purpose of this section, "agency" means—

* * * * * * *

(3) an agency in the legislative branch; and . . . .

(b) When an employee dies, the head of the agency concerned, under the regulations prescribed by the President and, except as otherwise provided by law, may pay from appropriations available for the activity in which the employee was engaged—

(1) the expense of preparing and transporting the remains to the home or official station of the employee, or such other place appropriate for interment as is determined by the head of the agency concerned, if death occurred while the employee was in a travel status away from his official station in the United States or while performing official duties outside the continental United States or in transit thereto or therefrom;

(2) the expense of transporting his dependents, including expenses of packing, crating, draying, and transporting household effects and other personal property to his former home or such other place as is determined by the head of the agency concerned, if death occurred while the employee was performing official duties outside the continental United States or in transit thereto or therefrom; and

(3) the travel expenses of not more than 2 persons to escort the remains of a deceased employee, if death occurred while the employee was in travel status away from his official station in the

United States or while performing official duties outside the United States or in transit thereto or therefrom, from the place of death to the home or official station of such person, or such other place appropriate for interment as is determined by the head of the agency concerned.

(Sept. 6, 1966, Pub. L. 89–554, 80 Stat. 507; Pub. L. 101–510; § 1206(d), Nov. 5, 1990, 104 Stat. 1661; Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681–210.)

Chapter 73.—SUITABILITY, SECURITY, AND CONDUCT

Subchapter II.—Employment Limitations

903 § 7311. Loyalty and striking.

An individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he—

(1) advocates the overthrow of our constitutional form of government;

(2) is a member of an organization that he knows advocates the overthrow of our constitutional form of government;

(3) participates in a strike, or asserts the right to strike, against the Government of the United States or the government of the District of Columbia; or

(4) is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the Government of the United States or the government of the District of Columbia. (Sept. 6, 1966, Pub. L. 89–554, 80 Stat. 524.)

Subchapter IV.—Foreign Gifts and Decorations

904 § 7342. Receipt and disposition of foreign gifts and decorations.

(a) For the purpose of this section—

(1) "employee" means—

(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the Postal Rate Commission;

(B) an expert or consultant who is under contract under section 3109 of this title with the United States or any agency, department, or establishment thereof, including, in the case of an organization performing services under such section, any individual involved in the performance of such services;

(C) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the government of the District of Columbia;

(D) a member of a uniformed service;

(E) the President and the Vice President;

(F) a Member of Congress as defined by section 2106 of this title (except the Vice President) and any Delegate to the Congress; and

(G) the spouse of an individual described in subparagraphs (A) through (F) (unless such individual and his or her spouse

are separated) or a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of such an individual, other than a spouse or dependent who is an employee under subparagraphs (A) through (F);

(2) "foreign government" means—

(A) any unit of foreign governmental authority, including any foreign national, State, local, and municipal government;

(B) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (A); and

(C) any agent or representative of any such unit or such organization, while acting as such;

(3) "gift" means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

(4) "decoration" means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government;

(5) "minimal value" means a retail value in the United States at the time of acceptance of $100 or less, except that—

(A) on January 1, 1981, and at 3-year intervals thereafter, "minimal value" shall be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period; and

(B) regulations of an employing agency may define "minimal value" for its employees to be less than the value established under this paragraph; and

(6) "employing agency" means—

(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e)(1), and (g)(2)(B) shall be carried out by the Clerk of the House;

(B) the Select Committee on Ethics of the Senate, for Senators and employees of the Senate, except that those responsibilities (other than responsibilities involving approval of the employing agency) specified in subsections (c)(2), (d), and (g)(2)(B) shall be carried out by the Secretary of the Senate;

(C) the Administrative Office of the United States Courts, for judges and judicial branch employees; and

(D) the department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees.

(b) An employee may not—

(1) request or otherwise encourage the tender of a gift or decoration; or

(2) accept a gift or decoration, other than in accordance with the provisions of subsections (c) and (d).

(c)(1) The Congress consents to—

(A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

(B) the accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that—

(i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States; and

(ii) an employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency and any regulations which may be prescribed by the employing agency.

(2) Within 60 days after accepting a tangible gift of more than minimal value (other than a gift described in paragraph (1)(B)(ii)), an employee shall—

(A) deposit the gift for disposal with his or her employing agency; or

(B) subject to the approval of the employing agency, deposit the gift with that agency for official use.

Within 30 days after terminating the official use of a gift under subparagraph (B), the employing agency shall forward the gift to the Administrator of General Services in accordance with subsection (e)(1) or provide for its disposal in accordance with subsection (e)(2).

(3) When an employee deposits a gift of more than minimal value for disposal or for official use pursuant to paragraph (2), or within 30 days after accepting travel or travel expenses as provided in paragraph (1)(B)(ii) unless such travel or travel expenses are accepted in accordance with specific instructions of his or her employing agency, the employee shall file a statement with his or her employing agency or its delegate containing the information prescribed in subsection (f) for that gift.

(d) The Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the employing agency of such employee. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within sixty days of acceptance, with the employing agency for official use, for forwarding to the Administrator of General Services for disposal in accordance with subsection (e)(1), or for disposal in accordance with subsection (e)(2).

(e)(1) Except as provided in paragraph (2), gifts and decorations that have been deposited with an employing agency for disposal shall be (A) returned to the donor, or (B) forwarded to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of subtitle I of Title 40 and Title III of the Federal Property and Administrative Services Act of 1949. However, no gift or decoration that has been deposited for disposal may be sold without the approval of the Secretary of State, upon a determination that the

sale will not adversely affect the foreign relations of the United States. Gifts and decorations may be sold by negotiated sale.

(2) Gifts and decorations received by a Senator or an employee of the Senate that are deposited with the Secretary of the Senate for disposal, or are deposited for an official use which has terminated, shall be disposed of by the Commission on Arts and Antiquities of the United States Senate. Any such gift or decoration may be returned by the Commission to the donor or may be transferred or donated by the Commission, subject to such terms and conditions as it may prescribe, (A) to an agency or instrumentality of (i) the United States, (ii) a State, territory, or possession of the United States, or a political subdivision of the foregoing, or (iii) the District of Columbia, or (B) to an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code. Any such gift or decoration not disposed of as provided in the preceding sentence shall be forwarded to the Administrator of General Services for disposal in accordance with paragraph (1). If the Administrator does not dispose of such gift or decoration within one year, he shall, at the request of the Commission, return it to the Commission and the Commission may dispose of such gift or decoration in such manner as it considers proper, except that such gift or decoration may be sold only with the approval of the Secretary of State upon a determination that the sale will not adversely affect the foreign relations of the United States.

(f)(1) Not later than January 31 of each year, each employing agency or its delegate shall compile a listing of all statements filed during the preceding year by the employees of that agency pursuant to subsection (c)(3) and shall transmit such listing to the Secretary of State who shall publish a comprehensive listing of all such statements in the Federal Register.

(2) Such listings shall include for each tangible gift reported—

(A) the name and position of the employee;

(B) a brief description of the gift and the circumstances justifying acceptance;

(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift;

(D) the date of acceptance of the gift;

(E) the estimated value in the United States of the gift at the time of acceptance; and

(F) disposition or current location of the gift.

(3) Such listings shall include for each gift of travel or travel expenses—

(A) the name and position of the employee;

(B) a brief description of the gift and the circumstances justifying acceptance; and

(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

(4) In transmitting such listings for the Central Intelligence Agency, the Director of Central Intelligence may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

(g)(1) Each employing agency shall prescribe such regulations as may be necessary to carry out the purpose of this section. For all employing agencies in the executive branch, such regulations shall be prescribed pursuant to guidance provided by the Secretary of State. These regulations shall be implemented by each employing agency for its employees.

(2) Each employing agency shall—

(A) report to the Attorney General cases in which there is reason to believe that an employee has violated this section;

(B) establish a procedure for obtaining an appraisal; when necessary, of the value of gifts; and

(C) take any other actions necessary to carry out the purpose of this section.

(h) The Attorney General may bring a civil action in any district court of the United States against any employee who knowingly solicits or accepts a gift from a foreign government not consented to by this section or who fails to deposit or report such gift as required by this section. The court in which such action is brought may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus $5,000.

(i) The President shall direct all Chiefs of a United States Diplomatic Mission to inform their host governments that it is a general policy of the United States Government to prohibit United States Government employees from receiving gifts or decorations of more than minimal value.

(j) Nothing in this section shall be construed to derogate any regulation prescribed by any employing agency which provides for more stringent limitations on the receipt of gifts and decorations by its employees.

(k) The provisions of this section do not apply to grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies. (Sept. 11, 1967, Pub. L. 90–83, § 1(45)(C), 81 Stat. 208; Aug. 17, 1977, Pub. L. 95–105, § 515, 91 Stat. 862; Oct. 7, 1978, Pub. L. 95–426, § 712(a)–(c), 92 Stat. 994; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 107–217, § 3(a), Aug. 21, 2002, 116 Stat. 1295.)

Chapter 81.—COMPENSATION FOR WORK INJURIES

905 §§ 8101—8152.

NOTE.—Since it is not feasible to reproduce in the Senate Manual all the pertinent provisions of law relating to compensation for work injuries sustained by employees of the Congress, reference only is made here to those provisions. *See* sections 8101–8152 of title 5, United States Code.

Chapters 83 and 84.—RETIREMENT

906 §§ 8331–8351, §§ 8401–8479, and sections 201–208 of the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983.

NOTE.—Since it is not feasible to reproduce in the Senate Manual all the pertinent provisions of law relating to retirement benefits of Members and employees of Congress, reference only is made here to those provisions. *See* subchapter III of chapter 83 of title 5, United States Code, and chapter 84 of such title (as added by the Federal Employees' Retirement System Act of 1986; Pub. L. 99–335, 100 Stat. 514).

Chapter 87.—LIFE INSURANCE

§§ 8701–8716. 907

NOTE.—Since it is not feasible to reproduce in the Senate Manual all the pertinent provisions of law relating to group life insurance for Members and employees of Congress, reference only is made here to those provisions. *See* sections 8701–8716 of title 5, United States Code.

Chapter 89.—HEALTH INSURANCE

§§ 8901–8914. 908

NOTE.—Since it is not feasible to reproduce in the Senate Manual all the pertinent provisions of law relating to health benefits of Members and employees of Congress, reference only is made here to those provisions. *See* sections 8901–8914 of title 5, United States Code.

APPENDIX 2

FEDERAL ADVISORY COMMITTEE ACT 909

(Oct. 6, 1972, Pub. L. 92–463, 86 Stat. 770; Sept. 13, 1976, Pub. L. 94–409, § 5(c), 90 Stat. 1247; Dec. 12, 1980, Pub. L. 96–523, § 2, 94 Stat. 3040; Dec. 21, 1982, Pub. L. 97–375, § 201(c), 96 Stat. 1822; 1977 Reorg. Plan No. 1, Sec. 5F, Nov. 20, 1977, 42 F.R. 56101, 91 Stat. 1634).

DEFINITIONS

SEC. 3. For the purpose of this Act—

(1) The term "Administrator" means the Administrator of General Services.

(2) The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof (hereafter in this paragraph referred to as "committee"), which is—

(A) established by statute or reorganization plan, or

(B) established or utilized by the President, or

(C) established or utilized by one or more agencies,

in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government, except that such term excludes (i) any committee that is composed wholly of full-time, or permanent part-time, officers or employees of the Federal Government, and (ii) any committee that is created by the National Academy of Sciences or the National Academy of Public Administration.

(3) The term "agency" has the same meaning as in section 551(1) of title 5, United States Code.

(4) The term "Presidential advisory committee" means an advisory committee which advises the President.

APPLICABILITY

SEC. 4. (a) The provisions of this Act or of any rule, order, or regulation promulgated under this Act shall apply to each advisory committee except to the extent that any Act of Congress establishing any such advisory committee specifically provides otherwise.

(b) Nothing in this Act shall be construed to apply to any advisory committee established or utilized by—

(1) the Central Intelligence Agency; or

(2) the Federal Reserve System.

(c) Nothing in this Act shall be construed to apply to any local civic group whose primary function is that of rendering a public service with respect to a Federal program, or any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies.

RESPONSIBILITIES OF CONGRESSIONAL COMMITTEES

SEC. 5. (a) In the exercise of its legislative review functions, each standing committee of the Senate and the House of Representatives shall make a continuing review of the activities of each advisory committee under its jurisdiction to determine whether such advisory committee should be abolished or merged with any other advisory committee, whether the responsibilities of such advisory committee should be revised, and whether such advisory committee performs a necessary function not already being performed. Each such standing committee shall take appropriate action to obtain the enactment of legislation necessary to carry out the purpose of this subsection.

(b) In considering legislation establishing, or authorizing the establishment of any advisory committee, each standing committee of the Senate and of the House of Representatives shall determine, and report such determination to the Senate or to the House of Representatives, as the case may be, whether the functions of the proposed advisory committee are being or could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee. Any such legislation shall—

(1) contain a clearly defined purpose for the advisory committee;

(2) require the membership of the advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee;

(3) contain appropriate provisions to assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee's independent judgement;

(4) contain provisions dealing with authorization of appropriations, the date for submission of reports (if any), the duration of the advisory committee, and the publication of reports and other materials, to the extent that the standing committee determines the provisions of section 10 of this Act to be inadequate; and

(5) contain provisions which will assure that the advisory committee will have adequate staff (either supplied by an agency or employed by it), will be provided adequate quarters, and will have funds available to meet its other necessary expenses.

(c) To the extent they are applicable, the guidelines set out in subsection (b) of this section shall be followed by the President, agency heads, or other Federal officials in creating an advisory committee.

* * * * * * *

ESTABLISHMENT AND PURPOSE OF ADVISORY COMMITTEES

SEC. 9. (a) No advisory committee shall be established unless such establishment is—

(1) specifically authorized by statute or by the President; or

(2) determined as a matter of formal record, by the head of the agency involved after consultation with the Administrator, with timely notice published in the Federal Register, to be in the public interest in connection with the performance of duties imposed on that agency by law.

(b) Unless otherwise specifically provided by statute or Presidential directive, advisory committees shall be utilized solely for advisory functions. Determinations of action to be taken and policy to be expressed with respect to matters upon which an advisory committee reports or makes recommendations shall be made solely by the President or an officer of the Federal Government.

(c) No advisory committee shall meet or take any action until an advisory committee charter has been filed with (1) the Administrator, in the case of Presidential advisory committees, or (2) with the head of the agency to whom any advisory committee reports and with the standing committees of the Senate and of the House of Representatives having legislative jurisdiction of such agency. Such charter shall contain the following information:

(A) the committee's official designation;

(B) the committee's objectives and the scope of its activity;

(C) the period of time necessary for the committee to carry out its purposes;

(D) the agency or official to whom the committee reports;

(E) the agency responsible for providing the necessary support for the committee;

(F) a description of the duties for which the committee is responsible, and, if such duties are not solely advisory, a specification of the authority for such functions;

(G) the estimated annual operating costs in dollars and man-years for such committee;

(H) the estimated number and frequency of committee meetings;

(I) the committee's termination date, if less than two years from the date of the committee's establishment; and

(J) the date the charter is filed.

A copy of any such charter shall also be furnished to the Library of Congress.

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(Oct. 6, 1972, Pub. L. 92–463, 86 Stat. 770; 1997 Reorg. Plan No. 1 § 5F; 91 Stat. 1634.)

APPENDIX 4

FINANCIAL DISCLOSURE REQUIREMENTS OF FEDERAL PERSONNEL

§ 101. Persons required to file. 910

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

(b)(1) Within five days of the transmittal by the President to the Senate of the nomination of an individual (other than an individual

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

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

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

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

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

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

(1) the President;

(2) the Vice President;

(3) each officer or employee in the executive branch, including a special Government employee as defined in section 202 of title 18, United States Code, who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not

under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule; each member of a uniformed service whose pay grade is at or in excess of O–7 under section 201 of title 37, United States Code; and each officer or employee in any other position determined by the Director of the Office of Government Ethics to be of equal classification;

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

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

(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service or Postal Rate Commission who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule;

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

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

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

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

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

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

(g)(1) Reasonable extensions of time for filing any report may be granted under procedures prescribed by the supervising ethics office for each branch, but the total of such extensions shall not exceed ninety days.

(2)(A) In the case of an individual who is serving in the Armed Forces, or serving in support of the Armed Forces, in an area while that area is designated by the President by Executive order as a combat zone for purposes of section 112 of the Internal Revenue Code of 1986, the date for the filing of any report shall be extended so that the date is 180 days after the later of—

(i) the last day of the individual's service in such area during such designated period; or

(ii) the last day of the individual's hospitalization as a result of injury received or disease contracted while serving in such area.

(B) The Office of Government Ethics, in consultation with the Secretary of Defense, may prescribe procedures under this paragraph.

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

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

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

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

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

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

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

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

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

(Pub. L. 95–521, Title I, § 101, Oct. 26, 1978, 92 Stat. 1824; Pub. L. 96–19, §§ 2(a)(1), (b), (c)(1), 4(b)(1), (d)–(f), 5, June 13, 1979, 93 Stat. 37, 38, 40; Pub. L. 101–194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1725; Pub. L. 101–280, § 3(1), (2), May 4, 1990, 104 Stat. 152; Pub. L. 102–25, Title VI, § 605(a), Apr. 6, 1991, 105 Stat. 110; Pub. L. 102–378, § 4(a)(1), Oct. 2, 1992, 106 Stat. 1356.)

911 § 102. Contents of reports.

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

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

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

(i) not more than $1,000,

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

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

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

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

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

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

(viii) greater than $1,000,000 but not more than $5,000,000, or

(ix) greater than $5,000,000.

(2)(A) The identity of the source, a brief description, and the value of all gifts aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater, received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of an individual need not be reported, and any gift with a fair market value of $100 or less, as adjusted at the same time and by the same percentage as the minimal value is adjusted, need not be aggregated for purposes of this subparagraph.

(B) The identity of the source and a brief description (including a travel itinerary, dates, and nature of expenses provided) of reimbursements received from any source aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater and received during the preceding calendar year.

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

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

(4) The identity and category of value of the total liabilities owed to any creditor other than a spouse, or a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse which exceed $10,000 at any time during the preceding calendar year, excluding—

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) The category of the total cash value of any interest of the reporting individual in a qualified blind trust, unless the trust instrument was executed prior to July 24, 1995 and precludes the beneficiary from receiving information on the total cash value of any interest in the qualified blind trust.

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

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

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

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

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

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

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

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

(A) not more than $15,000;

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

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

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

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

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

(G) greater than $1,000,000 but not more than $5,000,000;

(H) greater than $5,000,000 but not more than $25,000,000;

(I) greater than $25,000,000 but not more than $50,000,000; and

(J) greater than $50,000,000.

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

market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

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

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

(B) All information required to be reported in subsection (a)(1)(B) with respect to income derived by a spouse or dependent child from any asset held by the spouse or dependent child and reported pursuant to subsection (a)(3).

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

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

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

(F) For purposes of this section, categories with amounts or values greater than $1,000,000 set forth in sections 102(a)(1)(B) and 102(d)(1) shall apply to the income, assets, or liabilities of spouses and dependent children only if the income, assets, or liabilities are held jointly with the reporting individual. All other income, assets, or liabilities of the spouse or dependent children required to be reported under this section in an amount or value greater than $1,000,000 shall be categorized only as an amount or value greater than $1,000,000.

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

(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect

to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

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

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

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

(B) a trust—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(E) For purposes of this subsection, "interested party" means a reporting individual, his spouse, and any minor or dependent child; "broker" has the meaning set forth in section 3(a)(4) of the Securities

and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and "investment adviser" includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts.

(F) Any trust qualified by a supervising ethics office before the effective date of title II of the Ethics Reform Act of 1989 shall continue to be governed by the law and regulations in effect immediately before such effective date.

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

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

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

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

(III) the trust instrument prohibits the trustee, notwithstanding the provisions of paragraph (3)(C) (iii) and (iv) of this subsection, from making public or informing any interested party of the sale of any securities;

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

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

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

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

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

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

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

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

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

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

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

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

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

(6)(A) A trustee of a qualified blind trust shall not knowingly and willfully, or negligently, (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

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

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

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

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

(A) the trust instrument is amended to comply with the requirements of paragraph (3) or, in the case of a trust instrument which

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

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

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

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

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

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

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

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

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

(i) a reporting individual shall not be required under this title to report—

(1) financial interests in or income derived from—

(A) any retirement system under title 5, United States Code (including the Thrift Savings Plan under subchapter III of chapter 84 of such title); or

(B) any other retirement system maintained by the United States for officers or employees of the United States, including the President, or for members of the uniformed services; or

(2) benefits received under the Social Security Act.

(Pub. L. 95–521, Title I, § 102, Oct. 26, 1978, 92 Stat. 1825; Pub. L. 96–19, §§ 3(a)(1), (b), 6(a), 7(a)–(d)(1), (f), 9(b), (c)(1), (j), June 13, 1979, 93 Stat. 39–43; Pub. L. 97–51, § 130(b), Oct. 1, 1981, 95 Stat. 966; Pub. L. 98–150, § 10, Nov. 11, 1983, 97 Stat. 962; Pub. L. 101–194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1727; Pub. L. 101–280, § 3(3), May 4, 1990, 104 Stat. 152; Pub. L. 102–90, Title III, § 314(a), Aug. 14, 1991, 105 Stat. 469; Pub. L. 104–65, §§ 20, 22(a), (b), Dec. 19, 1995, 109 Stat. 704, 705.)

912 § 103. Filing of reports.

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

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

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

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

(e) Each individual identified in section 101(c) who is a candidate for nomination or election to the Office of President or Vice President shall file the reports required by this title with the Federal Election Commission.

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

(g) Each supervising ethics office shall develop and make available forms for reporting the information required by this title.

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

(A)(i)(I) the Clerk of the House of Representatives, in the case of a Representative in Congress, a Delegate to Congress, the Resident Commissioner from Puerto Rico, an officer or employee of the Congress whose compensation is disbursed by the Chief Administrative Officer of the House of Representatives, an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the Congressional Budget Office, the Government Printing Office, the Library of Congress, or the Copyright Royalty Tribunal (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico; and

(II) the Secretary of the Senate, in the case of a Senator, an officer or employee of the Congress whose compensation is disbursed by the Secretary of the Senate, an officer or employee of the General Accounting Office, the Office of Technology Assessment, or the Office of the Attending Physician (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Senator; and

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

(I) the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, as designated in the statute establishing such agency or commission; or

(II) if such statute does not designate such committee, the Secretary of the Senate for agencies and commissions established in even numbered calendar years, and the Clerk of the House of Representatives for agencies and commissions established in odd numbered calendar years; and

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

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

(i) A copy of each report filed under this title by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk of the House of Representatives or Secretary of the Senate, as the case may be, to the appropriate State officer designated under section 316(a) of the Federal Election Campaign Act of 1971 of the State represented by the Member or in which the individual is a candidate, as the case may be, within the 30-day period beginning on the day the report is filed with the Clerk or Secretary.

(j)(1) A copy of each report filed under this title with the Clerk of the House of Representatives shall be sent by the Clerk to the Committee on Standards of Official Conduct of the House of Representatives within the 7-day period beginning on the day the report is filed.

(2) A copy of each report filed under this title with the Secretary of the Senate shall be sent by the Secretary to the Select Committee on Ethics of the Senate within the 7-day period beginning on the day the report is filed.

(k) In carrying out their responsibilities under this title with respect to candidates for office, the Clerk of the House of Representatives and the Secretary of the Senate shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis a complete list of names and addresses of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible. (Pub. L. 95–521, Title I, § 103, Oct. 26, 1978, 92 Stat. 1831; Pub. L. 96–19, §§ 4(b)(2), 9(a), June 13, 1979, 93 Stat.

40, 42; Pub. L. 101–194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1736; Pub. L. 101–280, § 3(1), (4), May 4, 1990, 104 Stat. 152, 153; Pub. L. 102–90, Title III, § 313(1), Aug. 14, 1991, 105 Stat. 469; Pub. L. 104–186, Title II, § 216(1), Aug. 20, 1996, 110 Stat. 1747.)

913 § 104. Failure to file or filing false reports.

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

(b) The head of each agency, each Secretary concerned, the Director of the Office of Government Ethics, each congressional ethics committee, or the Judicial Conference, as the case may be, shall refer to the Attorney General the name of any individual which such official or committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported. Whenever the Judicial Conference refers a name to the Attorney General under this subsection, the Judicial Conference also shall notify the judicial council of the circuit in which the named individual serves of the referral.

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

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

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

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

shall, at the direction of and pursuant to regulations issued by the supervising ethics office, pay a filing fee of $200. All such fees shall be deposited in the miscellaneous receipts of the Treasury. The authority under this paragraph to direct the payment of a filing fee may be delegated by the supervising ethics office in the executive branch to other agencies in the executive branch.

(2) The supervising ethics office may waive the filing fee under this subsection in extraordinary circumstances. (Pub. L. 95–521, Title I, § 104, Oct. 26, 1978, 92 Stat. 1832; Pub. L. 96–19, § 8(a), June 13, 1979, 93 Stat. 41; Pub. L. 101–194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1737; Pub. L. 101–280, § 3(1), (5), May 4, 1990, 104 Stat. 152, 154; Pub. L. 101–650, Title IV, § 405, Dec. 1, 1990, 104 Stat. 5124.)

914 § 105. Custody of and public access to reports.

(a) Each agency, each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall make available to the public, in accordance

with subsection (b), each report filed under this title with such agency or office or with the Clerk or the Secretary of the Senate, except that—

(1) this section does not require public availability of a report filed by any individual in the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds or has found that, due to the nature of the office or position occupied by such individual, public disclosure of such report would be revealing the identity of the individual or other sensitive information, compromise the national interest of the United States; and such individuals may be authorized, notwithstanding section 104(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds or has found that such filing is necessary in the national interest; and

(2) any report filed by an independent counsel whose identity has not been disclosed by the division of the court under chapter 40 of title 28, United States Code, and any report filed by any person appointed by that independent counsel under such chapter, shall not be made available to the public under this title.

(b)(1) Except as provided in the second sentence of this subsection, each agency, each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall, within thirty days after any report is received under this title by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be, permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101(g). The agency, office, Clerk, or Secretary of the Senate, as the case may be, may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

(3)(A) This section does not require the immediate and unconditional availability of reports filed by an individual described in section 109(8) or 109(10) of this Act if a finding is made by the Judicial Conference, in consultation with United States Marshall Service, that revealing personal and sensitive information could endanger that individual.

(B) A report may be redacted pursuant to this paragraph only—

(i) to the extent necessary to protect the individual who filed the report; and

(ii) for as long as the danger to such individual exists.

(C) The Administrative Office of the United States Courts shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate an annual report with respect to the operation of this paragraph including—

(i) the total number of reports redacted pursuant to this paragraph;

(ii) the total number of individuals whose reports have been redacted pursuant to this paragraph; and

(iii) the types of threats against individuals whose reports are redacted, if appropriate.

(D) The Judicial Conference, in consultation with the Department of Justice, shall issue regulations setting forth the circumstances under which redaction is appropriate under this paragraph and the procedures for redaction.

(E) This paragraph shall expire on December 31, 2005, and apply to filings through calendar year 2005.

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

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

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

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

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

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

(A) for any unlawful purpose;

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

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

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

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

(d) Any report filed with or transmitted to an agency or supervising ethics office or to the Clerk of the House of Representatives or the Secretary of the Senate pursuant to this title shall be retained by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be. Such report shall be made available to the public for a period of six years after receipt of the report. After such six-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such report shall be destroyed one year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation. (Pub. L. 95–521, Title I, § 105, Oct. 26, 1978, 92 Stat. 1833; Pub. L. 101–194, Title II, § 202, Nov. 30, 1989,

103 Stat. 1737; Pub. L. 101–280, § 3(6), May 4, 1990, 104 Stat. 154; Pub. L. 102–90, Title III, § 313(2), Aug. 14, 1991, 105 Stat. 469; Pub. L. 103–359, Title V, § 501(m), Oct. 14, 1994, 108 Stat. 3430; Pub. L. 104–201, Div. A, Title XI, § 1122(b)(2), Sept. 23, 1996, 110 Stat. 2687; Pub. L. 105–318, § 7, Oct. 30, 1998, 112 Stat. 3011; Pub. L. 107–126, Jan. 16, 2002, 115 Stat. 2404.)

§ 106. Review of reports. **915**

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

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

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

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

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

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

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

(A) divestiture,

(B) restitution,

(C) the establishment of a blind trust,

(D) request for an exemption under section 208(b) of title 18, United States Code, or

(E) voluntary request for transfer, reassignment, limitation of duties, or resignation.

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

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

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

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

(7) Each supervising ethics office may render advisory opinions interpreting this title within its respective jurisdiction. Notwithstanding any other provision of law, the individual to whom a public advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any penalty or sanction provided by this title. (Pub. L. 95–521, Title I, § 106, Oct. 26, 1978, 92 Stat. 1833; Pub. L. 101–194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1739; Pub. L. 101–280, § 3(1), (7), May 4, 1990, 104 Stat. 152, 155.)

916 § 107. Confidential reports and other additional requirements.

(a)(1) Each supervising ethics office may require officers and employees under its jurisdiction (including special Government employees as defined in section 202 of title 18, United States Code) to file confidential financial disclosure reports, in such form as the supervising ethics office may prescribe. The information required to be reported under this subsection by the officers and employees of any department or agency shall be set forth in rules or regulations prescribed by the supervising ethics office, and may be less extensive than otherwise required by this title, or more extensive when determined by the supervising ethics office to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, or the authorized activities of such officers or employees. Any individual required to file a report pursuant to section 101 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title. Subsections (a), (b), and (d) of section 105 shall not apply with respect to any such report.

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

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

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

(c) Nothing in this Act requiring reporting of information shall be deemed to authorize the receipt of income, gifts, or reimbursements; the holding of assets, liabilities, or positions; or the participation in transactions that are prohibited by law, Executive order, rule, or regulation. (Pub. L. 95–521, Title I, § 107, Oct. 26, 1978, 92 Stat. 1834; Pub. L. 96–19, § 9(d), (g), June 13, 1979, 93 Stat. 42, 43; Pub. L. 101–194, Title II, § 202 Nov. 30, 1989, 103 Stat. 1740.)

§ 108. Authority of Comptroller General. **917**

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

(b) No later than December 31, 1992, and regularly thereafter, the Comptroller General shall conduct a study to determine whether the provisions of this title are being carried out effectively. (Pub. L. 95–521, Title I, § 108, Oct. 26, 1978, 92 Stat. 1835; Pub. L. 96–19, § 9(t), June 13, 1979, 93 Stat. 44; Pub. L. 101–194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1741.)

§ 109. Definitions. **918**

For the purposes of this title, the term—

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

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

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

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

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

(4) "executive branch" includes each Executive agency (as defined in section 105 of title 5, United States Code), other than the General Accounting Office, and any other entity or administrative unit in the executive branch;

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

(A) bequest and other forms of inheritance;

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

(C) food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

(D) food and beverages which are not consumed in connection with a gift of overnight lodging;

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

(F) consumable products provided by home-State businesses to the offices of a reporting individual who is an elected official, if those products are intended for consumption by persons other than such reporting individual;

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

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

(8) "judicial employee" means any employee of the judicial branch of the Government, of the United States Sentencing Commission, of the Tax Court, of the Court of Federal Claims, of the Court of Appeals for Veterans Claims, or of the United States Court of Appeals for the Armed Forces, who is not a judicial officer and who is authorized to perform adjudicatory functions with respect to proceedings in the judicial branch, or who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule;

(9) "Judicial Conference" means the Judicial Conference of the United States;

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

(11) "legislative branch" includes—

(A) the Architect of the Capitol;

(B) the Botanic Gardens;

(C) the Congressional Budget Office;

(D) the General Accounting Office;

(E) the Government Printing Office;

(F) the Library of Congress;

(G) the United States Capitol Police;

(H) the Office of Technology Assessment; and

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

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

(13) "officer or employee of the Congress" means—

(A) any individual described under subparagraph (B), other than a Member of Congress or the Vice President, whose compensation is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives;

(B)(i) each officer or employee of the legislative branch who, for at least 60 days, occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule; and

(ii) at least one principal assistant designated for purposes of this paragraph by each Member who does not have an employee who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule;

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

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

(A) provided by the United States Government, the District of Columbia, or a State or local government or political subdivision thereof;

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

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

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

(17) "Secretary concerned" has the meaning set forth in section 101(a)(9) of title 10, United States Code, and, in addition, means—

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

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

(C) the Secretary of State, with respect to matters concerning the Foreign Service;

(18) "supervising ethics office" means—

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

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

(C) the Judicial Conference for judicial officers and judicial employees; and

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

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

(Pub. L. 95–521, Title I, § 109, Oct. 26, 1978, 92 Stat. 1836; Pub. L. 101–194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1724; Pub. L. 101–280, § 3(1), (8), May 4, 1990, 104 Stat. 152, 155; Pub. L. 102–378, § 4(a)(2), Oct. 2, 1992, 106 Stat. 1357; Pub. L. 102–572, Title IX, § 902(b)(2), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 103–160, Div. A, Title XI, § 1182(d)(3), Nov. 30, 1993, 107 Stat. 1773; Pub. L. 103–337, Div. A, Title IX, § 924(d)(3), Oct. 5, 1994, 108 Stat. 2832; Pub. L. 104–186, Title II, § 216(2), Aug. 20, 1996, 110 Stat. 1747; Pub. L. 105–368, Nov. 11, 1998, 112 Stat. 3342.)

919 § 110. Notice of actions taken to comply with ethics agreements.

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

(b) If an agreement described in subsection (a) requires that the individual recuse himself or herself from particular categories of agency or other official action, the individual shall reduce to writing those subjects regarding which the recusal agreement will apply and the process by which it will be determined whether the individual must recuse himself or herself in a specific instance. An individual shall be considered

to have complied with the requirements of subsection (a) with respect to such recusal agreement if such individual files a copy of the document setting forth the information described in the preceding sentence with such individual's designated agency ethics official or the appropriate supervising ethics office within the time prescribed in the last sentence of subsection (a). (Pub. L. 101–194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1744, amended Pub. L. 101–280, § 3(1), May 4, 1990, 104 Stat. 152.)

§ 111. Administration of provisions. **920**

The provisions of this title shall be administered by—

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

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

(3) the Judicial Conference in the case of an officer or employee described in paragraphs (11) and (12) of section 101(f).

The Judicial Conference may delegate any authority it has under this title to an ethics committee established by the Judicial Conference. (Pub. L. 95–521, Title I, § 111, as added Pub. L. 101–194, Title II, § 202, Nov. 30, 1989, 103 Stat. 1744, amended Pub. L. 101–280, § 3(1), (9), May 4, 1990, 104 Stat. 152, 157.)

§ 112. Repealed. (Pub.L. 101–280, § 3(10)(A), May 4, 1990, 104 Stat. 157.) **921**

GOVERNMENTWIDE LIMITATIONS ON OUTSIDE EARNED INCOME AND EMPLOYMENT

§ 501. Outside earned income limitation. **922**

(a) OUTSIDE EARNED INCOME LIMITATION.—

(1) Except as provided by paragraph (2), a Member or an officer or employee who is a noncareer officer or employee and who occupies a position classified above GS–15 of the General Schedule, or in the case of positions not under the General Schedule, for which the rate of work pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule, may not in any calendar year have outside earned income attributable to such calendar year which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year.

(2) In the case of any individual who during a calendar year becomes a Member or an officer or employee who is a noncareer officer or employee and who occupies a position classified above GS–15 of the General Schedule, or in the case of positions not under the General Schedule, for which the rate of work pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule, such individual may not have outside earned income attributable to the portion

of that calendar year which occurs after such individual becomes a Member or such an officer or employee which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year multiplied by a fraction the numerator of which is the number of days such individual is a Member or such officer or employee during such calendar year and the denominator of which is 365.

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

(c) TREATMENT OF CHARITABLE CONTRIBUTIONS.—Any honorarium which, except for subsection (b), might be paid to a Member, officer or employee, but which is paid instead on behalf of such Member, officer or employee to a charitable organization, shall be deemed not to be received by such Member, officer or employee. No such payment shall exceed $2,000 or be made to a charitable organization from which such individual or a parent, sibling, spouse, child, or dependent relative of such individual derives any financial benefit. (Pub. L. 95–521, Title V, Oct. 26, 1978, 92 Stat. 1864, as amended Pub. L. 101–194, Title VI § 601(a), Nov. 30, 1989, 103 Stat. 1760; Pub. L. 101–280, § 7(a), May 4, 1990, 104 Stat. 161; Pub. L. 102–378, § 4(b)(1), (2), Oct. 2, 1992, 106 Stat. 1357.)

923 § 502. Limitations on outside employment.

(a) LIMITATIONS.—A Member or an officer or employee who is a noncareer officer or employee and who occupies a position classified above GS–15 of the General Schedule, or in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule, shall not—

(1) receive compensation for affiliating with or being employed by a firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship;

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

(3) receive compensation for practicing a profession which involves a fiduciary relationship;

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

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

(b) TEACHING COMPENSATION OF JUSTICES AND JUDGES RETIRED FROM REGULAR ACTIVE SERVICE.—For purposes of the limitation under section 501(a), any compensation for teaching approved under subsection (a)(5) of this section shall not be treated as outside earned income—

(1) when received by a justice of the United States retired from regular active service under section 371(b) of title 28, United States Code;

(2) when received by a judge of the United States retired from regular active service under section 371(b) of title 28, United States Code, for teaching performed during any calendar year for which such judge has met the requirements of subsection (f) of section

371 of title 28, United States Code, as certified in accordance with such subsection; or

(3) when received by a justice or judge of the United States retired from regular active service under section 372(a) of title 28, United States Code.

(Pub. L. 95–521, Title V, Oct. 26, 1978, 92 Stat. 1864, as amended Pub. L. 101–194, Title VI § 601(a), Nov. 30, 1989, 103 Stat. 1760; Pub. L. 101–280, § 7(a)(1),(b), May 4, 1990, 104 Stat. 161; Pub. L. 101–650, Title III, § 319, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 102–198, § 6, Dec. 9, 1991, 105 Stat. 1624; Pub. L. 102–378, § 4(b) (1), (2), Oct. 2, 1992, 106 Stat. 1357.)

§ 503. Administration. **924**

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

(1) and administered by—

(A) the Committee on Standards of Official Conduct of the House of Representatives, with respect to Members, officers, and employees of the House of Representatives; and

(B) in the case of Senators and legislative branch officers and employees other than those officers and employees specified in subparagraph (A), the committee to which reports filed by such officers and employees under title I are transmitted under such title, except that the authority of this section may be delegated by such committee with respect to such officer and employees;

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

(3) and administered by the Judicial Conference of the United States (or such other agency as it may designate) with respect to officers and employees of the judicial branch. (Pub. L. 95–521, Title V, Oct. 26, 1978, 92 Stat. 1864, as amended Pub. L. 101–194, Title VI, § 601(a), Nov. 30, 1989, 103 Stat. 1761; Pub. L. 101–280, § 7(c), May 4, 1990, 104 Stat. 161; Pub. L. 102–90, Title I, § 6(b)(1), Aug. 14, 1991, 105 Stat. 450.)

§ 504. Civil penalties. **925**

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

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

(Pub. L. 95–521, Title V, Oct. 26, 1978, 92 Stat. 1864, as amended Pub. L. 101–194, Title VI, § 601(a), Nov. 30, 1989, 103 Stat. 1761.)

926 § 505. Definitions.

For purposes of this title:

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

(2) The term "officer or employee" means an officer or employee of the Government except any special Government employee (as defined in section 202 of title 18, United States Code).

(3) The term "honorarium" means a payment of money or anything of value for an appearance, speech or article (including a series of appearances, speeches, or articles if the subject matter is directly related to the individual's official duties or the payment is made because of the individual's status with the Government) by a Member, officer or employee, excluding any actual and necessary travel expenses incurred by such individual (and one relative) to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that such expenses are not paid or reimbursed.

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

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

(Pub. L. 95–521, Title V, Oct. 26, 1978, 92 Stat. 1864, as amended Pub. L. 101–194, Title VI, § 601(a), Nov. 30, 1989, 103 Stat. 1761; Pub. L. 102–90, Title I, § 6(b)(2), (3), Title III, § 314(b), Aug. 14, 1991, 105 Stat. 450, 469.)

TITLE 10.—ARMED FORCES

Chapter 2.—DEPARTMENT OF DEFENSE

* * * * * * *

§ 114. Annual authorization of appropriations. **930**

(a) No funds may be appropriated for any fiscal year to or for the use of any armed force or obligated or expended for—

(1) procurement of aircraft, missiles, or naval vessels;

(2) any research, development, test, or evaluation, or procurement or production related thereto;

(3) procurement of tracked combat vehicles;

(4) procurement of other weapons;

(5) procurement of naval torpedoes and related support equipment;

(6) military construction;

(7) the operation and maintenance of any armed force or of the activities and agencies of the Department of Defense (other than the military departments);

(8) procurement of ammunition; or

(9) other procurement by any armed force or by the activities and agencies of the Department of Defense (other than the military departments);

unless funds therefore have been specifically authorized by law.

(b) In subsection (a)(6), the term "military construction" includes any construction, development, conversion, or extension of any kind which is carried out with respect to any military facility or installation (including any Government-owned or Government-leased industrial facility used for the production of defense articles and any facility to which section 2353 of this title applies), any activity to which section 2807 of this title applies, any activity to which chapter 1803 of this title applies, and advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23. Such term does not include any activity to which section 2821 or 2854 of this title applies.

(c)(1) The size of the Special Defense Acquisition Fund established pursuant to chapter 5 of the Arms Export Control Act (22 U.S.C. 2795 et seq.) may not exceed $1,070,000,000.

(2) Notwithstanding section 37(a) of the Arms Export Control Act (22 U.S.C. 2777(a)), amounts received by the United States pursuant to subparagraph (A) of section 21(a)(1) of that Act (22 U.S.C. 2761(a)(1)—

(A) shall be credited to the Special Defense Acquisition Fund established pursuant to chapter 5 of that Act (22 U.S.C. 2795 et seq.), as authorized by section 51(b)(1) of that Act (22 U.S.C. 2795(b)(1)), but subject to the limitation in paragraph (1) and other applicable law; and

(B) to the extent not so credited, shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31.

(d) Funds may be appropriated for the armed forces for use as an emergency fund for research, development, test, and evaluation, or re-

lated procurement or production, only if the appropriation of the funds is authorized by law after June 30, 1966.

(e) In each budget submitted by the President to Congress under section 1105 of title 31, amounts requested for procurement of equipment for the reserve components of the armed forces (including the National Guard) shall be set forth separately from other amounts requested for procurement for the armed forces.

(f) In each budget submitted by the President to Congress under section 1105 of title 31, amounts requested for procurement of ammunition for the Navy and Marine Corps, and for procurement of ammunition for the Air Force, shall be set forth separately from other amounts requested for procurement.

(Added Nov. 16, 1973, P.L. 93–155, Title VIII, § 803(a), 87 Stat. 612; Oct. 7, 1975, P.L. 94–106, Title VIII, § 801(a), 89 Stat. 537; July 14, 1976, P.L. 94–361, Title III, § 302, 90 Stat. 924; Nov. 9, 1979, P.L. 96–107, Title III, § 303(b), 93 Stat. 806; Sept. 8, 1980, P.L. 96–342, Title X, § 1001(a)(1), (b), (c), (d)(1), 94 Stat. 1117; Dec. 12, 1980, P.L. 96–513, Title I, § 102, Title V, Part B, § 511(4), 94 Stat. 2840, 2920; July 10, 1981, P.L. 97–22, § 2(b), 95 Stat. 124; Dec. 1, 1981, P.L. 97–86, Title III, § 302, Title IX, §§ 901(a), 902, 903, 95 Stat. 1104, 1113; Dec. 29, 1981, P.L. 97–113, Title I, § 108(b), 95 Stat. 1524; July 12, 1982, P.L. 97–214, § 4, 96 Stat. 170; Sept. 8, 1982, P.L. 97–252, Title IV, § 402(a), Title XI, §§ 1103, 1105, 96 Stat. 725, 738; Oct. 12, 1982, P.L. 97–295, § 1(3), (4), 96 Stat. 1289; Oct. 19, 1984, P.L. 98–525, Title XIV, § 1405(2), 98 Stat. 2621; Nov. 8, 1985, P.L. 99–145, Title XII, Part A, § 1208, Title XIV, Part A, § 1403, 99 Stat. 723, 743; Oct. 1, 1986, P.L. 99–433, Title I, §§ 101(a)(2) in part, 110(b), 100 Stat. 994, 1002; Nov. 14, 1986, P.L. 99–661, Div. A, Title I, Part A, § 105(d), Title XIII, Part A, § 1304(a), 100 Stat. 3827, 3979; Apr. 21, 1987, P.L. 100–26, § 7(j)(1), 101 Stat. 282; Dec. 4, 1987, P.L. 100–180, Div. A, Title XII, Part A, § 1203, 101 Stat. 1154; Nov. 29, 1989, P.L. 101–189, Div. A, Title XVI, Part A, § 1602(b), 103 Stat. 1597; Nov. 5, 1990, P.L. 101–510, Div. A, Title XIV, Part H, § 1481(a)(1), 104 Stat. 1704; Feb. 10, 1996, P.L. 104–106, Div. A, Title XV, § 1501(c)(2), 110 Stat. 498; Sept. 23, 1996, P.L. 104–201, Div. A, Title X, Subtitle A, § 1005, 110 Stat. 2632.)

931 § 115. Personnel strengths: requirement for annual authorization.

(a) Congress shall authorize personnel strength levels for each fiscal year for each of the following:

(1) The end strength for each of the armed forces (other than the Coast Guard) for (A) active-duty personnel who are to be paid from funds appropriated for active-duty personnel, and (B) active-duty personnel and full-time National Guard duty personnel who are to be paid from funds appropriated for reserve personnel.

(2) The end strength for the Selected Reserve of each reserve component of the armed forces.

(b) No funds may be appropriated for any fiscal year to or for—

(1) the use of active-duty personnel or full-time National Guard duty personnel of any of the armed forces (other than the Coast Guard) unless the end strength for such personnel of that armed force for that fiscal year has been authorized by law; or

(2) the use of the Selected Reserve of any reserve component of the armed forces unless the end strength for the Selected Reserve of that component for that fiscal year has been authorized by law.

(c) Upon determination by the Secretary of Defense that such action is in the national interest, the Secretary may—

(1) increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for any of the armed forces by a number equal to not more than 2 percent of that end strength; and

(2) increase the end strength authorized pursuant to subsection (a)(1)(B) for a fiscal year for any of the armed forces by a number equal to not more than 2 percent of that end strength; and

(3) vary the end strength authorized pursuant to subsection (a)(2) for a fiscal year for the Selected Reserve of any of the reserve components by a number equal to not more than 2 percent of that end strength.

(d) In counting active-duty personnel for the purpose of the end-strengths authorized pursuant to subsection (a)(1), persons in the following categories shall be excluded:

(1) Members of the Ready Reserve ordered to active duty under section 12302 of this title.

(2) Members of the Selected Reserve of the Ready Reserve ordered to active duty under section 12304 of this title.

(3) Members of the National Guard called into Federal service under section 12406 of this title.

(4) Members of the militia called into Federal service under chapter 15 of this title.

(5) Members of reserve components on active duty for training.

(6) Members of reserve components on active duty for 180 days or less to perform special work.

(7) Members on full-time National Guard duty for 180 days or less.

(8) Members of the Selected Reserve of the Ready Reserve on active duty for more that [than] 180 days to support programs described in section 1203(b) of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103–160; 22 U.S.C. 5952(b)).

(9) Members of reserve components (not described in paragraph (8)) on active duty for more than 180 days but less than 271 days to perform special work in support of the combatant commands, except that—

(A) general and flag others may not be excluded under this paragraph; and

(B) The number of members of any of the armed forces excluded under this paragraph may not exceed the number equal to 0.2 percent of the end strength authorized for active-duty personnel of that armed force under subsection (a)(1)(A).

(10) Members of reserve components on active duty to prepare for and to perform funeral honors functions for funerals of veterans in accordance with section 1491 of this title.

(11) Members on full-time National Guard duty to prepare for and perform funeral honors functions for funerals of veterans in accordance with section 1491 of this title.

(e) The authorized strength of the Navy under subsection (a)(1) is increased by the authorized strength of the Coast Guard during any period when the Coast Guard is operating as a service in the Navy.

(f) [Deleted]

(g) Congress shall authorize for each fiscal year the end strength for military technicians (dual status) for each reserve component of the Army and Air Force. Funds available to the Department of Defense for any fiscal year may not be used for the pay of a military technician (dual status) during that fiscal year unless the technician fills a position that is within the number of such positions authorized by law for that fiscal year for the reserve component of that technician. This subsection applies without regard to section 129 of this title. In each budget submitted by the President to Congress under section 1105 of title 31, the end strength requested for military technicians (dual status) for each reserve component of the Army and Air Force shall be specifically set forth. (Added Nov. 5, 1990, Pub. L. 101–510, Div. A, Title XIV, Part H, § 1483(a), 104 Stat. 1710; Dec. 5, 1991, Pub. L. 102–190, Div. A, Title III, Part B, § 312(a), 105 Stat. 1335; Feb. 10, 1996, Pub. L. 104–106, Div. A, Title IV, Subtitle A, § 401(c), Subtitle B, § 415, Title V, Subtitle B, § 513(a)(1), Title X, Subtitle F, § 1061(c), Title XV, § 1501(c)(3), 110 Stat. 286, 288, 305, 442, 498; Nov. 18, 1997, Pub. L. 105–85, Div. A, Title IV, Subtitle B, § 413(b), Subtitle C, § 522(i)(1), 111 Stat. 1720, 1736; Oct. 5, 1999, Pub. L. 106–65, Div. A, Title IV, § 415, 113 Stat. 587; Oct. 30, 2000, § 1, Pub. L. 106–398 [Div. A., Title IV, § 422, 114 Stat. 1654A–96]; Dec. 28, 2001, Pub. L. 107–107, Div. A, Title IV, §§ 421(a), 422, 115 Stat. 1076, 1077.)

932 § 115a. Annual manpower requirements report.

(a) The Secretary of Defense shall submit to Congress an annual manpower requirements report. The report, which shall be in writing, shall be submitted each year not later than 45 days after the date on which the President submits to Congress the budget for the next fiscal year under section 1105 and of title 31. The report shall contain the Secretary's recommendations for—

(1) the annual active-duty end-strength level for each component of the armed forces for the next fiscal year; and

(2) the annual civilian personnel end-strength level for each component of the Department of Defense for the next fiscal year.

(b)(1) The Secretary shall include in each report under subsection (a) justification for the strength levels recommended and an explanation of the relationship between the personnel strength levels recommended for that fiscal year and the national security policies of the United States in effect at the time.

(2) The justification and explanation shall specify in detail for all major military force units (including each land force division, carrier and other major combatant vessel, air wing, and other comparable unit) the following:

(A) Unit mission and capability.

(B) Strategy which the unit supports.

(3) The justification and explanation shall also specify in detail the manpower required to perform the medical missions of each of the armed forces and of the Department of Defense.

(c) The Secretary shall include in each report under subsection (a) a detailed discussion of the following:

(1) The manpower required for support and overhead functions within the armed forces and the Department of Defense.

(2) The relationship of the manpower required for support and overhead functions to the primary combat missions and support policies.

(3) The manpower required to be stationed or assigned to duty in foreign countries and aboard vessels located outside the territorial limits of the United States, its territories, and possessions.

(d) The Secretary shall also include in each such report, with respect to each armed force under the jurisdiction of the Secretary of a military department, the following:

(1) The number of positions that require warrant officers or commissioned officers serving on active duty in each of the officer grades during the current fiscal year and the estimated number of such positions for each of the next five fiscal years.

(2) The estimated number of officers that will be serving on active duty in each grade on the last day of the current fiscal year and the estimated numbers of officers that will be needed on active duty on the last day of each of the next five fiscal years.

(3) An estimate and analysis for the current fiscal year and for each of the next five fiscal years of gains to and losses from the number of members on active duty in each officer grade, including a tabulation of—

(A) retirements displayed by year of active commissioned service;

(B) discharges;

(C) other separations;

(D) deaths;

(E) promotions; and

(F) reserve and regular officers ordered to active duty.

(e)(1) In each such report, the Secretary shall also include recommendations for the end-strength levels for medical personnel for each component of the armed forces as of the end of the next fiscal year.

(2) For purposes of this subsection, the term "medical personnel" includes—

(A) in the case of the Army, members of the Medical Corps, Dental Corps, Nurse Corps, Medical Service Corps, Veterinary Corps, and Army Medical Specialist Corps;

(B) in the case of the Navy, members of the Medical Corps, Dental Corps, Nurse Corps, and Medical Service Corps;

(C) in the case of the Air Force, members designated as medical officers, dental officers, Air Force nurses, medical service officers, and biomedical science officers;

(D) enlisted members engaged in or supporting medically related activities; and

(E) such other personnel as the Secretary considers appropriate.

(f) [Deleted]

(g) [Redesignated]

(h) In each such report, the Secretary shall include a separate report on the Army and Air Force military technician programs. The report shall include a presentation, shown by reserve component and shown both as of the end of the preceding fiscal year and for the next fiscal year, of the following (displayed in the aggregate and separately for

military technicians (dual status) and non-dual status military technicians):

(1) The number of military technicians required to be employed (as specified in accordance with Department of Defense procedures), the number authorized to be employed under Department of Defense personnel procedures, and the number actually employed.

(2) Within each of the numbers under paragraph (1)—

(A) the number applicable to a reserve component management headquarter organization; and

(B) the number applicable to high-priority units and organizations (as specified in section 10216(a) of this title).

(Added Nov. 5, 1990, Pub. L. 101–510, Div. A, Title XIV, Part H, § 1483(a), 104 Stat. 1711; Dec. 5, 1991, Pub. L. 102–190, Div. A, Title X, Part E, § 1061(a)(1), 105 Stat. 1472; Feb. 10, 1996, Pub. L. 104–106, Div. A, Title V, Subtitle B, § 513(e), Title X, Subtitle F, § 1061(d), 110 Stat. 307, 442; Nov. 18, 1997, Pub. L. 105–85, Div. A, Title V, Subtitle C, § 522(i)(2), 111 Stat. 1736; Oct. 17, 1998, Pub. L. 105–261, Div. A, Title IV, Subtitle A, § 403, 112 Stat. 1996.)

933 **§ 116. Annual operations and maintenance report.**

(a)(1) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, with respect to the operations and maintenance of the Army, Navy, Air Force, and Marine Corps for the next fiscal year. The Secretary shall include in each such report recommendations for—

(A) the number of aircraft flying hours for the Army, Navy, Air Force, and Marine Corps for the next fiscal year, the number of ship steaming hours for the Navy for the next fiscal year, and the number of field training days for the combat arms battalions of the Army and Marine Corps for the next fiscal year;

(B) the number of ships over 3,000 tons (full load displacement) in each Navy ship classification on which major repair work should be performed during the next fiscal year; and

(C) the number of airframe reworks, aircraft engine reworks, and vehicle overhauls which should be performed by the Army, Navy, Air Force, and Marine Corps during the next fiscal year.

(2) The Secretary shall also include in each such report the justification for and an explanation of the level of funding recommended in the Budget of the President for the next fiscal year for aircraft flying hours, ship steaming hours, field training days for the combat arms battalions, major repair work to be performed on ships of the Navy, airframe reworks, aircraft engine reworks, and vehicle overhauls.

(b) In this section:

(1) The term "combat arms battalions" means armor, infantry, mechanized infantry, air assault infantry, airborne infantry, ranger, artillery, and combat engineer battalions and armored cavalry and air cavalry squadrons.

(2) The term "major repair work" means, in the case of any ship to which subsection (a) is applicable, any overhaul, modification, alteration, or conversion work which will result in a total cost to the United States of more than $10,000,000.

(Added Sept. 8, 1980, Pub. L. 96–342, Title X, § 1001(b)(3), (c)(2), 94 Stat. 1118; Dec. 12, 1980, Pub. L. 96–513, Title V, § 511(4)(B), 94 Stat. 2920; Dec. 1, 1981, Pub. L. 97–86, Title III, § 302, 95 Stat. 1104; Oct.

1, 1986, Pub. L. 99–433, Title I, §§ 101(a)(2), 110(b)(6), (7), (9), (10), 100 Stat. 994, 1002; Nov. 18, 1997, Pub. L. 105–85, Div. A, Title X, Subtitle G, § 1073(a)(3), 111 Stat. 1900.)

§ 119. Special access programs: congressional oversight. **934**

(a)(1) Not later than March 1 of each year, the Secretary of Defense shall submit to the defense committees a report on special access programs.

(2) Each such report shall set forth—

(A) the total amount requested for special access programs of the Department of Defense in the President's budget for the next fiscal year submitted under section 1105 of title 31; and

(B) for each program in that budget that is a special access program—

(i) a brief description of the program;

(ii) a brief discussion of the major milestones established for the program;

(iii) the actual cost of the program for each fiscal year during the program has been conducted before the fiscal year during which that budget is submitted; and

(iv) the estimated total cost of the program and the estimated cost of the program for (I) the current fiscal year, (II) the fiscal year for which the budget is submitted, and (III) each of the four succeeding fiscal years during which the program is expected to be conducted.

(3) In the case of a report under paragraph (1) submitted in a year during which the President's budget for the next fiscal year, because of multiyear budgeting for the Department of Defense, does not include a full budget request for the Department of Defense, the report required by paragraph (1) shall set forth—

(A) the total amount already appropriated for the next fiscal year for special access programs of the Department of Defense and any additional amount requested in that budget for such programs for such fiscal year; and

(B) for each program of the Department of Defense that is a special access program, the information specified in paragraph (2)(B).

(b)(1) Not later than February 1 of each year, the Secretary of Defense shall submit to the defense committees a report that, with respect to each new special access program, provides—

(A) notice of the designation of the program as a special access program; and

(B) justification for such designation.

(2) A report under paragraph (1) with respect to a program shall include—

(A) the current estimate of the total program cost for the program; and

(B) an identification of existing programs or technologies that are similar to the technology, or that have a mission similar to the mission, of the program that is the subject of the notice.

(3) In this subsection, the term "new special access program" means a special access program that has not previously been covered in a notice and justification under this subsection.

(c)(1) Whenever a change in the classification of a special access program of the Department of Defense is planned to be made or whenever classified information concerning a special access program of the Department of Defense is to be declassified and made public, the Secretary of Defense shall submit to the defense committees a report containing a description of the proposed change, the reasons for the proposed change, and notice of any public announcement planned to be made with respect to the proposed change.

(2) Except as provided in paragraph (3), any report referred to in paragraph (1) shall be submitted not less than 14 days before the date on which the proposed change or public announcement is to occur.

(3) If the Secretary determines that because of exceptional circumstances the requirement of paragraph (2) cannot be met with respect to a proposed change or public announcement concerning a special access program of the Department of Defense, the Secretary may submit the report required by paragraph (1) regarding the proposed change or public announcement at any time before the proposed change or public announcement is made and shall include in the report an explanation of the exceptional circumstances.

(d) Whenever there is a modification or termination of the policy and criteria used for designating a program of the Department of Defense as a special access program, the Secretary of Defense shall promptly notify the defense committees of such modification or termination. Any such notification shall contain the reasons for the modification or termination and, in the case of a modification, the provisions of the policy as modified.

(e)(1) The Secretary of Defense may waive any requirement under subsection (a), (b), or (c) that certain information be included in a report under that subsection if the Secretary determines that inclusion of that information in the report would adversely affect the national security. Any such waiver shall be made on a case-by-case basis.

(2) If the Secretary exercises the authority provided under paragraph (1), the Secretary shall provide the information described in that subsection with respect to the special access program concerned, and the justification for the waiver, jointly to the chairman and ranking minority member of each of the defense committees.

(f) A special access program may not be initiated until—

(1) the defense committees are notified of the program; and

(2) a period of 30 days elapses after such notification is received.

(g) In this section, the term "defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations, and the Defense Subcommittee of the Committee on Appropriations, of the Senate; and

(2) the Committee on Armed Services and the Committee on Appropriations, and the Subcommittee on Defense of the Committee on Appropriations, of the House of Representatives. (Added Dec. 4, 1987, Pub. L. 100–180, Div. A, Title XI, Part D, § 1132(a)(1), 101 Stat. 1151; Nov. 5, 1990, Pub. L. 101–510, Div. A, Title XIV, Part F, § 1461, Part H, § 1482(a), 104 Stat. 1698, 1709; Feb. 10, 1996, Pub. L. 104–106, Div. A, Title X, Subtitle E, § 1055, Title XV, § 1502(a)(4), 110 Stat. 442, 502; Pub. L. 106–65, Div. A, Title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; Dec. 28, 2001, Pub. L. 107–107, Div. A., Title X, § 1048(a)(2), 115 Stat. 1222.)

Chapter 9.—DEFENSE BUDGET MATTERS

§ 221. Future-years defense program; submission to Congress; consistency in budgeting. 935

(a) The Secretary of Defense shall submit to Congress each year, at or about the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, a future-years defense program (including associated annexes) reflecting the estimated expenditures and proposed appropriations included in that budget. Any such future-years defense program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years.

(b)(1) The Secretary of Defense shall ensure that amounts described in subparagraph (A) of paragraph (2) for any fiscal year are consistent with amounts described in subparagraph (B) of paragraph (2) for that fiscal year.

(2) Amounts referred to in paragraph (1) are the following:

(A) The amounts specified in program and budget information submitted to Congress by the Secretary in support of expenditure estimates and proposed appropriations in the budget submitted to Congress by the President under section 1105(a) of title 31 for any fiscal year, as shown in the future-years defense program submitted pursuant to subsection (a).

(B) The total amounts of estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the Department of Defense included pursuant to paragraph (5) of section 1105(a) of title 31 in the budget submitted to Congress under that section for any fiscal year.

(c) Nothing in this section shall be construed to prohibit the inclusion in the future-years defense program of amounts for management contingencies, subject to the requirements of subsection (b). (Added Pub. L. 101–189, § 1602(a)(1), Nov. 29, 1989, 103 Stat. 1596; amended Pub. L. 101–510, § 1402(a), Nov. 5, 1990, 104 Stat. 1674; renumbered § 221 and amended Pub. L. 102–484, § 1002(c), Oct. 23, 1992, 106 Stat. 2480.)

§ 222. Future-years mission budget. 936

(a) Future-years mission budget.—The Secretary of Defense shall submit to Congress for each fiscal year a future-years mission budget for the military programs of the Department of Defense. That budget shall be submitted for any fiscal year not later than 60 days after the date on which the President's budget for that fiscal year is submitted to Congress pursuant to section 1105 of title 31.

(b) Consistency with future-years defense program.—The future-years mission budget shall be consistent with the future-years defense program required under section 221 of this title. In the future-years mission budget, the military programs of the Department of Defense shall be organized on the basis of major roles, missions, or forces of the Department of Defense.

(c) Relationship to other defense budget formats.—The requirement in subsection (a) is in addition to the requirements in any other provision of law regarding the format for the presentation regarding military programs of the Department of Defense in the budget submitted pursuant to section 1105 of title 31 for any fiscal year. (Added Oct. 23, 1992, Pub. L. 102–484, Div. A, Title X, Subtitle A, § 1002(a)(2), 106 Stat. 2480; Oct. 5, 1994, Pub. L. 103–337, Div. A, Title X, Subtitle A, § 1004, 108 Stat. 2834.)

937 § 226. Scoring of outlays.

(a) Annual OMB/CBO report.—Not later than December 15 of each year, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall submit to the Speaker of the House of Representatives and the Committees on Armed Services, Appropriations, and the Budget of the Senate a joint report containing an agreed resolution of all differences between—

(1) the technical assumptions to be used by the Office of Management and Budget in preparing estimates with respect to all accounts in major functional category 050 (National Defense) for the budget to be submitted to Congress in the following year pursuant to section 1105 of title 31; and

(2) the technical assumptions to be used by the Congressional Budget Office in preparing estimates with respect to those accounts for that budget.

(b) Use of averages.—If the two Directors are unable to agree upon any technical assumption, the report shall reflect the average of the relevant outlay rates or assumptions used by the two offices.

(c) Matters to be included.—The report with respect to a budget shall identify the following:

(1) The agreed first-year and outyear outlay rates for each account in budget function 050 (National Defense) for each fiscal year covered by the budget.

(2) The agreed amount of outlays estimated to occur from unexpended appropriations made for fiscal years before the fiscal year that begins after submission of the report.

(Added Pub. L. 102–190, Div. A, Title X, § 1002(a)(1), Dec. 5, 1991, 105 Stat. 1455, § 221; renumbered § 226, Pub. L. 102–484, Div. A, Title X, § 1002(a)(1), Oct. 23, 1992, 106 Stat. 2480; amended Pub. L. 103–160, § 1104, Nov. 30, 1993, 107 Stat. 1749.)

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Chapter 403.—UNITED STATES MILITARY ACADEMY

938 § 4342. Cadets: appointments; numbers, territorial distribution.

(a) The authorized strength of the Corps of Cadets of the Academy (determined for any year as of the day before the last day of the academic year) is 4,000. Subject to that limitation, cadets are selected as follows:

(1) 65 cadets selected in order of merit as established by competitive examinations from the children of members of the armed forces who were killed in action or died of, or have a service-connected

disability rated at not less than 100 per centum resulting from, wounds or injuries received or diseases contracted in, or preexisting injury or disease aggravated by, active service, children of members who are in a "missing status" as defined in section 551(2) of title 37, and children of civilian employees who are in "missing status" as defined in section 5561(5) of title 5. The determination of the Department of Veterans Affairs as to service connection of the cause of death or disability, and the percentage at which the disability is rated is binding upon the Secretary of the Army.

(2) Five cadets nominated at large by the Vice President or, if there is no Vice President, by the President pro tempore of the Senate.

(3) Ten cadets from each State, five of whom are nominated by each Senator from that State.

(4) Five cadets from each congressional district, nominated by the Representative from the district.

(5) Five cadets from the District of Columbia, nominated by the Delegate to the House of Representatives from the District of Columbia.

(6) Two cadets from the Virgin Islands, nominated by the Delegate in Congress from the Virgin Islands.

(7) Six cadets from Puerto Rico, five of whom are nominated by the Resident Commissioner from Puerto Rico and one who is a native of Puerto Rico nominated by the Governor of Puerto Rico.

(8) Two cadets from Guam, nominated by the Delegate in Congress from Guam.

(9) One cadet from American Samoa, nominated by the Delegate in Congress from American Samoa.

(10) One cadet from the Commonwealth of the Northern Mariana Islands, nominated by the resident representative from the commonwealth.

Each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, is entitled to nominate 10 persons for each vacancy that is available to him under this section. Nominees may be submitted without ranking or with a principal candidate and 9 ranked or unranked alternates. Qualified nominees not selected for appointment under this subsection shall be considered qualified alternates for the purposes of selection under other provisions of this chapter.

(b) In addition, there may be appointed each year at the Academy cadets as follows:

(1) one hundred selected by the President from the children of members of an armed force who—

(A) are on active duty (other than for training) and who served continuously on active duty for at least eight years;

(B) are, or who died while they were, retired with pay or granted retired or retainer pay;

(C) are serving as members of reserve components and are credited with at least eight years of service computed under section 12733 of this title; or

(D) would be, or who died while they would have been, entitled to retired pay under Chapter 1223 of this title, except for not having attained 60 years of age;

however, a person who is eligible for selection under clause (1) of subsection (a) may not be selected under this clause.

(2) 85 nominated by the Secretary of the Army from enlisted members of the Regular Army.

(3) 85 nominated by the Secretary of the Army from enlisted members of reserve components of the Army.

(4) 20 nominated by the Secretary of the Army, under regulations prescribed by him, from the honor graduates of schools designated as honor schools by the Department of the Army, the Department of the Navy, or the Department of the Air Force, and from members of the Reserve Officers' Training Corps.

(5) 150 selected by the Secretary of the Army in order of merit (prescribed pursuant to section 4343 of this title) from qualified alternates nominated by persons named in clauses (3) and (4) of subsection (a).

(c) The President may also appoint as cadets at the Academy children of persons who have been awarded the Medal of Honor for acts performed while in the armed forces.

(d) The Superintendent may nominate each year 50 persons from the country at large. Persons nominated under this paragraph may not displace any appointment authorized under clauses (2) through (9) of subsection (a) and may not cause the total strength of the Corps of Cadets to exceed the authorized number.

(e) If the annual quota of cadets under subsection (b) (1), (2), (3) is not filled, the Secretary may fill the vacancies by nominating for appointment other candidates from any of these sources who were found best qualified on examination for admission and not otherwise nominated.

(f) Each candidate for admission nominated under clauses (3) through (9) of subsection (a) must be domiciled in the State, or in the congressional district, from which he is nominated, or in the District of Columbia, Puerto Rico, American Samoa, Guam, or the Virgin Islands, if nominated from one of those places.

(g) The Secretary of the Army may limit the number of cadets authorized to be appointed under this section to the number that can be adequately accommodated at the Academy, as determined by the Secretary after consulting with the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, subject to the following:

(1) Cadets chargeable to each nominating authority named in subsection (a) (3) or (4) may not be limited to less than four.

(2) If the Secretary limits the number of appointments under subsection (a) (3) or (4), appointments under subsection (b)(1)–(4) are limited as follows:

(A) 27 appointments under subsection (b)(1);

(B) 27 appointments under subsection (b)(2);

(C) 27 appointments under subsection (b)(3); and

(D) 13 appointments under subsection (b)(4).

(3) If the Secretary limits the number of appointments under subsection (b)(5), appointments under subsection (b)(2)–(4) are limited as follows:

(A) 27 appointments under subsection (b)(2);

(B) 27 appointments under subsection (b)(3); and

(C) 13 appointments under subsection (b)(4).

(4) The limitations provided for in this subsection do not affect the operation of subsection (e).

(h) The Secretary of the Army shall furnish to any Member of Congress, upon the written request of such Member, the name of the Congressman or other nominating authority responsible for the nomination of any named or identified person for appointment to the Academy.

(i) For purposes of the limitation in subsection (a) establishing the aggregate authorized strength of the Corps of Cadets, the Secretary of the Army may for any year (beginning with the 2001–2002 academic year) permit a variance in that limitation by not more than one percent. In applying that limitation, and any such variance, the last day of an academic year shall be considered to be graduation day.

(Aug. 10, 1956, ch. 1041, § 1, 70A Stat. 240; Sept. 2, 1958, Pub. L. 85–861, § 33(a)(26), 72 Stat. 1565; Sept. 14, 1962, Pub. L. 87–663, § 1(1), (2), 76 Stat. 547; March 3, 1964, Pub. L. 88–276, § 1(1), 78 Stat. 148; Oct. 13, 1966, Pub. L. 89–650, § 1(1)–(4), 80 Stat. 896; July 5, 1968, Pub. L. 90–374, 82 Stat. 283; Oct. 22, 1968, Pub. L. 90–623, § 2(8), 82 Stat. 1314; Sept. 22, 1970, Pub. L. 91–405, Title II, § 204(c), 84 Stat. 852, Aug. 7, 1972, Pub. L. 92–365, § 1, 86 Stat. 505; Nov. 29, 1973, Pub. L. 93–171, § 1(1)–(4), 87 Stat. 690; Oct. 7, 1975, Pub. L. 94–106, Title VIII, § 803(b)(1), 89 Stat. 538; Dec. 12, 1980, Pub. L. 96–513, Title V, Part B, § 512(13), 94 Stat. 2930; Dec. 24, 1980, Pub. L. 96–600, § 2(a), 94 Stat. 3493; Oct. 14, 1981, Pub. L. 97–60, Title II, § 203(a)(1), 95 Stat. 1006; Sept. 24, 1983, Pub. L. 98–94, Title X, Part A, § 1005(a)(1), (b)(1), 97 Stat. 660; Nov. 29, 1989, Pub. L. 101–189, Div. A, Title XVI, Part C, § 1621(a)(1), 103 Stat. 1602; Nov. 5, 1990, Pub. L. 101–510, Div. A, Title V, Part C, § 532(a)(1), 104 Stat. 1563; Nov. 30, 1993, Pub. L. 103–160, Div. A, Title V, Subtitle C, § 531, 107 Stat. 1657; Oct. 5, 1994, Pub. L. 103–337, Div. A, Title XVI, Subtitle C, § 1672(c)(3), 108 Stat. 3015; Feb. 10, 1996, Pub. L. 104–106, Div. A, Title V, Subtitle D, Part I, § 532(a), Title XV, § 1502(a)(1), 110 Stat. 314, 502; Nov. 18, 1997, Pub. L. 105–85, Div. A, Title X, Subtitle G, § 1073(a)(62), 111 Stat. 1903; Pub. L. 106–65, Div. A, Title V, § 531(b)(1), Title X, § 1067(1), Oct. 5, 1999, 113 Stat. 602, 774; Oct. 30, 2000, Pub. L. 106–398, § 1 [Div. A, Title V, § 531(a), 114 Stat. 1654A–109].

§ 4355. Board of Visitors. **939**

(a) A Board of Visitors to the Academy is constituted annually of—

(1) the chairman of the Committee on Armed Services of the Senate, or his designee;

(2) three other members of the Senate designated by the Vice President or the President pro tempore of the Senate, two of whom are members of the Committee on Appropriations of the Senate;

(3) the chairman of the Committee on Armed Services of the House of Representatives, or his designee;

(4) four other members of the House of Representatives designated by the Speaker of the House of Representatives, two of whom are members of the Committee on Appropriations of the House of Representatives; and

(5) six persons designated by the President.

(b) The persons designated by the President serve for three years each except that any member whose term of office has expired shall continue to serve until his successor is appointed. The President shall

designate two persons each year to succeed the members whose terms expire that year.

(c) If a member of the Board dies or resigns, a successor shall be designated for the unexpired portion of the term by the official who designated the member.

(d) The Board shall visit the Academy annually. With the approval of the Secretary of the Army, the Board or its members may make other visits to the Academy in connection with the duties of the Board or to consult with the Superintendent of the Academy.

(e) The Board shall inquire into the morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board decides to consider.

(f) Within 60 days after its annual visit, the Board shall submit a written report to the President of its action, and of its views and recommendations pertaining to the Academy. Any report of a visit, other than the annual visit, shall, if approved by a majority of the members of the Board, be submitted to the President within 60 days after the approval.

(g) Upon approval by the Secretary, the Board may call in advisers for consultation.

(h) While performing his duties, each member of the Board and each adviser shall be reimbursed under Government travel regulations for his travel expenses. (Aug. 10, 1956, ch. 1041, 70A Stat. 245; Dec. 23, 1980, Pub. L. 96–579, § 13(a), 94 Stat. 3369; Pub. L. 104–106, Div. A, Title X, § 1061(e)(2), Title XV, § 1502(a)(12), Feb. 10, 1996, 110 Stat. 443, 503; Pub. L. 106–65, Div. A, Title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774.)

Chapter 443.—DISPOSAL OF OBSOLETE OR SURPLUS MATERIAL

940 § 4689. Transfer of material and equipment to Architect.

The Secretary of the Army is authorized to transfer, without payment, to the Architect of the Capitol, such material and equipment, not required by the Department of the Army, as the Architect may request for use at the Capitol powerplant, the Capitol Building, and the Senate and House Office Buildings. (June 5, 1920, ch. 253, § 1, 41 Stat. 1035; Mar. 3, 1921, ch. 124, § 1, 41 Stat. 1291.)

Chapter 603.—UNITED STATES NAVAL ACADEMY

941 § 6954. Midshipmen: number.

(a) The authorized strength of the Brigade of Midshipmen (determined for any year as of the day before the last day of the academic year) is 4,000. Subject to that limitation, midshipmen are selected as follows:

(1) 65 selected in order of merit as established by competitive examination from the children of members of the armed forces who were killed in action or died of, or have a service-connected disability rated at not less than 100 per centum resulting from, wounds or injuries received or diseases contracted in, or preexisting injury or disease aggravated by, active service, children of members who are in a "missing status" as defined in section 551(2) of title 37, and children of civilian employees who are in "missing status" as defined

in section 5561(5) of title 5. The determination of the Department of Veterans Affairs as to service connection of the cause of death or disability, and the percentage at which the disability is rated, is binding upon the Secretary of the Navy.

(2) Five nominated at large by the Vice President or, if there is no Vice President, by the President pro tempore of the Senate.

(3) Ten from each State, five of whom are nominated by each Senator from that State.

(4) Five nominated by each Representative in Congress.

(5) Five from the District of Columbia, nominated by the Delegate to the House of Representatives from the District of Columbia.

(6) Two from the Virgin Islands, nominated by the Delegate in Congress from the Virgin Islands.

(7) Six from Puerto Rico, five of whom are nominated by the Resident Commissioner from Puerto Rico and one who is native of Puerto Rico nominated by the Governor of Puerto Rico.

(8) Two from Guam, nominated by the Delegate in Congress from Guam.

(9) One from American Samoa, nominated by the Delegate in Congress from American Samoa.

(10) One from the Commonwealth of the Northern Mariana Islands, nominated by the resident representative from the commonwealth.

Each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, is entitled to nominate 10 persons for each vacancy that is available to him under this section. Nominees may be submitted without ranking or with a principal candidate and 9 ranked or unranked alternates. Qualified nominees not selected for appointment under this subsection shall be considered qualified alternates for the purposes of selection under other provisions of this chapter.

(b) In addition there may be appointed each year at the Academy midshipmen as follows:

(1) one hundred selected by the President from the children of members of an armed force who—

(A) are on active duty (other than for training) and who have served continuously on active duty for at least eight years;

(B) are, or who died while they were, retired with pay or granted retired or retainer pay;

(C) are serving as members of reserve components and are credited with at least eight years of service computed under section 12733 of this title; or

(D) would be, or who died while they would have been, entitled to retired pay under Chapter 1223 of this title, except for not having attained 60 years of age;

however, a person who is eligible for selection under clause (1) of subsection (a) may not be selected under this clause.

(2) 85 nominated by the Secretary of the Navy from enlisted members of the Regular Navy and the Regular Marine Corps.

(3) 85 nominated by the Secretary of the Navy from enlisted members of the Naval Reserve and the Marine Corps Reserve.

(4) 20 nominated by the Secretary of the Navy, under regulations prescribed by him, from the honor graduates of schools designated

as honor schools by the Department of the Army, the Department of the Navy, or the Department of the Air Force, and from members of the Naval Reserve Officers' Training Corps.

(5) 150 selected by the Secretary of the Navy in order of merit (prescribed pursuant to section 6956 of this title) from qualified alternates nominated by person named in clauses (3) and (4) of subsection (a).

(c) The President may also appoint as midshipmen at the Academy children of persons who have been awarded the medal of honor for acts performed while in the armed forces.

(d) The Superintendent of the Naval Academy may nominate for appointment each year 50 persons from the country at large. Persons nominated under this paragraph may not displace any appointment authorized under clauses (2) through (8) of subsection (a) and may not cause the total strength of midshipmen at the Navy Academy to exceed the authorized number.

(e) The Secretary of the Navy may limit the number of midshipmen appointed under section (b)(5). When he does so, if the total number of midshipmen, upon admission of a new class at the Academy, will be more than 3,737, no appointment may be made under subsection (b)(2) or (3) of this section or section 6956 of this title.

(f) The Secretary of the Navy shall furnish to any Member of Congress, upon the written request of such Member, the name of the Congressman or other nominating authority responsible for the nomination of any named or identified person for appointment to the Academy.

(g) For purposes of the limitation in subsection (a) establishing the aggregate authorized strength of the Brigade of Midshipmen, the Secretary of the Navy may for any year permit a variance in that limitation by not more than one percent. In applying that limitation, and any such variance, the last day of an academic year shall be considered to be graduation day. (Aug. 10, 1956, ch. 1041, § 1, 70A Stat. 429; Sept. 7, 1962, Pub. L. 87–651, Title I, § 124, 76 Stat. 514; Sept. 14, 1962, Pub. L. 87–663, § 1(3), 76 Stat. 547; March 3, 1964, Pub. L. 88–276, § 2, 78 Stat. 150; Oct. 13, 1996, Pub. L. 89–650, § 1(1)–(3), 80 Stat. 896; July 5, 1968, Pub. L. 90–374, 82 Stat. 283; Oct. 22, 1968, Pub. L. 90–623, § 2(8), 82 Stat. 1314; Sept. 22, 1970, Pub. L. 91–405, Title II, § 204(c), 84 Stat. 852; Aug. 7, 1972, Pub. L. 92–365, § 2, 86 Stat. 505; Nov. 29, 1973, Pub. L. 93–171, § 2(1)–(3), 87 Stat. 690; Oct. 7, 1975 Pub. L. 94–106, Title VIII, § 803(b)(1), 89 Stat. 538; Dec. 24, 1980, Pub. L. 96–600, § 2(b), 94 Stat. 3493; Oct. 14, 1981, Pub. L. 97–60, Title II, § 203(b)(2), 95 Stat. 1006; Oct. 12, 1982, Pub. L. 97–295, § 1(44), 96 Stat. 1298; Sept. 24, 1983, Pub. L. 98–94, Title X, Part A, § 1005(a)(2), (b)(2), 97 Stat. 660; Nov. 29, 1989, Pub. L. 101–189, Div. A, Title XVI, Part C, § 1621(a)(1), 103 Stat. 1602; Nov. 5, Pub. L. 101–510, Div. A, Title V, Part C, § 532(b)(1), 104 Stat. 1563; Nov. 30, 1993, Pub. L. 103–160, Div. A. Title V, Subtitle C, § 531, 107 Stat. 1657; Oct. 5, 1994, Pub. L. 103–337, Div. A, Title XVI, Subtitle C, § 1673(c)(2), 108 Stat. 3016; Feb. 10, 1996, Pub. L. 104–106, Div. A, Title V, Subtitle D, Part I, § 532(b), 110 Stat. 314; Nov. 18, 1997, Pub. L. 105–85, Div. A, Title X, Subtitle G, § 1073(a)(62), 111 Stat. 1903; Oct. 5, 1999, Pub. L. 106–65, Div. A., Title V, § 531(b)(2), 113 Stat. 602; Oct. 30, 2000; Pub. L. 106–398, § 1 [Div. A, Title V, § 531 (b),

114 Stat. 1654A–109]; Dec. 28, 2001, Pub. L. 107–107, Div. A, Title X, § 1048(g)(1), 115 Stat. 1228.

§ 6956. Midshipmen: nomination and selection to fill vacancies. 942

(a) If the annual quota of midshipmen from—

(1) enlisted members of the Regular Navy and the Regular Marine Corps;

(2) enlisted members of the Naval Reserve and the Marine Corps Reserve; or

(3) at large by the President;

is not filled, the Secretary may fill the vacancies by nominating for appointment other candidates from any of these sources who were found best qualified on examination for admission and not otherwise nominated.

(b) If it is determined that, upon the admission of a new class to the Academy, the number of midshipmen at the Academy will be below the authorized number, the Secretary may fill the vacancies by nominating additional midshipmen from qualified candidates designated as alternates and from other qualified candidates who competed for nomination and are recommended and found qualified by the Academic Board. At least three-fourths of those nominated under this subsection shall be from qualified alternates under clauses (2) through (8) of section 6954(a) of this title, and the remainder shall be from qualified candidates who competed for appointment under any other provision of law. An appointment of a nominee under this subsection is an additional appointment and is not in place of an appointment otherwise authorized by law.

(c) The failure of a member of a graduating class to complete the course with his class does not delay the appointment of his successor. (Aug. 10, 1956, ch. 1041, 70A Stat. 430; March. 3, 1964, Pub. L. 88–276, § 3, 78 Stat. 151; July 5, 1968, Pub. L. 90–374, 82 Stat. 283; Nov. 29, 1973, Pub. L. 93–171, § 2(4), 87 Stat. 690; Oct. 7, 1975, Pub. L. 94–106, Title VIII, § 803(b)(2), 89 Stat. 538; Oct. 14, 1981, Pub. L. 97–60, Title II, § 206, 95 Stat. 1007; Nov. 5, 1990, Pub. L. 101–510, § 1322(a), 104 Stat. 1671, § 532(b), 104 Stat. 1563, 1671; Nov. 5, 1990, Pub. L. 101–510, § 532(b)(2), § 1322(a)(14), 104 Stat. 1563, 1671.)

§ 6968. Board of Visitors. 943

(a) A Board of Visitors to the Naval Academy is constituted annually of—

(1) the chairman of the Committee on Armed Services of the Senate, or his designee;

(2) three other members of the Senate designated by the Vice President or the President pro tempore of the Senate, two of whom are members of the Committee on Appropriations of the Senate;

(3) the chairman of the Committee on Armed Services of the House of Representatives, or his designee;

(4) four other members of the House of Representatives designated by the Speaker of the House of Representatives, two of whom are members of the Committee on Appropriations of the House of Representatives; and

(5) six persons designated by the President.

(b) The persons designated by the President serve for three years each except that any member whose term of office has expired shall

continue to serve until his successor is appointed. The President shall designate two persons each year to succeed the members whose terms expire that year.

(c) If a member of the Board dies or resigns, a successor shall be designated for the unexpired portion of the term by the official who designated the member.

(d) The Board shall visit the Academy annually. With the approval of the Secretary of the Navy, the Board or its members may make other visits to the Academy in connection with the duties of the Board or to consult with the Superintendent of the Academy.

(e) The Board shall inquire into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board decides to consider.

(f) Within 60 days after its annual visit, the Board shall submit a written report to the President of its action and of its views and recommendations pertaining to the Academy. Any report of a visit, other than the annual visit, shall, if approved by a majority of the members of the Board, be submitted to the President within 60 days after the approval.

(g) Upon approval by the Secretary, the Board may call in advisers for consultation.

(h) While performing his duties, each member of the Board and each adviser shall be reimbursed under Government travel regulations for his travel expenses. (Aug. 10, 1956, ch. 1041, § 1, 70A Stat. 434; Dec. 23, 1980, Pub. L. 96–579, § 13(b), 94 Stat. 3369; Feb. 10, 1996, Pub. L. 104–106, Div. A, Title X, Subtitle F, § 1061(c)(2), Title XV, § 1502(a)(12), 110 Stat. 443, 503; Pub. L. 106–65, Div. A, Title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774.)

Chapter 903.—UNITED STATES AIR FORCE ACADEMY

944 § 9342. Cadets: appointment; numbers, territorial distribution.

(a) The authorized strength of Air Force Cadets of the Academy (determined for any year as of the day before the last day of the academic year) is 4,000. Subject to that limitation, Air Force Cadets are selected as follows:

(1) 65 cadets selected in order or merit as established by competitive examination from the children of members of the armed forces who were killed in action or died of, or have a service-connected disability rated at not less than 100 per centum resulting from wounds or injuries received or diseases contracted in, or preexisting injury or disease aggravated by, active service, children of members who are in a "missing status" as defined in section 551(2) of title 37, and children of civilian employees who are in "missing status" as defined in section 5561(5) of title 5. The determination of the Department of Veterans Affairs as to service connection of the cause of death or disability, and the percentage at which the disability is rated is binding upon the Secretary of the Air Force.

(2) Five cadets nominated at large by the Vice President or, if there is no Vice President, by the President pro tempore of the Senate.

(3) Ten cadets from each State, five of whom are nominated by each Senator from that State.

(4) Five cadets from each congressional district, nominated by the Representative from the district.

(5) Five cadets from the District of Columbia, nominated by the Delegate to the House of Representatives from the District of Columbia.

(6) Two cadets from the Virgin Islands, nominated by the Delegate in Congress from the Virgin Islands.

(7) Six cadets from Puerto Rico, five of whom are nominated by the Resident Commissioner from Puerto Rico and one who is a native of Puerto Rico nominated by the Governor of Puerto Rico.

(8) Two cadets from Guam, nominated by the Delegate in Congress from Guam.

(9) One cadet from American Samoa, nominated by the Delegate in Congress from American Samoa.

(10) One cadet from the Commonwealth of the Northern Mariana Islands, nominated by the residents representative from the commonwealth.

Each Senator, Representative, and Delegate in Congress, including the Resident Commissioner from Puerto Rico, is entitled to nominate 10 persons for each vacancy that is available to him under this section. Nominees may be submitted without ranking or with a principal candidate and 9 ranked or unranked alternates. Qualified nominees not selected for appointment under this subsection shall be considered qualified alternates for the purposes of selection under other provisions of this chapter.

(b) In addition, there may be appointed each year at the Academy cadets as follows:

(1) one hundred selected by the President from the children of members of an armed force who—

(A) are on active duty (other than for training) and who have served continuously on active duty for at least eight years;

(B) are, or who died while they were, retired with pay or granted retired or retainer pay;

(C) are serving as members of reserve components and are credited with at least eight years of service computed under section 12733 of this title; or

(D) would be, or who died while they would have been, entitled to retired pay under Chapter 1223 of this title, except for not having attained 60 years of age;

however, a person who is eligible for selection under clause (1) of subsection (a) may not be selected under this clause.

(2) 85 nominated by the Secretary of the Air Force from enlisted members of the Regular Air Force.

(3) 85 nominated by the Secretary of the Air Force from enlisted members of reserve components of the Air Force.

(4) 20 nominated by the Secretary of the Air Force, under regulations prescribed by him, from the honor graduates of schools designated as honor schools by the Department of the Army, the Department of the Navy, or the Department of the Air Force, and from members of the Air Force Reserve Officers' Training Corps.

(5) 150 selected by the Secretary of the Air Force in order of merit (prescribed pursuant to section 9343 of this title) from quali-

fied alternates nominated by persons named in clauses (3) and (4) of subsection (a).

(c) The President may also appoint as cadets at the Academy children of persons who have been awarded the Medal of Honor for acts performed while in the armed forces.

(d) The Superintendent may nominate for appointment each year 50 persons from the country at large. Persons nominated under this paragraph may not displace any appointment authorized under clauses (2) through (9) of subsection (a) and may not cause the total strength of Air Force Cadets to exceed the authorized number.

(e) If the annual quota of cadets under subsection (b) (1), (2), or (3) is not filled, the Secretary may fill the vacancies by nominating for appointment other candidates from any of these sources who were found best qualified on examination for admission and not otherwise nominated.

(f) Each candidate for admission nominated under clauses (3) through (9) of subsection (a) must be domiciled in the State, or in the congressional district, from which he is nominated, or in the District of Columbia, Puerto Rico, American Samoa, Guam, or the Virgin Islands, if nominated from one of those places.

(g) The Secretary of the Air Force may limit the number of cadets authorized to be appointed under this section to the number that can be adequately accommodated at the Academy as determined by the Secretary after consulting with the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, subject to the following:

(1) Cadets chargeable to each nominating authority named in subsection (a) (3) or (4) may not be limited to less than four.

(2) If the Secretary limits the number of appointments under subsection (a) (3) or (4), appointments under subsection (b)(1)–(4) are limited as follows:

(A) 27 appointments under subsection (b)(1);

(B) 27 appointments under subsection (b)(2);

(C) 27 appointments under subsection (b)(3); and

(D) 13 appointments under subsection (b)(4).

(3) If the Secretary limits the number of appointments under subsection (b)(5), appointment under subsection (b)(2)–(4) are limited as follows:

(A) 27 appointments under subsection (b)(2);

(B) 27 appointments under subsection (b)(3); and

(C) 13 appointments under subsection (b)(4).

(4) The limitations provided for in this subsection do not affect the operation of subsection (e).

(h) The Secretary of the Air Force shall furnish to any Member of Congress, upon the written request of such Member, the name of the Congressman or other nominating authority responsible for the nomination of any named or identified person for appointment to the Academy.

(i) For purposes of the limitation in subsection (a) establishing the aggregate authorized strength of Air Force Cadets, the Secretary of the Air Force may for any year permit a variance in that limitation by not more than one percent. In applying that limitation, and any such variance, the last day of an academic year shall be considered to be graduation day.

(Aug. 10, 1956, ch. 1041, § 1, 70A Stat. 563; Sept. 14, 1962, Pub. L. 87–663, § 1(5), (6), 76 Stat. 547; March 3, 1964, Pub. L. 88–276, § 4(1), 78 Stat. 151; Oct. 13, 1966, Pub. L. 89–650, § 1(1)–(3), (5), 80 Stat. 896; July 5, 1968, Pub. L. 90–374, 82 Stat. 283; Oct. 22, 1968, Pub. L. 90–623, § 2(8), 82 Stat. 1314; Sept. 22, 1970, Pub. L. 91–405, Title II, § 204(c), 84 Stat. 852; Aug. 7, 1972, Pub. L. 92–365, § 1(3), 86 Stat. 505; Nov. 29, 1973, Pub. L. 93–171, § 3(1)–(4), 87 Stat. 690; Oct. 7, 1975, Pub. L. 94–106, Title VIII, § 803(b)(1), 89 Stat. 538; Dec. 12, 1980, Pub. L. 96–513, Title V, Part B, § 514(11), 94 Stat. 2935; Dec. 4, 1980, Pub. L. 96–600, § 2(c), 94 Stat. 3493; Oct. 14, 1981, Pub. L. 97–60, Title II, § 203(c)(1), 95 Stat. 1006; Sept. 24, 1983, Pub. L. 98–94, Title X, Part A, § 1005(a)(3), (b)(3), 97 Stat. 660, 661; Nov. 29, 1989, Pub. L. 101–189, Div. A, Title XVI, Part C, § 1621(a)(1), 103 Stat. 1602; Nov. 5, 1990, Pub. L. 101–510, Div. A, Title V, Part C, § 532(c)(1), 104 Stat 1563; Nov. 30, 1993, Pub. L. 103–160, Div. A, Title V, Subtitle C, § 531, 107 Stat. 1657; Oct. 5, 1994, Pub. L. 103–337, Div. A, Title XVI, Subtitle D, § 1674(c)(3), 108 Stat. 3017; Feb. 10, 1996, Pub. L. 104–106, Div. A, Title V, Subtitle D, Part I, § 532(c), Title XV, § 1502(a)(1), 110 Stat. 315, 502; Nov. 18, 1997, Pub. L. 105–85, Div. A, Title X, Subtitle G, § 1073(a)(62), 111 Stat. 1903; Pub. L. 106–65, Div. A, Title V, § 531(b)(3), Title X, § 1067(1), Oct. 5, 1999, 113 Stat. 602, 774; Oct. 30, 2000, Pub. L. 106–398, § 1 [Div. A, Title V, § 531(c) 114 Stat. 1654A–110].

§ 9355. Board of Visitors. **945**

(a) A Board of Visitors to the Academy is constituted annually of—

(1) the chairman of the Committee on Armed Services of the Senate, or his designee;

(2) three other members of the Senate designated by the Vice President or the President pro tempore of the Senate, two of whom are members of the Committee on Appropriations of the Senate;

(3) the Chairman of the Committee on Armed Services of the House of Representatives, or his designee;

(4) four other members of the House of Representatives designated by the Speaker of the House of Representatives, two of whom are members of the Committee on Appropriations of the House of Representatives; and

(5) six persons designated by the President.

(b) The persons designated by the President serve for three years each except that any member whose term of office has expired shall continue to serve until his successor is appointed. The President shall designate two persons each year to succeed the members whose terms expire that year.

(c) If a member of the board dies or resigns, a successor shall be designated for the unexpired portion of the term by the official who designated the member.

(d) The Board shall visit the Academy annually. With the approval of the Secretary of the Air Force, the Board or its members may make other visits to the Academy in connection with the duties of the Board or to consult with the Superintendent of the Academy.

(e) The Board shall inquire into the morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy which the Board decides to consider.

(f) Within 60 days after its annual visit, the Board shall submit a written report to the President of its action, and of its views and recommendations pertaining to the Academy. Any report of a visit, other than the annual visit, shall, if approved by a majority of the members of the Board, be submitted to the President within 60 days after the approval.

(g) Upon approval by the Secretary, the Board may call in advisers for consultation.

(h) While performing his duties, each member of the board and each adviser be reimbursed under Government travel regulations for his travel expenses. (Aug. 10, 1956, ch. 1041, § 1, 70A Stat. 567; Dec. 23, 1980, Pub. L. 95–579, § 13(c), 94 Stat. 3369; Feb. 10, 1996, Pub. L. 104–106, Div A, Title X, Subtitle F, § 1061(e)(2), Title XV, § 1502(a)(12), 110 Stat. 443, 503; Pub. L. 106–65, Div. A, Title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774.)

Chapter 1013.—BUDGET INFORMATION AND ANNUAL REPORTS TO CONGRESS

946 § 10541. National Guard and reserve component equipment: annual report to Congress.

(a) The Secretary of Defense shall submit to the Congress each year, not later than February 15, a written report concerning the equipment of the National Guard and the reserve components of the armed forces for each of the three succeeding fiscal years.

(b) Each report under this section shall include the following:

(1) Recommendations as to the type and quantity of each major item of equipment which should be in the inventory of the Selected Reserve of the Ready Reserve of each reserve component of the armed forces.

(2) A statement of the quantity and average age of each type of major item of equipment which is expected to be physically available in the inventory of the Selected Reserve of the Ready Reserve of each reserve component as of the beginning of each fiscal year covered by the report.

(3) A statement of the quantity and cost of each type of major item of equipment which is expected to be procured for the Selective Reserve of the Ready Reserve of each reserve component from commercial sources or to be transferred to each such Selected Reserve from the active-duty components of the armed forces.

(4) A statement of the quantity of each type of major item of equipment which is expected to be retired, decommissioned, transferred, or otherwise removed from the physical inventory of the Selected Reserve of the Ready Reserve of each reserve component and the plans for replacement of that equipment.

(5) A listing of each major item of equipment required by the Selected Reserve of the Ready Reserve of each reserve component indicating—

(A) the full war-time requirement of that component for that item, shown in accordance with deployment schedules and requirements over successive 30-day periods following mobilization;

(B) the number of each such item in the inventory of the component;

(C) a separate listing of each such item in the inventory that is a deployable item and is not the most desired item;

(D) the number of each such item projected to be in the inventory at the end of the third succeeding fiscal year; and

(E) the number of nondeployable items in the inventory as a substitute for a required major item of equipment.

(6) A narrative explanation of the plan of the Secretary concerned to provide equipment needed to fill the war-time requirement for each major item of equipment to all units of the Selected Reserve, including an explanation of the plan to equip units of the Selected Reserve that are short of major items of equipment at the outset of war.

(7) For each item of major equipment reported under paragraph (3) in a report for one of the three previous years under this section as an item expected to be procured for the Selected Reserve or to be transferred to the Selected Reserve, the quantity of such equipment actually procured for or transferred to the Selected Reserve.

(8) A statement of the current status of the compatibility of equipment between Army reserve components and active forces of the Army, the effect of that level of incompatibility on combat effectiveness, and a plan to achieve full equipment compatibility.

(c) Each report under this section shall be expressed in the same format and with the same level of detail as the information presented in the annual Five Year Defense Program Procurement Annex prepared by the Department of Defense. (Added Pub. L. 101–510, § 1483(a), Nov. 5, 1990, 104 Stat. 1714 [former § 115(a)(2), (3)]; amended Pub. L. 102–484, § 1134, Oct. 23, 1992, 106 Stat. 2541; transferred, redesignated § 10541, and amended Pub. L. 103–337, § 1661(d)(2), Oct. 5, 1994, 108 Stat. 2982.)

TITLE 12.—BANKS AND BANKING

Chapter 3.—FEDERAL RESERVE SYSTEM

950 § 303. Qualifications and disabilities [of members of Board of Governors of Federal Reserve System].

No Senator * * * shall be a member of the Board of Governors of the Federal Reserve System or an officer or a director of a Federal Reserve bank. * * * (Dec. 23, 1913, ch. 6, § 4, 38 Stat. 255; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

§ 194. Annual Board of Visitors.

(a) In addition to the Advisory Committee, a Board of Visitors to the Academy is established to visit the Academy annually and to make recommendations on the operation of the Academy.

(b) The Board shall be composed of—

(1) two Senators designated by the Chairman of the Committee on Commerce, Science, and Transportation of the Senate;

(2) three Members of the House of Representatives designated by the Chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives;

(3) one Senator designated by the President of the Senate;

(4) two Members of the House of Representatives designated by the Speaker of the House of Representatives; and

(5) the Chairman of the Committee on Commerce, Science, and Transportation of the Senate and the Chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives, as ex offico Members.

(c) When a Member is unable to attend the annual meeting another Member may be designated as provided under subsection (b).

(d) When an ex officio Member is unable to attend the annual meeting that Member may designate another Member.

(e) Members of the Board shall be designated in the First Session and serve for the duration of the Congress.

(f) The Board shall visit the Academy annually on the date chosen by the Secretary. Each Member of the Board shall be reimbursed, to the extent permitted by law, by the Coast Guard for actual expenses incurred while engaged in duties as a Member of the Board. (Aug. 4, 1949, ch. 393, § 1, 63 Stat. 510; Nov. 16, 1990, Pub. L. 101–595, § 304, 104 Stat. 2984.)

TITLE 15.—COMMERCE AND TRADE

Chapter 21.—NATIONAL POLICY ON EMPLOYMENT

955 § 1022. Economic Report of President; coverage; supplementary reports; reference to congressional joint committee; percentage rate of unemployment; definitions.

(a) The President shall annually transmit to the Congress not later than 10 days after the submission of the budget under section 1105(a) of title 31, United States Code, with copies transmitted to the Governor of each State and to other appropriate State and local officials, an economic report (hereinafter in this chapter referred to as the "Economic Report") together with the annual report of the Council of Economic Advisers submitted in accord with section 1023(c) of this title, setting forth—

(1) the current and foreseeable trends in the levels of employment, unemployment, production, capital formation, real income, Federal budget outlays and receipts, productivity, international trade and payments, and prices, and a review and analysis of recent domestic and international developments affecting economic trends in the Nation;

(2)(A) annual numerical goals for employment and unemployment, production, real income, productivity, Federal outlays as a proportion of gross national product, and prices for the calendar year in which the Economic Report is transmitted and for the following calendar year, designated as short-term goals, which shall be consistent with achieving as rapidly as feasible the goals of full employment and production, increased real income, balanced growth, fiscal policies that would establish the share of an expanding gross national product accounted for by Federal outlays at the lowest level consistent with national needs and priorities, a balanced Federal budget, adequate productivity growth, price stability, achievement of an improved trade balance, and proper attention to national priorities; and

(B) annual numerical goals as specified in subparagraph (A) for the three successive calendar years, designated as medium term goals;

(3) employment objectives for certain significant subgroups of the labor force, including youth, women, minorities, handicapped persons, veterans, and middle-aged and older persons; and

(4) a program for carrying out the policy declared in section 1021 of this title, together with such recommendations for legislation as the President may deem necessary or desirable.

(b) The President may transmit from time to time to the Congress reports supplementary to the Economic Report, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in section 1021 of this title.

(c) The Economic Report, and all supplementary reports transmitted under subsection (b) of this section, shall, when transmitted to Congress, be referred to the joint committee created by section 1024 of this title.

(d) For the purposes of the Full Employment and Balanced Growth Act of 1978, [15 U.S.C.A. § 3101 et seq.], the percentage rate of unemployment as a percentage of the civilian labor force as set forth by the Bureau of Labor Statistics in the Department of Labor as computed under the procedures in effect as of October 27, 1978.

(e) For the purpose of the Full Employment and Balanced Growth Act of 1978, [15 U.S.C.A. § 3101 et seq.], the terms "inflation", "prices", and "reasonable price stability" refer to the rate of change or level of the consumer price index as set forth by the Bureau of Labor Statistics, United States Department of Labor. (Feb. 20, 1946, ch. 33, § 3, 60 Stat. 24; Aug. 2, 1946, ch. 753, § 226, 60 Stat. 838; June 18, 1956, ch. 399, § 1, 70 Stat. 289; Oct. 27, 1978, Pub. L. 95–523, § 103, 92 Stat. 1892; May 10, 1979, Pub. L. 96–10, § 6(d), 93 Stat. 24; Nov. 5, 1990, Pub. L. 101–508, Title XIII, § 13112(e), 104 Stat. 1388.)

§ 1024. Joint Economic Committee. **956**

(a) There is established a Joint Economic Committee, to be composed of ten Members of the Senate, to be appointed by the President of the Senate, and ten Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives. In each case, the majority party shall be represented by six Members and the minority party shall be represented by four Members.

(b) It shall be the function of the joint committee—

(1) to make a continuing study of matters relating to the Economic Report;

(2) to study means of coordinating programs in order to further the policy of this chapter; and

(3) as a guide to the several committees of the Congress dealing with legislation relating to the Economic Report, not later than March 1 of each year (beginning with the year 1947) to file a report with the Senate and the House of Representatives containing its findings and recommendations with respect to each of the main recommendations made by the President in the Economic Report, and from time to time to make such other reports and recommendations to the Senate and House of Representatives as it deems advisable.

(c) Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as in the case of the original selection. The joint committee shall select a chairman and a vice chairman from among its members.

(d) The joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings as it deems advisable, and, within the limitations of its appropriations, the joint committee is empowered to appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistants, to procure such printing and binding, and to make such expenditures, as it deems necessary and advisable. The cost of stenographic services to report hearings of the joint committee, or any subcommittee thereof, shall not exceed 25 cents per hundred words. The joint committee is authorized to utilize

the services, information, and facilities of the departments and establishments of the Government, and also of private research agencies.

(e) To enable the joint committee to exercise its powers, functions, and duties there are authorized to be appropriated for each fiscal year such sums as may be necessary, to be disbursed by the Secretary of the Senate on vouchers signed by the chairman or vice chairman, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

(f) Service of one individual, until the completion of the investigation authorized by Senate Concurrent Resolution 26, Eighty-first Congress, as an attorney or expert for the joint committee, in any business or professional field, on a part-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of sections 281, 283, or 284 of title 18, or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States. (Feb. 20, 1946, ch. 33, § 5, 60 Stat. 25; Aug. 2, 1946, ch. 753, § 225, 60 Stat. 838; Feb. 2, 1948, ch. 42, 62 Stat. 16, Oct. 6, 1949, ch. 627, §§ 1, 2, 63 Stat. 721; June 18, 1956, ch. 399, § 2, 70 Stat. 290; Feb. 17, 1959, Pub. L. 86–1, 73 Stat. 3; Oct. 13, 1964, Pub. L. 88–661, 78 Stat. 1093; Jan. 25, 1967, Pub. L. 90–2, 81 Stat. 4; Dec. 27, 1974, Pub. L. 93–554, § 101, 88 Stat. 1776.) (Note: Section 5 of act of February 20, 1946, ch. 33, 60 Stat. 25 was redesignated Section 11 by Pub. L. 95–523, Title I, § 104, Oct. 27, 1978, 92 Stat. 1893.)

957 § 1025. Same; printing of monthly publication entitled "Economic Indicators"; distribution.

The Joint Economic Committee is authorized to issue a monthly publication entitled "Economic Indicators", and a sufficient quantity shall be printed to furnish one copy to each Member of Congress; the Secretary and the Sergeant at Arms of the Senate; the Clerk, Sergeant at Arms, and Chief Administrative Officer of the House of Representatives; two copies to the libraries of the Senate and House, and the Congressional Library; seven hundred copies to the Joint Economic Committee; and the required number of copies to the Superintendent of Documents for distribution to depository libraries; and the Superintendent of Documents is authorized to have copies printed for sale to the public. (June 23, 1949, ch. 237, 63 Stat. 264; Pub. L. 104–186, Title II, § 217, Aug. 20, 1996, 110 Stat. 1747.)

TITLE 18.—CRIMES AND CRIMINAL PROCEDURE

Chapter 11.—BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

§ 201. Bribery of public officials and witnesses 960

(a) For the purpose of this section—

(1) the term "public official" means Member of Congress, Delegate, or Resident Commissioner, either before or after such official has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, or a juror;

(2) the term "person who has been selected to be a public official" means any person who has been nominated or appointed to be a public official, or has been officially informed that such person will be so nominated or appointed; and

(3) the term "official act" means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official's official capacity, or in such official's place of trust or profit.

(b) Whoever—

(1) directly or indirectly, corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent—

(A) to influence any official act; or

(B) to influence such public official or person who has been selected to be a public official to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(C) to induce such public official or such person who has been selected to be a public official to do or omit to do any act in violation of the lawful duty of such official or person;

(2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for—

(A) being influenced in the performance of any official act;

(B) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(C) being induced to do or omit to do any act in violation of the official duty of such official or person;

(3) directly or indirectly, corruptly gives, offers, or promises anything of value to any person, or offers or promises such person

to give anything of value to any other person or entity, with intent to influence the testimony under oath or affirmation of such first-mentioned person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or with intent to influence such person to absent himself therefrom;

(4) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for being influenced in testimony under oath or affirmation as a witness upon any such trial, hearing, or other proceeding, or in return for absenting himself therefrom;

shall be fined under this title or not more than three times the monetary equivalent of the thing of value, whichever is greater, or imprisoned for not more than fifteen years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

(c) Whoever—

(1) otherwise than as provided by law for the proper discharge of official duty—

(A) directly or indirectly gives, offers, or promises anything of value to any public official, former public official, or person selected to be a public official, for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official; or

(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person;

(2) directly or indirectly, gives, offers, or promises anything of value to any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or for or because of such person's absence therefrom;

(3) directly or indirectly, demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon any such trial, hearing, or other proceeding, or for or because of such person's absence therefrom;

shall be fined under this title or imprisoned for not more than two years, or both.

(d) Paragraphs (3) and (4) of subsection (b) and paragraphs (2) and (3) of subsection (c) shall not be construed to prohibit the payment or receipt of witness fees provided by law, or the payment, by the party upon whose behalf a witness is called and receipt by a witness, of the reasonable cost of travel and subsistence incurred and the reasonable value of time lost in attendance at any such trial, hearing, or

proceeding, or in the case of expert witnesses, a reasonable fee for time spent in the preparation of such opinion, and in appearing and testifying.

(e) The offenses and penalties prescribed in this section are separate from and in addition to those prescribed in sections 1503, 1504, and 1505 of this title. (Oct. 23, 1962; Pub. L. 87–849, § 1(a), 76 Stat. 1119, and amended Pub. L. 91–405, Title II, § 204(d)(1), Sept. 22, 1970, 84 Stat. 853; Pub. L. 99–646, § 46(a), Nov. 10, 1986, 100 Stat. 3601–3604; Sept. 13, 1994, Pub. L. 103–322, § 330016(2)(D), 108 Stat. 2148.)

§ 202. Definitions **961**

(a) For the purpose of sections 203, 205, 207, 208, and 209 of this title the term "special Government employee" shall mean an officer or employee of the executive or legislative branch of the United States Government, of any independent agency of the United States or of the District of Columbia, who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis, or a part-time United States commissioner, a part-time United States magistrate, or, regardless of the number of days of appointment, an independent counsel appointed under chapter 40 of title 28 and any person appointed by that independent counsel under section 594(c) of title 28. Notwithstanding the next preceding sentence, every person serving as a part-time local representative of a Member of Congress in the Member's home district or State shall be classified a special Government employee. Notwithstanding section 29 (c) and (d) of the Act of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r (c) and (d)),[1] a Reserve Officer of the Armed Forces, or an officer of the National Guard of the United States, unless otherwise an officer or employee of the United States, shall be classified as a special Government employee while on active duty solely for training. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is voluntarily serving a period of extended active duty in excess of one hundred and thirty days shall be classified as an officer of the United States within the meaning of section 203 and sections 205 through 209 and 218. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is serving involuntarily shall be classified as a special Government employee. The terms "officer or employee" and "special Government employee" as used in sections 203, 205, 207 through 209, and 218, shall not include enlisted members of the Armed Forces.

(b) For the purposes of sections 205 and 207 of this title, the term "official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.

(c) Except as otherwise provided in such sections, the terms "officer" and "employee" in sections 203, 205, 207 through 209, and 218 of this title shall not include the President, the Vice President, a Member of Congress, or a Federal judge.

[1] Section 30r (c) and (d) of title 5, United States Code, is now contained in sections 502, 2105(d), and 5534 of that title.

(d) The term "Member of Congress" in sections 204 and 207 means—

(1) A United States Senator; and

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

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

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

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

(3) "legislative branch" means—

(A) the Congress; and

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

(June 25, 1948, ch. 645, § 1, 62 Stat. 691; Oct. 23, 1962, Pub. L. 87–849, 76 Stat. 1121; Oct. 17, 1968, Pub. L. 90–578, § 301(b), 82 Stat. 1115; Pub. L. 100–191, § 3(a), Dec. 15, 1987, 101 Stat. 1306; Pub. L. 101–194, Title IV, § 401, Nov. 30, 1989, 103 Stat. 1747; Pub. L. 101–280, § 5(a), May 4, 1990, 104 Stat. 158; Pub. L. 102–572, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 103–337, § 924(d)(1), Oct. 5, 1994, 108 Stat. 2832.)

962 § 203. Compensation to Members of Congress, officers, and others in matters affecting the Government

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

(1) demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, services rendered or to be rendered either personally or by another—

(A) at a time when such person is a Member of Congress, Member of Congress Elect, Delegate, Delegate Elect, Resident Commissioner, or Resident Commissioner Elect; or

(B) at a time when such person is an officer or employee or Federal judge of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States,

in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court, court-martial, officer, or any civil, military, or naval commission; or

(2) knowingly gives, promises, or offers any compensation for any such representational services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was such a Member, Member Elect, Delegate, Delegate Elect, Commissioner, Commissioner Elect, Federal judge, officer, or employee;

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

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

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

(2) knowingly gives, promises, or offers any compensation for any such representational services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was an officer or employee of the District of Columbia;

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

(c) A special Government employee shall be subject to subsection (a) only in relation to a particular matter involving a specific party or parties—

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

(2) which is pending in the department or agency of the Government in which such employee is serving except that paragraph (2) of this subsection shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

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

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

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

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

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

(f) Nothing in this section prevents an individual from giving testimony under oath or from making statements required to be made under penalty of perjury. (Oct. 23, 1962, Pub. L. 87–849, § 1(a), 76 Stat. 1121, and amended Pub. L. 91–405, Title II, § 204(d)(2), (3), Sept. 22, 1970, 84 Stat. 853; Pub. L. 99–646, § 47(a), Nov. 10, 1986, 100 Stat. 3604, 3605; Pub. L. 101–194, Title IV, § 402, Nov. 30, 1989, 103 Stat. 1748; Pub. L. 101–280, § 5(b), May 4, 1990, 104 Stat. 159.)

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

Whoever, being a Member of Congress or Member of Congress Elect, practices in the United States Court of Federal Claims or the United States Court of Appeals for the Federal Circuit shall be subject to the penalties set forth in section 216 of this title. (June 25, 1948, ch. 645, 62 Stat. 697; Oct. 23, 1962; Pub. L. 87–849, 76 Stat. 1122; Sept. 22, 1970; Pub. L. 91–405, § 204(d), 84 Stat. 853; Pub. L. 97–164, § 147, Apr. 2, 1982, 96 Stat. 45; Pub. L. 101–194, Title IV, § 403, Nov. 30, 1989, 103 Stat. 1749; Pub. L. 102–572, § 902(b)(1), Oct. 29, 1992, 106 Stat. 4516.)

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

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

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

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

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

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

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

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

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

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

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

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

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

(d)(1) Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of that officer's or employee's duties, from acting without compensation as agent or attorney for, or otherwise representing—

(A) any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings; or

(B) except as provided in paragraph (2), any cooperative, voluntary, professional, recreational, or similar organization or group not established or operated for profit, if a majority of the organization's or group's members are current officers or employees of the United States or of the District of Columbia, or their spouses or dependent children.

(2) Paragraph (1)(B) does not apply with respect to a covered matter that—

(A) is a claim under subsection (a)(1) or (b)(1);

(B) is a judicial or administrative proceeding where the organization or group is a party; or

(C) involves a grant, contract, or other agreement (including a request for any such grant, contract, or agreement) providing for the disbursement of Federal funds to the organization or group.

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

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

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

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

(f) Nothing in subsection (a) or (b) prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States if the head of the department or agency

concerned with the grant or contract certifies in writing that the national interest so requires and publishes such certification in the Federal Register.

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

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

(i) Nothing in this section prevents an employee from acting pursuant to—

(1) chapter 71 of title 5;

(2) section 1004 or chapter 12 of title 39;

(3) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b);

(4) chapter 10 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4104 et seq.); or

(5) any provision of any other Federal or District of Columbia law that authorizes labor-management relations between an agency or instrumentality of the United States or the District of Columbia and any labor organization that represents its employees.

(Added Pub. L. 87–849, § 1(a), October 23, 1962, 76 Stat. 1122, and amended Pub. L. 101–194, Title IV, § 404, Nov. 30, 1989, 103 Stat. 1750; Pub. L. 101–280, § 5(c), May 4, 1990, 104 Stat. 159; Pub. L. 104–177, § 2, Aug. 6, 1996, 110 Stat. 1563.)

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

(a) Restrictions on all officers and employees of the executive branch and certain other agencies.—

(1) Permanent restrictions on representation on particular matters.—Any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including any independent agency of the United States), or of the District of Columbia, and who, after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia) in connection with a particular matter—

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

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

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

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

(2) Two-year restrictions concerning particular matters under official responsibility.—Any person subject to the restrictions contained in paragraph (1) who, within 2 years after the termination of his or her service or employment with the United States or the District

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

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

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

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

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

(3) Clarification of restrictions.—The restrictions contained in paragraphs (1) and (2) shall apply—

(A) in the case of an officer or employee of the executive branch of the United States (including any independent agency), only with respect to communications to or appearances before any officer or employee of any department, agency, court, or court-martial of the United States on behalf of any other person (except the United States), and only with respect to a matter in which the United States is a party or has a direct and substantial interest; and

(B) in the case of an officer or employee of the District of Columbia, only with respect to communications to or appearances before any officer or employee of any department, agency or court of the District of Columbia on behalf of any other person (except the District of Columbia), and only with respect to a matter in which the District of Columbia is a party or has a direct and substantial interest.

(b) One-year restrictions on aiding or advising.—

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

(2) Definition.—For purposes of this paragraph—

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

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

(c) One-year restrictions on certain senior personnel of the executive branch and independent agencies.—

(1) Restrictions.—In addition to the restrictions set forth in subsections (a) and (b), any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including an independent agency), who is referred to in paragraph (2), and who, within 1 year after the termination of his or her service or employment as such officer or employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of the department or agency in which such person served within 1 year before such termination, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

(2) Persons to whom restrictions apply.—

(A) Paragraph (1) shall apply to a person (other than a person subject to the restrictions of subsection (d))—

(i) employed at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5,

(ii) employed in a position which is not referred to in clause (i) and for which the basic rate of pay, exclusive of any locality-based pay adjustment under section 5302 of title 5 (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the rate of basic pay payable for level 5 of the Senior Executive Service.

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

(iv) employed in a position which is held by an active duty commissioned officer of the uniformed services who is serving in a grade or rank for which the pay grade (as specified in section 201 of title 37) is pay grade 0–7 or above.

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

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

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

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

(d) Restrictions on very senior personnel of the executive branch and independent agencies.—

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

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

(B) is employed in a position in the executive branch of the United States (including any independent agency) at a rate of pay payable for level I of the Executive Schedule or employed in a position in the Executive Office of the President at a rate of pay payable for level II of the Executive Schedule, or

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

and who, within 1 year after the termination of that person's service in that position, knowingly makes, with the intent to influence, any communication to or appearance before any person described in paragraph (2), on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of the executive branch of the United States, shall be punished as provided in section 216 of this title.

(2) Persons who may not be contacted.—The persons referred to in paragraph (1) with respect to appearances or communications by a person in a position described in subparagraph (A), (B), or (C) of paragraph (1) are—

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

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

(e) Restrictions on Members of Congress and officers and employees of the legislative branch.—

(1) Members of Congress and elected officers.—

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

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

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

(2) Personal staff.—

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

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

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

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

(3) Committee staff.—Any person who is an employee of a committee of Congress and who, within 1 year after the termination of that person's employment on such committee, knowingly makes, with the intent to influence, any communication to or appearance before any person who is a Member or an employee of that Committee or who was a Member of the committee in the year immediately prior to the termination of such person's employment by the committee, on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(4) Leadership staff.—

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

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

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

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

(5) Other legislative offices.—

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

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

(6) Limitation on restrictions.—

(A) The restrictions contained in paragraphs (2), (3), and (4) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was paid a rate of basic pay equal to or greater than an amount which is 75 percent of the basic rate of pay payable for a Member of the House of Congress in which such employee was employed.

(B) The restrictions contained in paragraph (5) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was employed in a position for which the rate of basic pay, exclusive of any locality-based pay adjustment under section 5302 of title 5 (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the basic rate of pay payable for level 5 of the Senior Executive Service.

(7) Definitions.—As used in this subsection—

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

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

(C) the term "employee of the House of Representatives" means an employee of a Member of the House of Representatives, an employee of a committee of the House of Representatives, an employee of a joint committee of the Congress whose pay is disbursed by the Clerk of the House of Representatives,

and an employee on the leadership staff of the House of Representatives;

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

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

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

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

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

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

(J) the term "Member of Congress" means a Senator or a Member of the House of Representatives;

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

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

(M) the term "Member of the leadership of the Senate" means the Vice President, and the President pro tempore, Deputy President pro tempore, majority leader, minority leader, majority whip, minority whip, chairman and secretary of the Conference of the Majority, chairman and secretary of the Conference of the Minority, chairman and co-chairman of the Majority Policy Committee, and chairman of the Minority Policy Committee, of the Senate (or any similar position created on or

after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989).

(f) Restrictions relating to foreign entities.—

(1) Restrictions.—Any person who is subject to the restrictions contained in subsection (c), (d), or (e) and who knowingly, within 1 year after leaving the position, office, or employment referred to in such subsection—

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

(B) aids or advises a foreign entity with the intent to influence a decision of any officer or employee of any department or agency of the United States, in carrying out his or her official duties,

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

(2) Special rule for Trade Representative.—With respect to a person who is the United States Trade Representative or Deputy United States Trade Representative, the restrictions described in paragraph (1) shall apply to representing, aiding, or advising foreign entities at any time after the termination of that person's service as the United States Trade Representative.

(3) Definition.—For purposes of this subsection, the term "foreign entity" means the government of a foreign country as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, or a foreign political party as defined in section 1(f) of that Act.

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

(h) Designations of separate statutory agencies and bureaus.—

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

(2) Inapplicability of designations.—No agency or bureau within the Executive Office of the President may be designated

under paragraph (1) as a separate department or agency. No designation under paragraph (1) shall apply to persons referred to in subsection (c)(2)(A)(i) or (iii).

(i) Definitions.—For purposes of this section—

(1) the term "officer or employee", when used to describe the person to whom a communication is made or before whom an appearance is made, with the intent to influence, shall include—

(A) in subsection (a), (c), and (d), the President and the Vice President; and

(B) in subsection (f), the President, the Vice President, and Members of Congress;

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

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

(j) Exceptions.—

(1) Official government duties.—The restrictions contained in this section shall not apply to acts done in carrying out official duties on behalf of the United States or the District of Columbia or as an elected official of a State or local government.

(2) State and local governments and institutions, hospitals, and organizations.—The restrictions contained in subsections (c), (d), and (e) shall not apply to acts done in carrying out official duties as an employee of—

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

(B) an accredited, degree-granting institution of higher education, as defined in section 101 of the Higher Education Act of 1965 [20 U.S.C.A. § 1001], or a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C.A. § 501(c)(3)], if the appearance, communication, or representation is on behalf of such institution, hospital, or organization.

(3) International organizations.—The restrictions contained in this section shall not apply to an appearance or communication on behalf of, or advice or aid to, an international organization in which the United States participates, if the Secretary of State certifies in advance that such activity is in the interests of the United States.

(4) Special knowledge.—The restrictions contained in subsections (c), (d), and (e) shall not prevent an individual from making or providing a statement, which is based on the individual's own special knowledge in the particular area that is the subject of the statement, if no compensation is thereby received.

(5) Exception for scientific or technological information.—The restrictions contained in subsections (a), (c), and (d) shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information, if such communications are made under procedures acceptable to the department

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

(6) Exception for testimony.—Nothing in this section shall prevent an individual from giving testimony under oath, or from making statements required to be made under penalty of perjury. Notwithstanding the preceding sentence—

(A) a former officer or employee of the executive branch of the United States (including any independent agency) who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness or any other person (except the United States) in that matter; and

(B) a former officer or employee of the District of Columbia who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the District of Columbia) in that matter.

(7) Political parties and campaign committees.—

(A) Except as provided in subparagraph (B), the restrictions contained in subsections (c), (d), and (e) shall not apply to a communication or appearance made solely on behalf of a candidate in his or her capacity as a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party.

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

(i) any communication to, or appearance before, the Federal Election Commission by a former officer or employee of the Federal Election Commission; or

(ii) a communication or appearance made by a person who is subject to the restrictions contained in subsections[1] (c), (d), or (e) if, at the time of the communication or appearance, the person is employed by a person or entity other than—

(I) a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party; or

(II) a person or entity who represents, aids, or advises only persons or entities described in subclause (I).

(C) For purposes of this paragraph—

(i) the term "candidate" means any person who seeks nomination for election, or election, to Federal or State office or who has authorized others to explore on his or her behalf the possibility of seeking nomination for election, or election, to Federal or State office;

[1] So in original. Probably should be "subsection".

(ii) the term "authorized committee" means any political committee designated in writing by a candidate as authorized to receive contributions or make expenditures to promote the nomination for election, or the election, of such candidate, or to explore the possibility of seeking nomination for election, or the election of such, candidate except that a political committee that receives contributions or makes expenditures to promote more than 1 candidate may not be designated as an authorized committee for purposes of subparagraph (A);

(iii) 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;

(iv) the term "national Federal campaign committee" means an organization that, by virtue of the bylaws of a political party, is established primarily for the purpose of providing assistance, at the national level, to candidates nominated by that party for election to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(v) 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;

(vi) the term "political party" means an association, committee, or organization that nominates a candidate for election to any Federal or State elected office whose name appears on the election ballot as the candidate of such association, committee, or organization; and

(vii) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(k)(1)(A) The President may grant a waiver of a restriction imposed by this section to any officer or employee described in paragraph (2) if the President determines and certifies in writing that it is in the public interest to grant the waiver and that the services of the officer or employee are critically needed for the benefit of the Federal Government. Not more than 25 officers and employees currently employed by the Federal Government at any one time may have been granted waivers under this paragraph.

(B)(i) A waiver granted under this paragraph to any person shall apply only with respect to activities engaged in by that person after that person's Federal Government employment is terminated and only to that person's employment at a Government-owned, contractor operated entity with which the person served as an officer or employee immediately before the person's Federal Government employment began.

(ii) Notwithstanding clause (i), a waiver granted under this paragraph to any person who was an officer or employee of Lawrence Livermore National Laboratory, Los Alamos National Laboratory, or Sandia National Laboratory immediately before

the person's Federal Government employment began shall apply to that person's employment by any such national laboratory after the person's employment by the Federal Government is terminated.

(2) Waivers under paragraph (1) may be granted only to civilian officers and employees of the executive branch, other than officers and employees in the Executive Office of the President.

(3) A certification under paragraph (1) shall take effect upon its publication in the Federal Register and shall identify—

(A) the officer or employee covered by the waiver by name and by position, and

(B) the reasons for granting the waiver.

A copy of the certification shall also be provided to the Director of the Office of Government Ethics.

(4) The President may not delegate the authority provided by this subsection.

(5)(A) Each person granted a waiver under this subsection shall prepare reports, in accordance with subparagraph (B), stating whether the person has engaged in activities otherwise prohibited by this section for each six-month period described in subparagraph (B), and if so, what those activities were.

(B) A report under subparagraph (A) shall cover each six-month period beginning on the date of the termination of the person's Federal Government employment (with respect to which the waiver under this subsection was granted) and ending two years after that date. Such report shall be filed with the President and the Director of the Office of Government Ethics not later than 60 days after the end of the six-month period covered by the report. All reports filed with the Director under this paragraph shall be made available for public inspection and copying.

(C) If a person fails to file any report in accordance with subparagraphs (A) and (B), the President shall revoke the waiver and shall notify the person of the revocation. The revocation shall take effect upon the person's receipt of the notification and shall remain in effect until the report is filed.

(D) Any person who is granted a waiver under this subsection shall be ineligible for appointment in the civil service unless all reports required of such person by subparagraphs (A) and (B) have been filed.

(E) As used in this subsection, the term "civil service" has the meaning given that term in section 2101 of title 5.

(Added Pub. L. 87–849, § 1(a), Oct. 23, 1962, 76 Stat. 1123, and amended Pub. L. 95–521, Title V, § 501(a), Oct. 26, 1978, 92 Stat. 1864; Pub. L. 96–28, §§ 1, 2, June 22, 1979, 93 Stat. 76; Pub. L. 101–189, Div. A, Title VIII, § 814(d)(2), Nov. 29, 1989, 103 Stat. 1499; Pub. L. 101–194, Title I, § 101(a), Nov. 30, 1989, 103 Stat. 1716; Pub. L. 101–280, §§ 2(a), 5(d), May 4, 1990, 104 Stat. 149, 159; Pub. L. 101–509, Title V, § 529 [Title I, § 101(b)(8)(A)], Nov. 5, 1990, 104 Stat. 440; Pub. L. 102–25, Title VII, § 705(a), Apr. 6, 1991, 105 Stat. 120; Pub. L. 102–190, Div. B, Title XXXI, § 3138(a), Dec. 5, 1991, 105 Stat. 1579; Pub. L. 102–395, Title VI, § 609(a), Oct. 6, 1992, 106 Stat. 1873; Pub. L. 103–322, Title XXXIII, §§ 330002(i), 330010(15), Sept. 13, 1994, 108 Stat.

2140, 2144; Pub. L. 104–65, § 21(a), Dec. 19, 1995, 109 Stat. 704; Pub. L. 104–179, §§ 5, 6, Aug. 6, 1996, 110 Stat. 1567, 1568; Pub. L. 104–208, Div. A, Title I, § 101(f) [Title VI, § 635], Sept. 30, 1996, 110 Stat. 3009–363; Pub. L. 105–244, Title I, § 102(a)(5), Oct. 7, 1998, 112 Stat. 1618.)

966 § 210. Offer to procure appointive public office

Whoever pays or offers or promises any money or thing of value, to any person, firm, or corporation in consideration of the use or promise to use any influence to procure any appointive office or place under the United States for any person, shall be fined under this title or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 694; Oct. 23, 1962, Pub. L. 87–849, § 1(b), 76 Stat. 1125; Sept. 13, 1994, Pub. L. 103–322, § 330016 (1)(H), 108 Stat. 2147.)

967 § 211. Acceptance or solicitation to obtain appointive public office

Whoever solicits or receives, either as a political contribution, or for personal emolument, any money or thing of value, in consideration of the promise of support or use of influence in obtaining for any person any appointive office or place under the United States, shall be fined under this title or imprisoned not more than one year, or both.

Whoever solicits or receives any thing of value in consideration of aiding a person to obtain employment under the United States either by referring his name to an executive department or agency of the United States or by requiring the payment of a fee because such person has secured such employment shall be fined under this title, or imprisoned not more than one year, or both. This section shall not apply to such services rendered by an employment agency pursuant to the written request of an executive department or agency of the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 694; Sept. 13, 1951, ch. 380, 65 Stat. 320; Oct. 23, 1962, Pub. L. 87–849, § 1(b), 76 Stat. 1125; Sept. 13, 1994, Pub. L. 103–322, § 330016(1)(H), 108 Stat. 2147.)

968 § 219. Officers and employees acting as agents of foreign principals

(a) Whoever, being a public official, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938 or a lobbyist required to register under the Lobbying Disclosure Act of 1995 in connection with the representation of a foreign entity, as defined in section 3(6) of that Act shall be fined under this title or imprisoned for not more than two years, or both.

(b) Nothing in this section shall apply to the employment of any agent of a foreign principal as a special Government employee in any case in which the head of the employing agency certifies that such employment is required in the national interest. A copy of any certification under this paragraph shall be forwarded by the head of such agency to the Attorney General who shall cause the same to be filed with the registration statement and other documents filed by such agent, and made available for public inspection in accordance with section 6 of the Foreign Agents Registration Act of 1938, as amended.

(c) For the purpose of this section "public official" means Member of Congress, Delegate, or Resident Commissioner, either before or after he has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of

Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government.

(Added Pub. L. 89–486, § 8(b), July 4, 1966, 80 Stat. 249, and amended Pub. L. 98–473, Title II, § 1116, Oct. 12, 1984, 98 Stat. 2149; Pub. L. 99–646, § 30, Nov. 10, 1986, 100 Stat. 3598; Pub. L. 101–647, Title XXXV, § 3511, Nov. 29, 1990, 104 Stat. 4922; Pub. L. 104–65, § 12(b), Dec. 19, 1995, 109 Stat. 701.)

Chapter 18.—CONGRESSIONAL, CABINET, AND SUPREME COURT ASSASSINATION, KIDNAPPING, AND ASSAULT

§ 351. Congressional, Cabinet, and Supreme Court assassination, kidnapping, and assault; penalties 969

(a) Whoever kills any individual who is a Member of Congress or a Member-of-Congress-elect, a member of the executive branch of the Government who is the head, or a person nominated to be head during the pendency of such nomination, of a department listed in section 101 of title 5 or the second ranking official in such department, the Director (or a person nominated to be Director during the pendency of such nomination) or Deputy Director of Central Intelligence, a major Presidential or Vice Presidential candidate (as defined in section 3056 of this title), or a Justice of the United States, as defined in section 451 of title 28, or a person nominated to be a Justice of the United States, during the pendency of such nomination, shall be punished as provided by sections 1111 and 1112 of this title.

(b) Whoever kidnaps any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished by imprisonment for any term of years or for life.

(d) If two or more persons conspire to kill or kidnap any individual designated in subsection (a) of this section and one or more of such persons do any act to effect the object of the conspiracy, each shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if death results to such individual.

(e) Whoever assaults any person designated in subsection (a) of this section shall be fined under this title, or imprisoned not more than one year, or both; and if the assault involved the use of a dangerous weapon, or personal injury results, shall be fined under this title, or imprisoned not more than ten years, or both.

(f) If Federal investigative or prosecutive jurisdiction is asserted for a violation of this section, such assertion shall suspend the exercise of jurisdiction by a State or local authority, under any applicable State or local law, until Federal action is terminated.

(g) Violations of this section shall be investigated by the Federal Bureau of Investigation. Assistance may be requested from any Federal, State, or local agency, including the Army, Navy, and Air Force, any statute, rule, or regulation to the contrary notwithstanding.

(h) In a prosecution for an offense under this section the Government need not prove that the defendant knew that the victim of the offense was an individual protected by this section.

(i) There is extraterritorial jurisdiction over the conduct prohibited by this section. (Added Pub. L. 91–644, Title IV, § 15, Jan. 2, 1971, 84 Stat. 1891, and amended Pub. L. 97–285, §§ 1, 2(a), Oct. 6, 1982, 96 Stat. 1219; Pub. L. 99–646, § 62, Nov. 10, 1986, 100 Stat. 3614; Pub. L. 100–690, Title VII, § 7074, Nov. 18, 1988, 102 Stat. 4405; Pub. L. 103–322, Title XXXII, § 320101(d), Title XXXIII, §§ 330016(1)(K), (L), 330021(1), Sept. 13, 1994, 108 Stat. 2108, 2147, 2150; Pub. L. 104–294, Title VI, § 604(b)(12)(C), (c)(2), Oct. 11, 1996, 110 Stat. 3507, 3509.)

Chapter 23.—CONTRACTS

970 § 431. Contracts by Member of Congress

Whoever, being a Member of or Delegate to Congress, or a Resident Commissioner, either before or after he has qualified, directly or indirectly, himself, or by any other person in trust for him, or for his use or benefit, or on his account, undertakes, executes, holds, or enjoys, in whole or in part, any contract or agreement, made or entered into in behalf of the United States or any agency thereof, by any officer or person authorized to make contracts on its behalf, shall be fined under this title.

All contracts or agreements made in violation of this section shall be void; and whenever any sum of money is advanced by the United States or any agency thereof, in consideration of any such contract or agreement, it shall forthwith be repaid; and in case of failure or refusal to repay the same when demanded by the proper officer of the department or agency under whose authority such contract or agreement shall have been made or entered into, suit shall at once be brought against the person so failing or refusing and his sureties for the recovery of the money so advanced. (June 25, 1948, ch. 645, § 1, 62 Stat. 702; Oct. 31, 1951, ch. 655, § 19, 65 Stat. 717; Sept. 13, 1994, Pub. L. 103–322, § 330016(1)(J), 108 Stat. 2147.)

971 § 432. Officer or employee contracting with Member of Congress

Whoever, being an officer or employee of the United States, on behalf of the United States or any agency thereof, directly or indirectly makes or enters into any contract, bargain, or agreement, with any Member of or Delegate to Congress, or any Resident Commissioner, either before or after he has qualified, shall be fined under this title. (June 25, 1948, ch. 645, § 1, 62 Stat. 702; Sept. 13, 1994, Pub. L. 103–322, § 330016(1)(J), 108 Stat. 2147.)

972 § 433. Exemptions with respect to certain contracts

Sections 431 and 432 of this title shall not extend to any contract or agreement made or entered into, or accepted by any incorporated company for the general benefit of such corporation; nor to the purchase or sale of bills of exchange or other property where the same are ready for delivery and payment therefor is made at the time of making or entering into the contract or agreement. Nor shall the provisions of such section apply to advances, loans, discounts, purchase or repurchase agreements extensions, or renewals thereof, or acceptances, releases or substitutions of security therefor or other contracts or agreements made

or entered into under the Reconstruction Finance Corporation Act, the Agricultural Adjustment Act, the Federal Farm Loan Act, the Emergency Farm Mortgage Act of 1933, the Farm Credit Act of 1933, or the Home Owners Loan Act of 1933, the Farmers' Home Administration Act of 1946, the Bankhead-Jones Farm Tenant Act, or to crop insurance agreements or contracts or agreements of a kind which the Secretary of Agriculture may enter into with farmers.

Any exemption permitted by this section shall be made a matter of public record. (June 25, 1948, ch. 645, § 1, 62 Stat. 703; Oct. 4, 1961, Pub. L. 87–353, § 3(o), 75 Stat. 774.)

Chapter 29.—ELECTIONS AND POLITICAL ACTIVITIES

§ 591. (Repealed.) 973

§ 594. Intimidation of voters 974

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, at any election held solely or in part for the purpose of electing such candidate, shall be fined under this title or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 720; Sept. 22, 1970, Pub. L. 91–405, Title II, § 204(d)(5), 84 Stat. 853; Sept. 13, 1994, Pub. L. 103–322, § 330016(1)(H), 108 Stat. 2147.)

§ 595. Interference by administrative employees of Federal, State, or Territorial Governments 975

Whoever, being a person employed in any administrative position by the United States, or by any department or agency thereof, or by the District of Columbia, or any agency or instrumentality thereof, or by any State, Territory, or Possession of the United States, or any political subdivision, municipality, or agency thereof, or agency of such political subdivision or municipality (including any corporation owned or controlled by any State, Territory, or Possession of the United States or by any such political subdivision, municipality, or agency), in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, uses his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, shall be fined under this title or imprisoned not more than one year, or both.

This section shall not prohibit or make unlawful any act by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any state or political subdivision thereof, or by the District of Columbia or by any Territory or Possession of the United States; or by any recognized religious, philanthropic or cultural organization. (June 25, 1948, ch. 645, 62 Stat. 720; Sept. 22, 1970, Pub. L. 91–405, Title II, § 204(d)(6), 84

Stat. 853; Sept. 13, 1994, Pub. L. 103–322, § 330016(1)(H), 108 Stat. 2147.)

976 § 597. Expenditures to influence voting

Whoever makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate; and

Whoever solicits, accepts, or receives any such expenditure in consideration of his vote or the withholding of his vote—

Shall be fined under this title or imprisoned not more than one year, or both; and if the violation was willful, shall be fined under this title or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, 62 Stat. 721; Sept. 13, 1994, Pub. L. 103–322, Title XXXIII, § 330016(1)(H), 108 Stat. 2147; Oct. 11, 1996, Pub. L. 104–294, Title VI, § 601(a)(12), 110 Stat. 3498.)

977 § 598. Coercion by means of relief appropriations

Whoever uses any part of any appropriation made by Congress for work relief, relief, or for increasing employment by providing loans and grants for public-works projects, or exercises or administers any authority conferred by any Appropriation Act for the purpose of interfering with, restraining, or coercing any individual in the exercise of his right to vote at any election, shall be fined under this title or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 721; Sept. 13, 1994, Pub. L. 103–322, Title XXXIII, § 330016(1)(H), 108 Stat. 2147.)

978 § 599. Promise of appointment by candidate

Whoever, being a candidate, directly or indirectly promises or pledges the appointment, or the use of his influence or support for the appointment of any person to any public or private position or employment, for the purpose of procuring support in his candidacy shall be fined under this title or imprisoned not more than one year, or both; and if the violation was willful, shall be fined under this title or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, 62 Stat. 721; Sept. 13, 1994, Pub. L. 103–322, § 330016(1)(H), (L), 108 Stat. 2147.)

979 § 600. Promise of employment or other benefit for political activity

Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special 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, shall be fined under this title or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 721; Feb. 7, 1972, Pub. L. 92–225, § 202, 86 Stat 9; Oct. 2, 1976, Pub. L. 94–453, § 3, 90 Stat. 1517; Sept. 13, 1994, Pub. L. 103–322, § 330016(1)(L), 108 Stat. 2147.)

§ 601. Deprivation of employment or other benefit for political contribution 980

(a) Whoever, directly or indirectly, knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of—

(1) any employment, position, or work in or for any agency or other entity of the Government of the United States, a State, or a political subdivision of a State, or any compensation or benefit of such employment, position, or work; or

(2) any payment or benefit of a program of the United States, a State, or a political subdivision of a State;

if such employment, position, work, compensation, payment, or benefit is provided for or made possible in whole or in part by an Act of Congress, shall be fined under this title or imprisoned not more than one year, or both.

(b) As used in this section—

(1) the term "candidate" means an individual who seeks nomination for election, or election, to Federal, State, or local office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal, State, or local office, if he has (A) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (B) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(2) the term "election" means (A) a general, special primary, or runoff election, (B) a convention or caucus of political party held to nominate a candidate, (C) a primary election held for the selection of delegates to a nominating convention of a political party, (D) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (E) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States or of any State; and

(3) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States. (June 25, 1948, ch. 645, 62 Stat. 721; Oct. 2, 1976, Pub. L. 94–453, § 1, 90 Stat. 1516; Sept. 13, 1994, Pub. L. 103–322, § 330016(1)(L), 108 Stat. 2147.)

§ 602. Solicitation of political contributions 981

(a) It shall be unlawful for—

(1) a candidate for the Congress;

(2) an individual elected to or serving in the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(3) an officer or employee of the United States or any department or agency thereof; or

(4) a person receiving any salary or compensation for services from money derived from the Treasury of the United States; to

knowingly solicit any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Any person who violates this section shall be fined under this title or imprisoned not more than 3 years, or both.

(b) The prohibition in subsection (a) shall not apply to any activity of an employee (as defined in section 7322(1) of title 5) or any individual employed in or under the United States Postal Service or the Postal Rate Commission, unless that activity is prohibited by section 7323 or 7324 of such title. (June 25, 1948, ch. 645, 62 Stat. 722; Jan. 8, 1980, Pub. L. 96–187, Title II, § 201(a)(3), 93 Stat. 1367; Oct. 6, 1993, Pub. L. 103–94, § 4(a), 107 Stat. 1004; Sept. 13, 1994, Pub. L. 103–322, Title XXXIII, § 330016(1)(K), 108 Stat. 2147.)

982 § 603. Making political contributions

(a) It shall be unlawful for an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, to make any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 to any other such officer, employee or person or to any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, if the person receiving such contribution is the employer or employing authority of the person making the contribution. Any person who violates this section shall be fined under this title or imprisoned not more than three years, or both.

(b) For purposes of this section, a contribution to an authorized committee as defined in section 302(e)(1) of the Federal Election Campaign Act of 1971 shall be considered a contribution to the individual who has authorized such committee.

(c) The prohibition in subsection (a) shall not apply to any activity of an employee (as defined in section 7322(1) of title 5) or any individual employed in or under the United States Postal Service or the Postal Rate Commission, unless that activity is prohibited by section 7323 or 7324 of such title. (June 25, 1948, ch. 645, 62 Stat. 722; Oct. 31, 1951, ch. 655, § 20(b), 65 Stat. 718; Jan. 8, 1980, Pub. L. 96–187, Title II, § 201(a)(4), 93 Stat. 1367; Oct. 6, 1993, Pub. L. 103–94, § 7, 107 Stat. 1005; Sept. 13, 1994, Pub. L. 103–322, Title XXXIII, § 330016(1)(K), 108 Stat. 2147.)

983 § 604. Solicitation from persons on relief

Whoever solicits or receives or is in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political purpose from any person known by him to be entitled to, or receiving compensation, employment, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, shall be fined under this title or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 722, Pub. L. 103–322, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

984 § 605. Disclosure of names of persons on relief

Whoever, for political purposes, furnishes or discloses any list of names of persons receiving compensation, employment or benefits provided for or made possible by any Act of Congress appropriating, or authorizing

the appropriation of funds for work relief or relief purposes, to a political candidate, committee, campaign manager, or to any person for delivery to a political candidate, committee, or campaign manager; and

Whoever receives any such list or names for political purposes—

Shall be fined under this title or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 722, Pub. L. 103–322, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

§ 606. Intimidation to secure political contributions **985**

Whoever, being one of the officers or employees of the United States mentioned in section 602 of this title, discharges, or promotes, or degrades, or in any manner changes the official rank or compensation of any other officer or employee, or promises or threatens so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose, shall be fined under this title or imprisoned not more than 3 years, or both. (June 25, 1948, ch. 645, 62 Stat. 722; Sept. 13, 1994, Pub. L. 103–322, Title XXXIII, § 330016(1)(K), 108 Stat. 2147.)

§ 607. Place of solicitation **986**

(a) Prohibition.—

(1) In general.—It shall be unlawful for any person to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. It shall be unlawful for an individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

(2) Penalty.—A person who violates this section shall be fined not more than $5,000, imprisoned not more than 3 years, or both.

(b) The prohibition in subsection (a) shall not apply to the receipt of contributions by persons on the staff of a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress or Executive Office of the President, provided, that such contributions have not been solicited in any manner which directs the contributor to mail or deliver a contribution to any room, building, or other facility referred to in subsection (a), and provided that such contributions are transferred within seven days of receipt to a political committee within the meaning of section 302(e) of the Federal Election Campaign Act of 1971. (June 25, 1948, ch. 645, 62 Stat. 722; Jan. 8, 1980, Pub. L. 96–187, Title II, § 201(a)(5), 93 Stat. 1367; Sept. 13, 1994, Pub. L. 103–322, Title XXXIII, § 330016(1)(K), 108 Stat. 2147; March 27, 2002, Pub. L. 107–155, Title III, § 302(1), 116 Stat. 96.)

Chapter 35.—EMBLEMS, INSIGNIA AND NAMES

987 § 713. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, the seal of the United States Senate, the seal of the United States House of Representatives, and the seal of the United States Congress

(a) Whoever knowingly displays any printed or other likeness of the great seal of the United States, or of the seals of the President or the Vice President of the United States, or the seal of the United States Senate, or the seal of the United States House of Representatives, or the seal of the United States Congress, or any facsimile thereof, in, or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any building, monument, or stationery, for the purpose of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be fined under this title or imprisoned not more than six months, or both.

(b) Whoever, except as authorized under regulations promulgated by the President and published in the Federal Register, knowingly manufactures, reproduces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seals of the President or Vice President, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined under this title or imprisoned not more than six months, or both.

(c) Whoever, except as directed by the United States Senate, or the Secretary of the Senate on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States Senate, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined under this title or imprisoned not more than six months, or both.

(d) Whoever, except as directed by the United States House of Representatives, or the Clerk of the House of Representatives on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States House of Representatives, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined under this title or imprisoned not more than six months, or both.

(e) Whoever, except as directed by the United States Congress, or the Secretary of the Senate and the Clerk of the House of Representatives, acting jointly on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States Congress, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be fined under this title or imprisoned not more than six months, or both.

(f) A violation of the provisions of this section may be enjoined at the suit of the Attorney General,

(1) in the case of the great seal of the United States and the seals of the President and Vice President, upon complaint by any authorized representative of any department or agency of the United States;

(2) in the case of the seal of the United States Senate, upon complaint by the Secretary of the Senate;

(3) in the case of the seal of the United States House of Representatives, upon complaint by the Clerk of the House of Representatives; and

(4) in the case of the seal of the United States Congress, upon complaint by the Secretary of the Senate and the Clerk of the House of Representatives, acting jointly. (Added Pub. L. 89–807, § 1(a), Nov. 11, 1966, 80 Stat. 1525, and amended Pub. L. 91–651, § 1, Jan. 5, 1971, 84 Stat. 1940; Pub. L. 102–229, Title II, § 210(a)–(d), Dec. 12, 1991, 105 Stat. 1717; Pub. L. 103–322, Title XXXIII, § 330016(1)(E), Sept. 13, 1994, 108 Stat. 2146; Pub. L. 105–55, Title III, § 308(a)–(d), Oct. 7, 1997, 111 Stat. 1198.)

Chapter 37.—ESPIONAGE AND CENSORSHIP

§ 798. Disclosure of classified information 988

(a) Whoever knowingly and willfully communicates, furnishes, transmits, or otherwise makes available to an unauthorized person, or publishes, or uses in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States any classified information—

(1) concerning the nature, preparation, or use of any code, cipher, or cryptographic system of the United States or any foreign government; or

(2) concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or planned for use by the United States or any foreign government for cryptographic or communication intelligence purposes; or

(3) concerning the communication intelligence activities of the United States or any foreign government; or

(4) obtained by the processes of communication intelligence from the communications of any foreign government, knowing the same to have been obtained by such processes—

Shall be fined under this title or imprisoned not more than ten years, or both.

(b) As used in subsection (a) of this section—

The term "classified information" means information which, at the time of a violation of this section, is, for reasons of national security, specifically designated by a United States Government Agency for limited or restricted dissemination or distribution;

The terms "code," "cipher," and "cryptographic system" include in their meanings, in addition to their usual meanings, any method of secret writing and any mechanical or electrical device or method used for the purpose of disguising or concealing the contents, significance, or meanings of communications;

The term "foreign government" includes in its meaning any person or persons acting or purporting to act for or on behalf of any faction,

party, department, agency, bureau, or military force of or within a foreign country, or for or on behalf of any government or any person or persons purporting to act as a government within a foreign country, whether or not such government is recognized by the United States;

The term "communication intelligence" means all procedures and methods used in the interception of communications and the obtaining of information from such communications by other than the intended recipients;

The term "unauthorized person" means any person who, or agency which, is not authorized to receive information of the categories set forth in subsection (a) of this section, by the President, or by the head of a department of agency of the United States Government which is expressly designated by the President to engage in communication intelligence activities for the United States.

(c) Nothing in this section shall prohibit the furnishing, upon lawful demand, of information to any regularly constituted committee of the Senate or House of Representatives of the United States of America, or joint committee thereof.

(d)(1) Any person convicted of a violation of this section shall forfeit to the United States irrespective of any provision of State law—

(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

(B) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section, shall order that the defendant forfeit to the United States all property described in paragraph (1).

(3) Except as provided in paragraph (4), the provisions of subsections (b), (c), and (e) through (p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853(b), (c), and (e)–(p)), shall apply to—

(A) property subject to forfeiture under this subsection;

(B) any seizure or disposition of such property; and

(C) any administrative or judicial proceeding in relation to such property,

if not inconsistent with this subsection.

(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) all amounts from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.

(5) As used in this subsection, the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(Added Oct. 31, 1951, ch. 655, § 24(a), 65 Stat. 719, and amended Sept. 13, 1994, Pub. L. 103–322, Title XXXIII, § 330016(1)(L), 108 Stat. 2147; Oct. 14, 1994, Pub. L. 103–359, Title VIII, § 804(a), 108 Stat. 3439; Oct. 11, 1996, Pub. L. 104–294, Title VI, § 602(c), 110 Stat. 3503.)

Chapter 73.—OBSTRUCTION OF JUSTICE

§ 1505. Obstruction of proceedings before departments, agencies, and committees 989

Whoever, with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, willfully withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or

Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress—

Shall be fined under this title or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, 62 Stat. 770; Sept. 19, 1962, Pub. L. 87–664, § 6(a), 76 Stat. 551; Oct. 15, 1970, Pub. L. 91–452, Title IX, § 903, 84 Stat. 947; Sept. 30, 1976, Pub. L. 94–435, Title I, § 105, 90 Stat. 1389; Oct. 12, 1982, Pub. L. 97–291, § 4(d), 96 Stat. 1253; Sept. 13, 1994, Pub. L. 103–322, Title XXXIII, § 330016(1)(K), 108 Stat. 2147.)

Chapter 83.—POSTAL SERVICE

§ 1719. Franking privilege 990

Whoever makes use of any official envelope, label, or indorsement authorized by law, to avoid the payment of postage or registry fee on his private letter, packet, package, or other matter in the mail, shall be fined under this title. (June 25, 1948, ch. 645, 62 Stat. 783; Sept. 13, 1994, Pub. L. 103–322, Title XXXIII, § 330016(1)(F), 108 Stat. 2147.)

Chapter 93.—PUBLIC OFFICERS AND EMPLOYEES

§ 1906. Disclosure of information from a bank examination report 991

Whoever, being an examiner, public or private, or a General Accounting Office employee with access to bank examination report information under section 714 of title 31, discloses the names of borrowers or the collateral for loans of any member bank of the Federal Reserve System, any bank insured by the Federal Deposit Insurance Corporation, any branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or any organization operating under section 25 or section 25(a) of the Federal Reserve Act, examined by him or subject to General Accounting Office audit under section 714 of title 31 to other than the proper officers of such bank, branch, agency, or organization, without first having obtained the express permission in writing from the Comptroller of the Currency as to a national bank or a Federal branch or Federal agency (as such terms are defined in paragraphs (5) and (6)

of section 1(b) of the International Banking Act of 1978), the Board of Governors of the Federal Reserve System as to a State member bank, an uninsured State branch or State agency (as such terms are defined in paragraphs (11) and (12) of section 1(b) of the International Banking Act of 1978), or an organization operating under section 25 or section 25(a) of the Federal Reserve Act, or the Federal Deposit Insurance Corporation as to any other insured bank, including any insured branch (as defined in section 3(s) of the Federal Deposit Insurance Act), or from the board of directors of such bank or organization, except when ordered to do so by a court of competent jurisdiction, or by direction of the Congress of the United States, or either House thereof, or any committee of Congress or either House duly authorized or as authorized by section 714 of title 31 shall be fined under this title or imprisoned not more than one year or both. (June 25, 1948, ch. 645, 62 Stat. 791; July 21, 1978, Pub. L. 95–320, § 3, 92 Stat. 393; Sept. 13, 1982, Pub. L. 97–258, § 3(e)(1), 96 Stat. 1064; Nov. 29, 1990, Pub. L. 101–647, Title XXV, § 2597(k), 104 Stat. 4911; Sept. 13, 1994, Pub. L. 103–322, Title XXXIII, § 330016(1)(K), 108 Stat. 2147.)

992 § 1913. Lobbying with appropriated moneys

No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate this section, shall be fined under this title or imprisoned not more than one year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment. (June 25, 1948, ch. 645, 62 Stat. 792; Sept. 13, 1994, Pub. L. 103–322, Title XXXIII, § 330016(1)(G), 108 Stat. 2147.)

993 § 1918. Disloyalty and asserting the right to strike against the Government

Whoever violates the provision of section 7311 of title 5 that an individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he—

(1) advocates the overthrow of our constitutional form of government;

(2) is a member of an organization that he knows advocates the overthrow of our constitutional form of government;

(3) participates in a strike, or asserts the right to strike, against the Government of the United States or the government of the District of Columbia; or

(4) is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the Government of the United States or the government of the District of Columbia;

shall be fined under this title or imprisoned not more than one year and a day, or both. (Added Pub. L. 89–554, § 3(d), Sept. 6, 1966, 80 Stat. 609, and amended Pub. L. 104–294, Title VI, § 601(a)(8), Oct. 11, 1996, 110 Stat. 3498.)

Part V.—IMMUNITY OF WITNESSES

§ 6001. Definitions 994

As used in this chapter—

(1) "agency of the United States" means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, the Nuclear Regulatory Commission, the Board of Governors of the Federal Reserve System, the China Trade Act registrar appointed under 53 Stat. 1432 (15 U.S.C. sec. 143), the Commodity Futures Trading Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Maritime Commission, the Federal Power Commission, the Federal Trade Commission, the Surface Transportation Board, the National Labor Relations Board, the National Transportation Safety Board, the Railroad Retirement Board, an arbitration board established under 48 Stat. 1193 (45 U.S.C. sec. 157), the Securities and Exchange Commission, or a board established under 49 Stat. 31 (15 U.S.C. sec. 715d);

(2) "other information" includes any book, paper, document, record, recording, or other material;

(3) "proceeding before an agency of the United States" means any proceeding before such an agency with respect to which it is authorized to issue subpoenas and to take testimony or receive other information from witnesses under oath; and

(4) "court of the United States" means any of the following courts: the Supreme Court of the United States, a United States court of appeals, a United States district court established under chapter 5, title 28, United States Code, a United States bankruptcy court established under chapter 6, title 28, United States Code, the District of Columbia Court of Appeals, the Superior Court of the District of Columbia, the District Court of Guam, the District Court of the Virgin Islands, the United States Court of Federal Claims, the Tax Court of the United States, the Court of International Trade, and the Court of Appeals for the Armed Forces. (Added Pub. L. 91–452, Title II, § 201(a), Oct. 15, 1970, 84 Stat. 926, and amended Pub. L. 95–405, § 25, Sept. 30, 1978, 92 Stat. 877; Pub. L. 95–598, Title III, § 314(*l*), Nov. 6, 1978, 92 Stat. 2678; Pub. L. 96–417, Title VI, § 601(l), Oct. 10, 1980, 94 Stat. 1744; Pub. L. 97–164, Title I, § 164(l), Apr. 2, 1982, 96 Stat. 50; Pub. L. 102–550, Title XV, § 1543, Oct. 28, 1992, 106 Stat. 4069; Pub. L. 103–272, § 4(d), July 5, 1994, 108 Stat. 1361; Pub. L. 103–322, Title XXXIII, § 330013(2), (3), Sept. 13, 1994, 108 Stat. 2146; Pub. L. 103–337, Div. A, Title IX, § 924(d)(1)(B), Oct. 5, 1994, 108 Stat. 2832; Pub. L. 104–88, Title III, § 303(2), Dec. 29, 1995, 109 Stat. 943.)

995 § 6002. Immunity generally

Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before or ancillary to—

(1) a court or grand jury of the United States,

(2) an agency of the United States, or

(3) either House of Congress, a joint committee of the two Houses, or a committee or a subcommittee of either House,

and the person presiding over the proceeding communicates to the witness an order issued under this title, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination; but no testimony or other information compelled under the order (or any information directly or indirectly derived from such testimony or other information) may be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order. (Added Pub. L. 91–452, Title II, § 201(a), Oct. 15, 1970, 84 Stat. 927, and amended Pub. L. 103–322, Title XXXIII, § 330013(4), Sept. 13, 1994, 108 Stat. 2146.)

996 § 6005. Congressional proceedings

(a) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before or ancillary to either House of Congress, or any committee, or any subcommittee of either House, or any joint committee of the two Houses, a United States district court shall issue, in accordance with subsection (b) of this section, upon the request of a duly authorized representative of the House of Congress or the committee concerned, an order requiring such individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this title.

(b) Before issuing an order under subsection (a) of this section, a United States district court shall find that—

(1) in the case of a proceeding before or ancillary to either Houses of Congress, the request for such an order has been approved by an affirmative vote of a majority of the Members present of that House;

(2) in the case of a proceeding before or ancillary to a committee or a subcommittee of either House of Congress or a joint committee of both Houses, the request for such an order has been approved by an affirmative vote of two-thirds of the members of the full committee; and

(3) ten days or more prior to the day on which the request for such an order was made, the Attorney General was served with notice of an intention to request the order.

(c) Upon application of the Attorney General, the United States district court shall defer the issuance of any order under subsection (a) of this section for such period, not longer than twenty days from the date of the request for such order, as the Attorney General may specify. (Added Pub. L. 91–452, Title II, § 201(a), Oct. 15, 1970, 84 Stat. 928, and amended Pub. L. 103–322, Title XXXIII, § 330013(4), Sept. 13, 1994, 108 Stat. 2146; Pub. L. 104–292, § 5, Oct. 11, 1996, 110 Stat. 3460; Pub. L. 104–294, Title VI, § 605(o), Oct. 11, 1996, 110 Stat. 3510.)

TITLE 19.—CUSTOMS DUTIES

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Chapter 12.—TRADE ACT OF 1974

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Subchapter I.—Negotiating and Other Authority

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Part 5.—CONGRESSIONAL PROCEDURES WITH RESPECT TO PRESIDENTIAL ACTIONS

§ 2191. Bills implementing trade agreements on nontariff barriers and resolutions approving commercial agreements with Communist countries. 1000

(a) Rules of House of Representatives and Senate

This section and sections 2192 and 2193 of this title 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 are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of implementing bills described in subsection (b)(1) of this section, implementing revenue bills described in subsection (b)(2) of this section, approval resolutions described in subsection (b)(3) of this section, and resolutions described in sections 2192(a) and 2193(a) of this title; and they 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 the rules (so far as relating to the procedure 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.

(b) Definitions

For purposes of this section—

(1) The term "implementing bill" means only a bill of either House of Congress which is introduced as provided in subsection (c) of this section with respect to one or more trade agreements, or with respect to an extension described in section 3572(c)(3) of this title, submitted to the House of Representatives and the Senate under section 2112, section 3572 of this title, or section 3805 (a)(1) of this title, and which contains—

(A) a provision approving such trade agreement or agreements or such extension,

(B) a provision approving the statement of administrative action (if any) proposed to implement such trade agreement or agreements, and

(C) if changes in existing laws or new statutory authority is required to implement such trade agreement or agreements or such extension, provisions, necessary or appropriate to implement such trade agreement or agreements or such extension, either repealing or amending existing laws or providing new statutory authority.

(2) The term "implementing revenue bill or resolution" means an implementing bill, or approval resolution, which contains one or more revenue measures by reason of which it must originate in the House of Representatives.

(3) The term "approval resolution" means only a joint resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: "That the Congress approves the extension of nondiscriminatory treatment with respect to the products of ———— transmitted by the President to the Congress on ————.", the first blank space being filled with the name of the country involved and the second blank space being filled with the appropriate date.

(c) Introduction and referral

(1) On the day on which a trade agreement is submitted to the House of Representatives and the Senate under section 2112, section 3572 of this title, or section 3805 (a)(1) of this title, the implementing bill submitted by the President with respect to such trade agreement or extension shall be introduced (by request) in the House by the majority leader of the House, for himself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a trade agreement or extension is submitted, the implementing bill shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session. Such bills shall be referred by the Presiding Officers of the respective Houses to the appropriate committee, or, in the case of a bill containing provisions within the jurisdiction of two or more committees, jointly to such committees for consideration of those provisions within their respective jurisdictions.

(2) On the day on which a bilateral commercial agreement, entered into under subchapter IV of this chapter after January 3, 1975, is transmitted to the House of Representatives and the Senate, an approval resolution with respect to such agreement shall be introduced (by request) in the House by the majority leader of the House, for himself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement is transmitted, the approval resolution with respect to such agreement shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on

which that House is in session. The approval resolution introduced in the House shall be referred to the Committee on Ways and Means and the approval resolution introduced in the Senate shall be referred to the Committee on Finance.

(d) Amendments prohibited

No amendment to an implementing bill or approval resolution shall be in order in either the House of Representatives or the Senate; and no motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this subsection by unanimous consent.

(e) Period for committee and floor consideration

(1) Except as provided in paragraph (2), if the committee or committees of either House to which an implementing bill or approval resolution has been referred have not reported it at the close of the 45th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the bill or resolution and it shall be placed on the appropriate calendar. A vote on final passage of the bill or resolution shall be taken in each House on or before the close of the 15th day after the bill or resolution is reported by the committee or committees of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the bill or resolution. If prior to the passage by one House of an implementing bill or approval resolution of that House, that House receives the same implementing bill or approval resolution from the other House, then—

(A) the procedure in that House shall be the same as if no implementing bill or approval resolution had been received from the other House; but

(B) the vote on final passage shall be on the implementing bill or approval resolution of the other House.

(2) The provisions of paragraph (1) shall not apply in the Senate to an implementing revenue bill or resolution. An implementing revenue bill or resolution received from the House shall be referred to the appropriate committee or committees of the Senate. If such committee or committees have not reported such bill at the close of the 15th day after its receipt by the Senate (or, if later, before the close of the 45th day after the corresponding implementing revenue bill or resolution was introduced in the Senate), such committee or committees shall be automatically discharged from further consideration of such bill or resolution and it shall be placed on the calendar. A vote on final passage of such bill or resolution shall be taken in the Senate on or before the close of the 15th day after such bill or resolution is reported by the committee or committees of the Senate to which it was referred, or after such committee or committees have been discharged from further consideration of such bill or resolution.

(3) For purposes of paragraphs (1) and (2), in computing a number of days in either House, there shall be excluded any day on which that House is not in session.

(f) Floor consideration in the House

(1) A motion in the House of Representatives to proceed to the consideration of an implementing bill or approval resolution 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 in the House of Representatives on an implementing bill or approval resolution shall be limited to not more than 20 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. It shall not be in order to move to recommit an implementing bill or approval resolution or to move to reconsider the vote by which an implementing bill or approval resolution is agreed to or disagreed to.

(3) Motions to postpone, made in the House of Representatives with respect to the consideration of an implementing bill or approval 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 an implementing bill or approval resolution shall be decided without debate.

(5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of an implementing bill or approval resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(g) Floor consideration in the Senate

(1) A motion in the Senate to proceed to the consideration of an implementing bill or approval resolution shall be 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 in the Senate on an implementing bill or approval resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motion or appeal in connection with an implementing bill or approval resolution shall be limited to not more than 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 motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of an implementing bill or approval resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion in the Senate to further limit debate is not debatable. A motion to recommit an implementing bill or approval resolution is not in order. (Jan. 3, 1975, Pub. L. 93–618, § 151, 88 Stat. 2001; Aug. 23, 1988, Pub. L. 100–418, § 1007(b)(1), 102 Stat. 1135; Aug. 20, 1990,

Pub. L. 101–382, § 132(b)(2), 104 Stat. 645; Dec. 8, 1994, Pub. L. 103–465, Title II, § 282(c)(4), 108 Stat. 4929.)

§ 2192. Resolutions disapproving certain actions **1001**

(a) Contents of resolutions

(1) For purposes of this section, the term "resolution" means only—

(A) a joint resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve the action taken by, or the determination of, the President under section 203 of the Trade Act of 1974 [19 U.S.C. 2253] transmitted to the Congress on ————", the blank space being filled with the appropriate date; and

(B) a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve ———— transmitted to the Congress on ————", with the first blank space being filled in accordance with paragraph (2), and the second blank space being filled with the appropriate date.

(2) The first blank space referred to in paragraph (1)(B) shall be filled, in the case of a resolution referred to in section 2437(c)(2) of this title, with the phrase "the report of the President submitted under section ——— of the Trade Act of 1974 with respect to ————" (with the first blank space being filled with "402(b)" or "409(b)" [19 U.S.C. 2432(b) or 2439(b)] as appropriate, and the second blank space being filled with the name of the country involved).

(b) Reference to committees

All resolutions introduced in the House of Representatives shall be referred to the Committee on Ways and Means and all resolutions introduced in the Senate shall be referred to the Committee on Finance.

(c) Discharge of committees

(1) If the committee of either House to which a resolution has been referred has not reported it at the end of 30 days after its introduction, not counting any day which is excluded under section 2194(b) of this title, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution introduced with respect to the same matter, except that a motion to discharge—

(A) may only be made on the second legislative day after the calendar day on which the Member making the motion announces to the House his intention to do so; and

(B) is not in order after the Committee has reported a resolution with respect to the same matter.

(2) A motion to discharge under paragraph (1) may be made only by an individual favoring the resolution, and is highly privileged in the House and privileged in the Senate; 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 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.

(d) Floor consideration in the House

(1) A motion in the House of Representatives to proceed to the consideration of a resolution 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 in the House of Representatives on a resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. 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 resolution is agreed to or disagreed to.

(3) Motions to postpone, made in the House of Representatives with respect to the consideration of a 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 a resolution shall be decided without debate.

(5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a resolution in the House of Representatives shall be governed by the Rules of the House of Representatives applicable to other resolutions in similar circumstances.

(e) Floor consideration in the Senate

(1) A motion in the Senate to proceed to the consideration of a resolution shall be privileged. 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 in the Senate on a resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motion or appeal in connection with a resolution shall be limited to not more than 1 hour, to be equally divided, between, and controlled by, the mover and the manager of the resolution, except that it the event the manager of the 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. Such leaders, or either of them, may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a resolution is in order in the Senate.

(f) Procedures in the Senate

(1) Except as otherwise provided in the section, the following procedures shall apply in the Senate to a resolution to which this section applies:

(A)(i) Except as provided in clause (ii), a resolution that has passed the House of Representatives shall, when received in the Senate, be referred to the Committee on Finance for consideration in accordance with this section.

(ii) If a resolution to which this section applies was introduced in the Senate before receipt of a resolution that has passed the House of Representatives, the resolution from the House of Representatives shall, when received in the Senate be placed on the calendar. If this clause applies, the procedures in the Senate with respect to a resolution introduced in the Senate that contains the identical matter as the resolution that passed the House of Representatives shall be the same as if no resolution had been received from the House of Representatives, except that the vote on passage in the Senate shall be on the resolution that passed the House of Representatives.

(B) If the Senate passes a resolution before receiving from the House of Representatives a joint resolution that contains the identical matter, the joint resolution shall be held at the desk pending receipt of the joint resolution from the House of Representatives. Upon receipt of the joint resolution from the House of Representatives, such joint resolution shall be deemed to be read twice, considered, read the third time, and passed.

(2) If the texts of joint resolutions described in section 2192 or 2193(a) of this title, whichever is applicable, concerning any matter are not identical—

(A) the Senate shall vote passage on the resolution introduced in the Senate, and

(B) the text of the joint resolution passed by the Senate shall, immediately upon its passage (or, if later, upon receipt of the joint resolution passed by the House), be substituted for the text of the joint resolution passed by the House of Representatives, and such resolution, as amended, shall be returned with a request for a conference between the two Houses.

(3) Consideration in the Senate of any veto message with respect to a joint resolution described in subsection (a)(2)(B) of this section or section 2193(a) of this title, including consideration of all debatable motions and appeals in connection therewith, shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees. (Jan. 3, 1975, Pub. L. 93–618, § 152, 88 Stat. 2004; July 26, 1979, Pub. L. 96–39, § 902(a)(1), 1106(c)(5), 93 Stat 299, 312; Oct. 30, 1984, Pub. L. 98–573, § 248(b), 98 Stat. 2998; Aug. 20, 1990, Pub. L. 101–382, § 132(c)(2)–(5), 104 Stat. 646, 647; Dec. 8, 1994, Pub. L. 103–465, § 261(d)(1)(A)(ii), 108 Stat. 4909; Pub. L. 104–295, § 20(b)(10), Oct. 11, 1996, 110 Stat. 3527.)

§ 2193. Resolutions relating to extension of waiver authority under section 402 of the Trade Act of 1974. 1002

(a) Contents of resolutions

For purposes of this section the term "resolution" means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 [19 U.S.C. 2432(c)] recommended by the President to the

Congress on ———— with respect to ————," with the first blank space being filled with the appropriate date, and the second blank space being filled with the names of those countries, if any, with respect to which such extension of authority is not approved and with the clause beginning with "with respect to" being omitted if the extension of the authority is not approved with respect to any country.

(b) Application of rules of section 2192 of this title; exceptions

(1) Except as provided in this section, the provisions of section 2192 of this title shall apply to resolutions described in subsection (a) of this section.

(2) In applying section 2192(c)(1) of this title, all calendar days shall be counted.

(3) That part of section 2192(d)(2) of this title which provides that no amendment is in order shall not apply to any amendment to a resolution which is limited to striking out or inserting the names of one or more countries or to striking out or inserting a with-respect-to clause. Debate in the House of Representatives on any amendment to a resolution shall be limited to not more than 1 hour which shall be equally divided between those favoring and those opposing the amendment. A motion in the House to further limit debate on an amendment to a resolution is not debatable.

(4) That part of section 2192(e)(4) of this title which provides that no amendment is in order shall not apply to any amendment to a resolution which is limited to striking out or inserting the names of one or more countries or to striking out or inserting a with-respect-to clause. The time limit on a debate on a resolution in the Senate under section 2192(e)(2) of this title shall include all amendments to a resolution. Debate in the Senate on any amendment to a resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such amendment, the time in opposition thereto shall be controlled by the minority leader or his designee. The majority leader and minority leader may, from time under their control on the passage of a resolution, allot additional time to any Senator during the consideration of any amendment. A motion in the Senate to further limit debate on an amendment to a resolution is not debatable.

(c) Consideration of second resolution not in order

It shall not be in order in either the House of Representatives or the Senate to consider a resolution with respect to a recommendation of the President under section 2432(d) of this title (other than a resolution described in subsection (a) of this section received from the other House), if that House has adopted a resolution with respect to the same recommendation.

(d) Procedures relating to conference reports in the Senate

(1) Consideration in the Senate of the conference report on any joint resolution described in subsection (a) of this section, including consideration of all amendments in disagreement (and all amendments thereto), and consideration of all debatable motions and appeals in connection therewith, shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their

designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(2) 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 to any amendment in disagreement shall be received unless it is a germane amendment. (Pub. L. 93–618, Title I, § 153, Jan. 3, 1975, 88 Stat. 2006; Aug. 20, 1990, Pub. L. 101–382, § 132(a)(3)–(6), 104 Stat. 644, 645.)

§ 2194. Special rules relating to Congressional procedures. **1003**

(a) Whenever, pursuant to section 2112(c), 2253(b), 2432(d), or 2437 (a) or (b), a document is required to be transmitted to the Congress, copies of such document shall be delivered to both Houses of Congress 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.

(b) For purposes of sections 2253(c) and 2437(c)(2) of this title, the 90-day period referred to in such sections shall be computed by excluding—

(1) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

(2) any Saturday and Sunday, not excluded under paragraph (1), when either House is not in session. (Jan. 3, 1975, Pub. L. 93–618, § 154, 88 Stat. 2008; July 26, 1979, Pub. L. 96–39, § 902(a)(2), 93 Stat. 300; Aug. 20, 1990, Pub. L. 101–382, § 132(c)(6), 104 Stat. 647; Pub. L. 103–465, Title II, § 261(d)(1)(A)(iii), Dec. 8, 1994, 108 Stat. 4909; June 25, 1999, Pub. L. 106–36, § 1001(a)(5), 113 Stat. 130.)

Part 6.—CONGRESSIONAL LIAISON AND REPORTS

§ 2211. Congressional advisers for trade policy and negotiations. **1004**

(a) Selection

(1) At the beginning of each regular session of Congress, the Speaker of the House of Representatives, upon the recommendation of the chairman of the Committee on Ways and Means, shall select 5 members (not more than 3 of whom are members of the same political party) of such committee, and the President pro tempore of the Senate, upon the recommendation of the chairman of the Committee on Finance, shall select 5 members (not more than 3 of whom are members of the same political party) of such committee, who shall be designated congressional advisers on trade policy and negotiations. They shall provide advice on the development of trade policy and priorities for the implementation thereof. They shall also be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegations to international conferences, meetings, and negotiating sessions relating to trade agreements.

(2)(A) In addition to the advisers designated under paragraph (1) from the Committee on Ways and Means and the Committee on Finance—

(i) the Speaker of the House may select additional members of the House, for designation as congressional advisers regarding specific trade policy matters or negotiations, from any other committee of the House or joint committee of Congress that has jurisdiction over legislation likely to be affected by such matters or negotiations; and

(ii) the President pro tempore of the Senate may select additional members of the Senate, for designation as congressional advisers regarding specific trade policy matters or negotiations, from any other committee of the Senate or joint committee of Congress that has jurisdiction over legislation likely to be affected by such matters or negotiations.

Members of the House and Senate selected as congressional advisers under this subparagraph shall be accredited by the United States Trade Representative.

(B) Before designating any member under subparagraph (A), the Speaker or the President pro tempore shall consult with—

(i) the chairman and ranking member of the Committee on Ways and Means or the Committee on Finance, as appropriate; and

(ii) the chairman and ranking minority member of the committee from which the member will be selected.

(C) Not more than 3 members (not more than 2 of whom are members of the same political party) may be selected under this paragraph as advisers from any committee of Congress.

(b) Briefing

(1) The United States Trade Representative shall keep each official adviser designated under subsection (a)(1) currently informed on matters affecting the trade policy of the United States and, with respect to possible agreements, negotiating objectives, the status of negotiations in progress, and the nature of any changes in domestic law or the administration thereof which may be recommended to Congress to carry out any trade agreement or any requirement of, amendment to, or recommendation under, such agreement.

(2) The United States Trade Representative shall keep each official adviser designated under subsection (a)(2) of this section currently informed regarding the trade policy matters and negotiations with respect to which the adviser is designated.

(3)(A) The chairmen of the Committee on Ways and Means and the Committee on Finance may designate members (in addition to the official advisers under subsection (a)(1) of this section) and staff members of their respective committees who shall have access to the information provided to official advisers under paragraph (1).

(B) The chairman of any committee of the House or Senate or any joint committee of Congress from which official advisers are selected under subsection (a)(2) may designate other members of such committee, and staff members of such committee, who shall have access to the information provided to official advisers under paragraph (2).

(c) Committee consultation

The United States Trade Representative shall consult on a continuing basis with the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the other appropriate committees of the House and Senate on the development, implementation, and administration of overall trade policy of the United States. Such consultations shall include, but are not limited to, the following elements of such policy:

(1) The principal multilateral and bilateral negotiating objectives and the progress being made toward their achievement.

(2) The implementation, administration, and effectiveness of recently concluded multilateral and bilateral trade agreements and resolution of trade disputes.

(3) The actions taken, and proposed to be taken, under the trade laws of the United States and the effectiveness, or anticipated effectiveness, of such actions in achieving trade policy objectives.

(4) The important developments and issues in other areas of trade for which there must be developed proper policy response.

When necessary, meetings shall be held with each Committee in executive session to review matters under negotiation. (Jan. 3, 1975, Pub. L. 93–618, § 161, 88 Stat. 2008; July 26, 1979, Pub. L. 96–39, § 3(e), 93 Stat. 150; Jan. 2, 1980, 1979 Reorg. Plan No. 3, § (b)(1), 93 Stat. 1381; Aug. 23, 1988, Pub. L. 100–418, § 1632, 102 Stat. 1269.)

§ 2212. Transmission of agreements to Congress. **1005**

(a) As soon as practicable after a trade agreement entered into under section 2133 or 2134 of this title or under section 3803 of this title has entered into force with respect to the United States, the President shall, if he has not previously done so, transmit a copy of such trade agreement to each House of the Congress together with a statement, in the light of the advice of the International Trade Commission under section 2151(b) of this title, if any, and of other relevant considerations, of his reasons for entering into the agreement.

(b) The President shall transmit to each Member of the Congress a summary of the information required to be transmitted to each House under subsection (a) of this section. For purposes of this subsection, the term "Member" includes any Delegate or Resident Commissioner. (Jan. 3, 1975, Pub. L. 93–618, § 162, 88 Stat. 2008; Nov. 10, 1988, Pub. L. 100–647, §9001(a)(10), 102 Stat. 3807.)

§ 2213. Reports. **1006**

(a) Annual report on trade agreements program and national trade policy agenda

(1) The President shall submit to the Congress during each calendar year (but not later than March 1 of that year) a report on—

(A) the operation of the trade agreements program, and the provision of import relief and adjustment assistance to workers and firms, under this Act during the preceding calendar year; and

(B) the national trade policy agenda for the year in which the report is submitted.

(2) The report shall include, with respect to the matters referred to in paragraph (1)(A), information regarding—

(A) new trade negotiations;

(B) changes made in duties and nontariff barriers and other distortions of trade of the United States;

(C) reciprocal concessions obtained;

(D) changes in trade agreements (including the incorporation therein of actions taken for import relief and compensation provided therefor);

(E) the extension or withdrawal of nondiscriminatory treatment by the United States with respect to the products of foreign countries;

(F) the extension, modification, withdrawal, suspension, or limitation of preferential treatment to exports of developing countries;

(G) the results of actions to obtain the removal of foreign trade restrictions (including discriminatory restrictions) against United States exports and the removal of foreign practices which discriminate against United States service industries (including transportation and tourism) and investment;

(H) the measures being taken to seek the removal of other significant foreign import restrictions;

(I) each of the referrals made under section 2171(d)(1)(B) of this title and any action taken with respect to such referral;

(J) other information relating to the trade agreements program and to the agreements entered into thereunder; and

(K) the number of applications filed for adjustment assistance for workers and firms, the number of such applications which were approved, and the extent to which adjustment assistance has been provided under such approved applications.

(3)(A) The national trade policy agenda required under paragraph (1)(B) for the year in which a report is submitted shall be in the form of a statement of—

(i) the trade policy objectives and priorities of the United States for the year, and the reasons therefor;

(ii) the actions proposed, or anticipated, to be undertaken during the year to achieve such objectives and priorities, including, but not limited to, actions authorized under the trade laws and negotiations with foreign countries;

(iii) any proposed legislation necessary or appropriate to achieve any of such objectives or priorities; and

(iv) the progress that was made during the preceding year in achieving the trade policy objectives and priorities included in the statement provided for that year under this paragraph.

(B) The President may separately submit any information referred to in subparagraph (A) to the Congress in confidence if the President considers confidentiality appropriate.

(C) Before submitting the national trade policy agenda for any year, the President shall seek advice from the appropriate advisory committees established under section 2155 of this title and shall consult with the appropriate committees of the Congress.

(D) The United States Trade Representative (hereafter referred to in this section as the "Trade Representative") and other appro-

priate officials of the United States Government shall consult periodically with the appropriate committees of the Congress regarding the annual objectives and priorities set forth in each national trade policy agenda with respect to—

(i) the status and results of the actions that have been undertaken to achieve the objectives and priorities; and

(ii) any development which may require, or result in, changes to any of such objectives or priorities.

(b) Annual trade projection report

(1) In order for the Congress to be informed of the impact of foreign trade barriers and macroeconomic factors on the balance of trade of the United States, the Trade Representative and the Secretary of the Treasury shall jointly prepare and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (hereafter referred to in this subsection as the "Committees") on or before March 1 of each year a report which consists of—

(A) a review and analysis of—

(i) the merchandise balance of trade,

(ii) the goods and services balance of trade,

(iii) the balance on the current account,

(iv) the external debt position,

(v) the exchange rates,

(vi) the economic growth rates,

(vii) the deficit or surplus in the fiscal budget, and

(viii) the impact on United States trade of market barriers and other unfair practices,

of countries that are major trading partners of the United States, including, as appropriate, groupings of such countries;

(B) projections for each of the economic factors described in subparagraph (A) (except those described in clauses (v) and (viii)) for each of the countries and groups of countries referred to in subparagraph (A) for the year in which the report is submitted and for the succeeding year; and

(C) conclusions and recommendations, based upon the projections referred to in subparagraph (B), for policy changes, including trade policy, exchange rate policy, fiscal policy, and other policies that should be implemented to improve the outlook.

(2) To the extent that subjects referred to in paragraph (1) (A), (B), or (C) are covered in the national trade policy agenda required under subsection (a)(1)(B) or in other reports required by this Act or other law, the Trade Representative and the Secretary of the Treasury may, as appropriate, draw on the information, analysis, and conclusions, if any, in those reports for the purposes of preparing the report required by this subsection.

(3) The Trade Representative and the Secretary of the Treasury shall consult with the Chairman of the Board of Governors of the Federal Reserve System in the preparation of each report required under this subsection.

(4) The Trade Representative and the Secretary of the Treasury may separately submit any information, analysis, or conclusion referred to in paragraph (1) to the Committees in confidence if the

Trade Representative and the Secretary consider confidentiality appropriate.

(5) After submission of each report required under paragraph (1), the Trade Representative and the Secretary of the Treasury shall consult with each of the Committees with respect to the report.

(c) ITC reports.

The United States International Trade Commission shall submit to the Congress, at least once a year, a factual report on the operation of the trade agreements program. (Jan. 3, 1975, Pub. L. 93–618, § 163, 88 Stat. 2009; Aug. 23, 1988, Pub. L. 100–418, § 1641, 102 Stat. 1271.)

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Part 8.—IDENTIFICATION OF MARKET BARRIERS AND CERTAIN UNFAIR TRADE ACTIONS

1007 § 2241. Estimates of barriers to market access.

(a) National trade estimates

(1) In general

For calendar year 1988, and for each succeeding calendar year, the United States Trade Representative, through the interagency trade organization established pursuant to section 1872(a) of this title and with the assistance of the interagency advisory committee established under section 2171(d)(2) of this title, shall—

(A) identify and analyze acts, policies, or practices of each foreign country which constitute significant barriers to, or distortions of—

(i) United States exports of goods or services (including agricultural commodities; and property protected by trademarks, patents, and copyrights exported or licensed by United States persons),

(ii) foreign direct investment by United States persons, especially if such investment has implications for trade in goods or services; and

(iii) United States electronic commerce,

(B) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under subparagraph (A); and

(C) make an estimate, if feasible, of—

(i) the value of additional goods and services of the United States,

(ii) the value of additional foreign direct investment by United States persons, and

(iii) the value of additional United States electronic commerce,

that would have been exported to, or invested in, or transacted with, each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.

(2) Certain factors taken into account in making analysis and estimate

In making any analysis or estimate under paragraph (1), the Trade Representative shall take into account—

(A) the relative impact of the act, policy, or practice on United States commerce;

(B) the availability of information to document prices, market shares, and other matters necessary to demonstrate the effects of the act, policy, or practice;

(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party;

(D) any advice given through appropriate committees established pursuant to section 2155 of this title; and

(E) the actual increase in—

(i) the value of goods and services of the United States exported to,

(ii) the value of foreign direct investment made in, and

(iii) the value of electronic commerce transacted with,

the foreign country during the calendar year for which the estimate under paragraph (1)(C) is made.

(3) Annual revisions and updates

The Trade Representative shall annually revise and update the analysis and estimate under paragraph (1).

(b) Reports

(1) In general

On or before April 30, 1989, and on or before March 31 of each succeeding calendar year, the Trade Representative shall submit a report on the analysis and estimates made under subsection (a) of this section for the calendar year preceding such calendar year (which shall be known as the "National Trade Estimate") to the President, the Committee on Finance of the Senate, and appropriate committees of the House of Representatives.

(2) Reports to include information with respect to action being taken

The Trade Representative shall include in each report submitted under paragraph (1) information with respect to any action taken (or the reasons for no action taken) to eliminate any act, policy, or practice identified under subsection (a), including, but not limited to—

(A) any action under section 2411 of this title,

(B) negotiations or consultations with foreign governments, or

(C) a section on foreign anticompetitive practices, the toleration of which by foreign governments is adversely affecting exports of United States goods or services.

(3) Consultation with Congress on trade policy priorities

The Trade Representative shall keep the committees described in paragraph (1) currently informed with respect to trade policy priorities for the purposes of expanding market opportunities. After the submission of the report required by paragraph (1), the Trade

Representative shall also consult periodically with, and take into account the views of, the committees described in that paragraph regarding means to address the foreign trade barriers identified in the report, including the possible initiation of investigations under section 2412 of this title or other trade actions.

(c) Assistance of other agencies

(1) Furnishing of information

The head of each department or agency of the executive branch of the Government, including any independent agency, is authorized and directed to furnish to the Trade Representative or to the appropriate agency, upon request, such data, reports, and other information as is necessary for the Trade Representative to carry out his functions under this section. In preparing the section of the report required by subsection (b)(2)(C) of this section, the Trade Representative shall consult in particular with the Attorney General.

(2) Restrictions on release or use of information

Nothing in this subsection shall authorize the release of information to, or the use of information by, the Trade Representative in a manner inconsistent with law or any procedure established pursuant thereto.

(3) Personnel and services

The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Trade Representative may request to assist in carrying out his functions.

(d) Electronic commerce

For purposes of this section, the term "electronic commerce" has the meaning given that term in section 1104(3) of the Internet Tax Freedom Act. (Pub. L. 93–618, Title I, § 181, as added Pub. L. 98–573, Title III, § 303(a), Oct. 30, 1984, 98 Stat. 3001, and amended Pub. L. 100–418, Title I, § 1304, Aug. 23, 1988, 102 Stat. 1181; Pub. L. 103–465, Title III, §§ 311(a), 312, Dec. 8, 1994, 108 Stat. 4938; Pub. L. 105–277, Div. C, Title XII, § 1202, Oct. 21, 1998, 112 Stat. 2681–726.)

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Chapter 22.—URUGUAY ROUND TRADE AGREEMENTS

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1008 § 3534. Annual report on the WTO

Not later than March 1 of each year beginning in 1996, the Trade Representative shall submit to the Congress a report describing, for the preceding fiscal year of the WTO—

(1) the major activities and work programs of the WTO, including the functions and activities of the committees established under article IV of the WTO Agreement, and the expenditures made by the WTO in connection with those activities and programs;

(2) the percentage of budgetary assessments by the WTO that were accounted for by each WTO member county, including the United States;

(3) the total number of personnel employed or retained by the Secretariat of the WTO, and the number of professional, administrative, and support staff of the WTO;

(4) for each personnel category described in paragraph (3), the number of citizens of each country, and the average salary of the personnel, in that category;

(5) each report issued by a panel or the Appellate Body in a dispute settlement proceeding regarding Federal or State law, and any efforts by the Trade Representative to provide for implementation of the recommendations contained in a report that is adverse to the United States;

(6) each proceeding before a panel or the Appellate Body that was initiated during that fiscal year regarding Federal or State law, the status of the proceeding, and the matter at issue;

(7) the status of consultations with any State whose law was the subject of a report adverse to the United States that was issued by a panel or the Appellate Body; and

(8) any progress achieved in increasing the transparency of proceedings of the Ministerial Conference and the General Council, and of dispute settlement proceedings conducted pursuant to the Dispute Settlement Understanding. (Dec. 8, 1994, Pub.L. 103–465, Title I, § 124, 108 Stat. 4832.)

§ 3535. Review of Participation in the WTO. **1009**

(a) Report on the operation of the WTO

The first annual report submitted to the Congress under section 3534 of this title—

(1) after the end of the 5-year period beginning on the date on which the WTO Agreement enters into force with respect to the United States, and

(2) after the end of every 5-year period thereafter,

shall include an analysis of the effects of the WTO Agreement on the interests of the United States, the costs and benefits to the United States of its participation in the WTO, and the value of the continued participation of the United States in the WTO.

(b) Congressional disapproval of U.S. participation in the WTO

(1) General rule

The approval of the Congress, provided under section 3511(a) of this title, of the WTO Agreement shall cease to be effective if, and only if, a joint resolution described in subsection (c) of this section is enacted into law pursuant to the provisions of paragraph (2).

(2) Procedural provisions

(A) The requirements of this paragraph are met if the joint resolution is enacted under subsection (c) of this section, and—

(i) the Congress adopts and transmits the joint resolution to the President before the end of the 90-day period (excluding any day described in section 2194(b) of this title), beginning on the date on which the Congress receives a report referred to in subsection (a) of this section, and

(ii) if the President vetoes the joint resolution, each House of Congress votes to override that veto on or before the later

of the last day of the 90-day period referred to in clause (i) or the last day of the 15-day period (excluding any day described in section 2194(b) of this title) beginning on the date on which the Congress receives the veto message from the President.

(B) A joint resolution to which this section applies may be introduced at any time on or after the date on which the President transmits to the Congress a report described in subsection (a) of this section, and before the end of the 90-day period referred to in subparagraph (A).

(c) Joint resolutions

(1) Joint resolutions

For purposes of this section, the term "joint resolution" means only a joint resolution of the 2 Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress withdraws its approval, provided under section 101(a) of the Uruguay Round Agreements Act, of the WTO Agreement as defined in section 2(9) of that Act.".

(2) Procedures

(A) Joint resolutions may be introduced in either House of the Congress by any member of such House.

(B) Subject to the provisions of this subsection, the provisions of subsections (b), (d), (e), and (f) of section 2192 of this title apply to joint resolutions to the same extent as such provisions apply to resolutions under such section.

(C) If the committee of either House to which a joint resolution has been referred has not reported it by the close of the 45th day after its introduction (excluding any day described in section 2194(b) of this title), such committee shall be automatically discharged from further consideration of the joint resolution and it shall be placed on the appropriate calendar.

(D) It is not in order for—

(i) the Senate to consider any joint resolution unless it has been reported by the Committee on Finance or the committee has been discharged under subparagraph (C); or

(ii) the House of Representatives to consider any joint resolution unless it has been reported by the Committee on Ways and Means or the committee has been discharged under subparagraph (C).

(E) A motion in the House of Representatives to proceed to the consideration of a joint resolution may only be made on the second legislative day after the calendar day on which the Member making the motion announces to the House his or her intention to do so.

(3) Consideration of second resolution not in order

It shall not be in order in either the House of Representatives or the Senate to consider a joint resolution (other than a joint resolution received from the other House), if that House has previously adopted a joint resolution under this section.

(d) Rules of House of Representatives and Senate

This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rules of that House. (Pub. L. 103–465, Dec. 8, 1994, Title I, § 125, 108 Stat. 4833.)

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Chapter 24.—BIPARTISAN TRADE PROMOTION AUTHORITY

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§ 3803. Trade Agreements Authority. 1010

(a) Agreements Regarding Tariff Barriers

(1) In general

Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, priorities, and objectives of this title will be promoted thereby, the President—

(A) may enter into trade agreements with foreign countries before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c); and

(B) may, subject to paragraphs (2) and (3), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement.

The President shall notify the Congress of the President's intention to enter into an agreement under this subsection.

(2) Limitations

No proclamation may be made under paragraph (1) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of the enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment;

(B) reduces the rate of duty below that applicable under the Uruguay Round Agreements, on any import sensitive agricultural product; or

(C) increases any rate of duty above the rate that applied on the date of the enactment of this Act.

(3) Aggregate reduction; exemption from staging

(A) Aggregate reduction.—Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which

is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

(i) a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article; and

(ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(B) Exemption from staging.—No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) Rounding

If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by an amount equal to the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) Other limitations

A rate of duty reduction that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction is included within an implementing bill provided for under section 3805 and that bill is enacted into law.

(6) Other tariff modifications

Notwithstanding paragraphs (1)(B), (2)(A), (2)(C), and (3) through (5), and subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act, the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act, if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization.

(7) Authority under Uruguay Round Agreements Act not affected

Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(b) Agreements Regarding Tariff and Nontariff Barriers

(1) In general

(A) Whenever the President determines that—

(i) one or more existing duties or any other import restriction of any foreign country or the United States or any other barrier to, or other distortion of, international trade unduly burdens

or restricts the foreign trade of the United States or adversely affects the United States economy, or

(ii) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect, and that the purposes, policies, priorities, and objectives of this title will be promoted thereby, the President may enter into a trade agreement described in subparagraph (B) during the period described in subparagraph (C).

(B) The President may enter into a trade agreement under subparagraph (A) with foreign countries providing for—

(i) the reduction or elimination of a duty, restriction, barrier, or other distortion described in subparagraph (A); or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(C) The President may enter into a trade agreement under this paragraph before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c).

(2) Conditions

A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in section 3802(a) and (b) and the President satisfies the conditions set forth in section 3804.

(3) Bills qualifying for trade authorities procedures

(A) The provisions of section 151 of the Trade Act of 1974 (in this title referred to as "trade authorities procedures") apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such section 151 applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this title be referred to as an "implementing bill".

(B) The provisions referred to in subparagraph (A) are—

(i) a provision approving a trade agreement entered into under this subsection and approving the statement of administrative action, if any, proposed to implement such trade agreement; and

(ii) if changes in existing laws or new statutory authority are required to implement such trade agreement or agreements, provisions, necessary or appropriate to implement such trade agreement or agreements, either repealing or amending existing laws or providing new statutory authority.

(c) Extension Disapproval Process for Congressional Trade Authorities Procedures

(1) In general

Except as provided in section 3805(b)—

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) before July 1, 2005; and

(B) the trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered

into under subsection (b) after June 30, 2005, and before July 1, 2007, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before June 1, 2005.

(2) Report to Congress by the President

If the President is of the opinion that the trade authorities procedures should be extended to implementing bills described in paragraph (1)(B), the President shall submit to the Congress, not later than March 1, 2005, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under subsection (b) and the anticipated schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this title, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) Other reports to Congress

(A) Report by the advisory committee.

The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to the Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains—

(i) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this title; and

(ii) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(B) Report by ITC

The President shall promptly inform the International Trade Commission of the President's decision to submit a report to the Congress under paragraph (2). The International Trade Commission shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains a review and analysis of the economic impact on the United States of all trade agreements implemented between the date of enactment of this Act and the date on which the President decides to seek an extension requested under paragraph (2).

(4) Status of reports

The reports submitted to the Congress under paragraphs (2) and (3), or any portion of such reports, may be classified to the extent the President determines appropriate.

(5) Extension disapproval resolutions

(A) For purposes of paragraph (1), the term "extension disapproval resolution" means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: "That the ____ disapproves the request of the President for the extension, under section 3803(c)(1)(B)(i) of the Bipartisan Trade Promotion Authority Act of 2002, of the trade authorities procedures under that Act to any implementing bill submitted with respect to any trade agreement entered into under section 3803(b) of that Act after June 30, 2005.", with the blank space being filled with the name of the resolving House of the Congress.

(B) Extension disapproval resolutions—

(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be referred, in the House of Representatives, to the Committee on Ways and Means and, in addition, to the Committee on Rules.

(C) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution after June 30, 2005.

(d) Commencement of Negotiations

In order to contribute to the continued economic expansion of the United States, the President shall commence negotiations covering tariff and nontariff barriers affecting any industry, product, or service sector, and expand existing sectoral agreements to countries that are not parties to those agreements, in cases where the President determines that such negotiations are feasible and timely and would benefit the United States. Such sectors include agriculture, commercial services, intellectual property rights, industrial and capital goods, government procurement, information technology products, environmental technology and services, medical equipment and services, civil aircraft, and infrastructure products. In so doing, the President shall take into account all of the principal negotiating objectives set forth in section 3802(b).

§ 3804. Consultations and Assessment. **1011**

(a) Notice and Consultation Before Negotiation

The President, with respect to any agreement that is subject to the provisions of section 3803(b), shall—

(1) provide, at least 90 calendar days before initiating negotiations, written notice to the Congress of the President's intention to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations, the specific United States objec-

tives for the negotiations, and whether the President intends to seek an agreement, or changes to an existing agreement;

(2) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, such other committees of the House and Senate as the President deems appropriate, and the Congressional Oversight group convened under section 3807; and

(3) upon the request of a majority of the members of the Congressional Oversight Group under section 3807(c), meet with the Congressional Oversight Group before initiating the negotiations or at any other time concerning the negotiations.

(b) Negotiations Regarding Agriculture

(1) In general

Before initiating or continuing negotiations the subject matter of which is directly related to the subject matter under section 3802(b)(10)(A)(i) with any country, the President shall assess whether United States tariffs on agricultural products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In addition, the President shall consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than United States tariffs and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(2) Special consultations on import sensitive products

(A) Before initiating negotiations with regard to agriculture, and, with respect to the Free Trade Area for the Americas and negotiations with regard to agriculture under the auspices of the World Trade Organization, as soon as practicable after the enactment of this Act, the United States Trade Representative shall—

(i) identify those agricultural products subject to tariff-rate quotas on the date of enactment of this Act, and agricultural products subject to tariff reductions by the United States as a result of the Uruguay Round Agreements, for which the rate of duty was reduced on January 1, 1995, to a rate which was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994;

(ii) consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning—

(I) whether any further tariff reductions on the products identified under clause (i) should be appropriate, taking into account

the impact of any such tariff reduction on the United States industry producing the product concerned;

(II) whether the products so identified face unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements; and

(III) whether the countries participating in the negotiations maintain export subsidies or other programs, policies, or practices that distort world trade in such products and the impact of such programs, policies, and practices on United States producers of the products;

(iii) request that the International Trade Commission prepare an assessment of the probable economic effects of any such tariff reduction on the United States industry producing the product concerned and on the United States economy as a whole; and

(iv) upon complying with clauses (i), (ii), and (iii), notify the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate of those products identified under clause (i) for which the Trade Representative intends to seek tariff liberalization in the negotiations and the reasons for seeking such tariff liberalization.

(B) If, after negotiations described in subparagraph (A) are commenced—

(i) the United States Trade Representative identifies any additional agricultural product described in subparagraph (A)(i) for tariff reductions which were not the subject of a notification under subparagraph (A)(iv), or

(ii) any additional agricultural product described in subparagraph (A)(i) is the subject of a request for tariff reductions by a party to the negotiations,

the Trade Representative shall, as soon as practicable, notify the committees referred to in subparagraph (A)(iv) of those products and the reasons for seeking such tariff reductions.

(3) Negotiations regarding the fishing industry

Before initiating, or continuing, negotiations which directly relate to fish or shellfish trade with any country, the President shall consult with the Committee on Ways and Means and the Committee on Resources of the House of Representatives, and the Committee on Finance and the Committee on Commerce, Science, and Transportation of the Senate, and shall keep the Committees apprised of negotiations on an ongoing and timely basis.

(c) Negotiations Regarding Textiles

Before initiating or continuing negotiations the subject matter of which is directly related to textiles and apparel products with any country, the President shall assess whether United States tariffs on textile and apparel products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning the results of the assessment, whether it is appropriate for

the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(d) Consultation With Congress Before Agreements Entered Into

(1) Consultation

Before entering into any trade agreement under section 3803(b), the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate;

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement; and

(C) the Congressional Oversight Group convened under section 3807.

(2) Scope

The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, priorities, and objectives of this title; and

(C) the implementation of the agreement under section 3805, including the general effect of the agreement on existing laws.

(3) Report regarding United States trade remedy laws

(A) Changes in certain trade laws.—The President, at least 180 calendar days before the day on which the President enters into a trade agreement under section 3803(b), shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(i) the range of proposals advanced in the negotiations with respect to that agreement, that may be in the final agreement, and that could require amendments to title VII of the Tariff Act of 1930 or to chapter 1 of title II of the Trade Act of 1974; and

(ii) how these proposals relate to the objectives described in section 3802(b)(14).

(B) Certain agreements.—With respect to a trade agreement entered into with Chile or Singapore, the report referred to in subparagraph (A) shall be submitted by the President at least 90 calendar days before the day on which the President enters into that agreement.

(C) Resolutions.—(i) At any time after the transmission of the report under subparagraph (A), if a resolution is introduced with respect to that report in either House of Congress, the procedures set forth in clauses (iii) through (vi) shall apply to that resolution if—

(I) no other resolution with respect to that report has previously been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be, pursuant to those procedures; and

(II) no procedural disapproval resolution under section 3805(b) introduced with respect to a trade agreement entered into pursuant to the negotiations to which the report under subparagraph (A) relates has previously been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be.

(ii) For purposes of this subparagraph, the term "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the ____ finds that the proposed changes to United States trade remedy laws contained in the report of the President transmitted to the Congress on ____ under section 3804(d)(3) of the Bipartisan Trade Promotion Authority Act of 2002 with respect to ____, are inconsistent with the negotiating objectives described in section 3802(b)(14) of that Act.", with the first blank space being filled with the name of the resolving House of Congress, the second blank space being filled with the appropriate date of the report, and the third blank space being filled with the name of the country or countries involved.

(iii) Resolutions in the House of Representatives—

(I) may be introduced by any Member of the House;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee.

(iv) Resolutions in the Senate—

(I) may be introduced by any Member of the Senate;

(II) shall be referred to the Committee on Finance; and

(III) may not be amended.

(iv) It is not in order for the House of Representatives to consider any resolution that is not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules.

(v) It is not in order for the Senate to consider any resolution that is not reported by the Committee on Finance.

(vi) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to floor consideration of certain resolutions in the House and Senate) shall apply to resolutions.

(e) Advisory Committee Reports

The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement entered into under section 3803(a) or (b) of this Act shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 3803(a)(1) or 3805(a)(1)(A) of the President's intention to enter into the agreement.

(f) ITC Assessment

(1) In general

The President, at least 90 calendar days before the day on which the President enters into a trade agreement under section 3803(b), shall provide the International Trade Commission (referred to in this sub-

section as "the Commission") with the details of the agreement as it exists at that time and request the Commission to prepare and submit an assessment of the agreement as described in paragraph (2). Between the time the President makes the request under this paragraph and the time the Commission submits the assessment, the President shall keep the Commission current with respect to the details of the agreement.

(2) ITC assessment

Not later than 90 calendar days after the President enters into the agreement, the Commission shall submit to the President and the Congress a report assessing the likely impact of the agreement on the United States economy as a whole and on specific industry sectors, including the impact the agreement will have on the gross domestic product, exports and imports, aggregate employment and employment opportunities, the production, employment, and competitive position of industries likely to be significantly affected by the agreement, and the interests of United States consumers.

(3) Review of empirical literature

In preparing the assessment, the Commission shall review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and shall provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the agreement.

1012 § 3805. Implementation of Trade Agreements.

(a) In general

(1) Notification and submission

Any agreement entered into under section 3803(b) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which the President enters into the trade agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) within 60 days after entering into the agreement, the President submits to the Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the agreement;

(C) after entering into the agreement, the President submits to the Congress, on a day on which both Houses of Congress are in session, a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill described in section 3803(b)(3);

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2); and

(D) the implementing bill is enacted into law.

(2) Supporting information

The supporting information required under paragraph (1)(C)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, priorities, and objectives of this title; and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i);

(II) whether and how the agreement changes provisions of an agreement previously negotiated;

(III) how the agreement serves the interests of United States commerce;

(IV) how the implementing bill meets the standards set forth in section 3803(b)(3); and

(V) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in section 3802(c) regarding the promotion of certain priorities.

(3) Reciprocal benefits

In order to ensure that a foreign country that is not a party to a trade agreement entered into under section 3803(b) does not receive benefits under the agreement unless the country is also subject to the obligations under the agreement, the implementing bill submitted with respect to the agreement shall provide that the benefits and obligations under the agreement apply only to the parties to the agreement, if such application is consistent with the terms of the agreement. The implementing bill may also provide that the benefits and obligations under the agreement do not apply uniformly to all parties to the agreement, if such application is consistent with the terms of the agreement.

(4) Disclosure of commitments

Any agreement or other understanding with a foreign government or governments (whether oral or in writing) that—

(A) relates to a trade agreement with respect to which the Congress enacts an implementing bill under trade authorities procedures, and

(B) is not disclosed to the Congress before an implementing bill with respect to that agreement is introduced in either House of Congress,

shall not be considered to be part of the agreement approved by the Congress and shall have no force and effect under United States law or in any dispute settlement body.

(b) Limitations on Trade Authorities Procedures

(1) For lack of notice or consultations

(A) In general.—The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agree-

ment or trade agreements entered into under section 3803(b) if during the 60-day period beginning on the date that one House of Congress agrees to a procedural disapproval resolution for lack of notice or consultations with respect to such trade agreement or agreements, the other House separately agrees to a procedural disapproval resolution with respect to such trade agreement or agreements.

(B) Procedural disapproval resolution.—(i) For purposes of this paragraph, the term "procedural disapproval resolution" means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: "That the President has failed or refused to notify or consult in accordance with the Bipartisan Trade Promotion Authority Act of 2002 on negotiations with respect to _____ and, therefore, the trade authorities procedures under that Act shall not apply to any implementing bill submitted with respect to such trade agreement or agreements.", with the blank space being filled with a description of the trade agreement or agreements with respect to which the President is considered to have failed or refused to notify or consult.

(ii) For purposes of clause (i), the President has "failed or refused to notify or consult in accordance with the Bipartisan Trade Promotion Authority Act of 2002" on negotiations with respect to a trade agreement or trade agreements if—

(I) the President has failed or refused to consult (as the case may be) in accordance with section 3804 or 3805 with respect to the negotiations, agreement, or agreements;

(II) guidelines under section 3807(b) have not been developed or met with respect to the negotiations, agreement, or agreements;

(III) the President has not met with the Congressional Oversight Group pursuant to a request made under section 3807(c) with respect to the negotiations, agreement, or agreements; or

(IV) the agreement or agreements fail to make progress in achieving the purposes, policies, priorities, and objectives of this title.

(2) Procedures for considering resolutions

(A) Procedural disapproval resolutions—

(i) in the House of Representatives—

(I) may be introduced by any Member of the House;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee; and

(I) may be introduced by any Member of the Senate;

(II) shall be referred to the Committee on Finance; and

(III) may not be amended.

(B) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to a procedural disapproval resolution introduced with respect to a trade agreement if no other procedural disapproval resolution with respect to that trade agreement has previously been reported in that House of Congress by the Committee on Ways and Means or the Committee

on Finance, as the case may be, and if no resolution described in section 3804(d)(3)(C)(ii) with respect to that trade agreement has been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be, pursuant to the procedures set forth in clauses (iii) through (vi) of such section 3804(d)(3)(C).

(C) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules.

(D) It is not in order for the Senate to consider any procedural disapproval resolution not reported by the Committee on Finance.

(3) For failure to meet other requirements

Not later than December 31, 2002, the Secretary of Commerce, in consultation with the Secretary of State, the Secretary of the Treasury, the Attorney General, and the United States Trade Representative, shall transmit to the Congress a report setting forth the strategy of the executive branch to address concerns of the Congress regarding whether dispute settlement panels and the Appellate Body of the WTO have added to obligations, or diminished rights, of the United States, as described in section 3801(b)(3). Trade authorities procedures shall not apply to any implementing bill with respect to an agreement negotiated under the auspices of the WTO unless the Secretary of Commerce has issued such report in a timely manner.

(c) Rules of House of Representatives and Senate

Subsection (b) of this section, section 3803(c), aand section 3804(d)(3)(C) 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 are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

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

§ 3806. Treatment of Certain Trade Agreements for Which Negotiations Have Already Begun. 1013

(a) Certain Agreements

Notwithstanding the prenegotiation notification and consultation requirement described in section 3804(a), if an agreement to which section 3803(b) applies—

(1) is entered into under the auspices of the World Trade Organization,

(2) is entered into with Chile,

(3) is entered into with Singapore, or

(4) establishes a Free Trade Area for the Americas,

and results from negotiations that were commenced before the date of the enactment of this Act, subsection (b) shall apply.

(b) Treatment of Agreements

In the case of any agreement to which subsection (a) applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 3804(a) (relating only to 90 days notice prior to initiating negotiations), and any procedural disapproval resolution under section 3805(b)(1)(B) shall not be in order on the basis of a failure or refusal to comply with the provisions of section 3804(a); and

(2) the President shall, as soon as feasible after the enactment of this Act—

(A) notify the Congress of the negotiations described in subsection (a), the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the committees referred to in section 3804(a)(2) and the Congressional Oversight Group convened under section 3807.

1014 § 3807. Congressional Oversight Group.

(a) Members and Functions

(1) In general

By not later than 60 days after the date of the enactment of this Act, and not later than 30 days after the convening of each Congress, the chairman of the Committee on Ways and Means of the House of Representatives and the chairman of the Committee on Finance of the Senate shall convene the Congressional Oversight Group.

(2) Membership from the House

In each Congress, the Congressional Oversight Group shall be comprised of the following Members of the House of Representatives:

(A) The chairman and ranking member of the Committee on Ways and Means, and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the House of Representatives which would have, under the Rules of the House of Representatives, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this title would apply.

(3) Membership from the Senate

In each Congress, the Congressional Oversight Group shall also be comprised of the following members of the Senate:

(A) The chairman and ranking member of the Committee on Finance and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the Senate which would have, under the Rules of the Senate, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this title would apply.

(4) Accreditation

Each member of the Congressional Oversight Group described in paragraph (2)(A) and (3)(A) shall be accredited by the United States Trade Representative on behalf of the President as an official adviser to the United States delegation in negotiations for any trade agreement to which this title applies. Each member of the Congressional Oversight Group described in paragraph (2)(B) and (3)(B) shall be accredited by the United States Trade Representative on behalf of the President as an official adviser to the United States delegation in the negotiations by reason of which the member is in the Congressional Oversight Group. The Congressional Oversight Group shall consult with and provide advice to the Trade Representative regarding the formulation of specific objectives, negotiating strategies and positions, the development of the applicable trade agreement, and compliance and enforcement of the negotiated commitments under the trade agreement.

(5) Chair

The Congressional Oversight Group shall be chaired by the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate.

(b) Guidelines

(1) Purpose and revision

The United States Trade Representative, in consultation with the chairmen and ranking minority members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(A) shall, within 120 days after the date of the enactment of this Act, develop written guidelines to facilitate the useful and timely exchange of information between the Trade Representative and the Congressional Oversight Group convened under this section; and

(B) may make such revisions to the guidelines as may be necessary from time to time.

(2) Content

The guidelines developed under paragraph (1) shall provide for, among other things—

(A) regular, detailed briefings of the Congressional Oversight Group regarding negotiating objectives, including the promotion of certain priorities referred to in section 3802(c), and positions and the status of the applicable negotiations, beginning as soon as practicable after the Congressional Oversight Group is convened, with more frequent briefings as trade negotiations enter the final stage;

(B) access by members of the Congressional Oversight Group, and staff with proper security clearances, to pertinent documents relating to the negotiations, including classified materials;

(C) the closest practicable coordination between the Trade Representative and the Congressional Oversight Group at all critical periods during the negotiations, including at negotiation sites;

(D) after the applicable trade agreement is concluded, consultation regarding ongoing compliance and enforcement of negotiated commitments under the trade agreement; and

(E) the time frame for submitting the report required under section 3802(c)(8).

(c) Request for Meeting

Upon the request of a majority of the Congressional Oversight Group, the President shall meet with the Congressional Oversight Group before initiating negotiations with respect to a trade agreement, or at any other time concerning the negotiations.

1015 § 3808. Additional Implementation and Enforcement Requirements.

(a) In general

At the time the President submits to the Congress the final text of an agreement pursuant to section 3805(a)(1)(C), the President shall also submit a plan for implementing and enforcing the agreement. The implementation and enforcement plan shall include the following:

(1) Border personnel requirements

A description of additional personnel required at border entry points, including a list of additional customs and agricultural inspectors.

(2) Agency staffing requirements

A description of additional personnel required by Federal agencies responsible for monitoring and implementing the trade agreement, including personnel required by the Office of the United States Trade Representative, the Department of Commerce, the Department of Agriculture (including additional personnel required to implement sanitary and phytosanitary measures in order to obtain market access for United States exports), the Department of the Treasury, and such other agencies as may be necessary.

(3) Customs infrastructure requirements

A description of the additional equipment and facilities needed by the United States Customs Service.

(4) Impact on State and local governments

A description of the impact the trade agreement will have on State and local governments as a result of increases in trade.

(5) Cost analysis

An analysis of the costs associated with each of the items listed in paragraphs (1) through (4).

(b) Budget Submission

The President shall include a request for the resources necessary to support the plan described in subsection (a) in the first budget that the President submits to the Congress after the submission of the plan.

* * * * * * *

1016 § 3811. Report on Impact of Trade Promotion Authority.

(a) In general

Not later than 1 year after the date of enactment of this Act, the International Trade Commission shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the

House of Representatives regarding the economic impact on the United States of the trade agreements described in subsection (b).

(b) Agreements

The trade agreements described in this subsection are the following:

(1) The United States-Israel Free Trade Agreement.

(2) The United States-Canada Free Trade Agreement.

(3) The North American Free Trade Agreement.

(4) The Uruguay Round Agreements.

(5) The Tokyo Round of Multilateral Trade Negotiations.

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TITLE 20.—EDUCATION

Chapter 3.—SMITHSONIAN INSTITUTION

1020 § 42. Board of Regents; members.

(a) Composition

The business of the Institution shall be conducted at the city of Washington by a Board of Regents, named the Regents of the Smithsonian Institution, to be composed of the Vice President, the Chief Justice of the United States, three Members of the Senate, three Members of the House of Representatives, and nine other persons, other than Members of Congress, two of whom shall be resident in the city of Washington, and seven of whom shall be inhabitants of some State, but no two of them of the same State.

(b) Modification of number, appointment or tenure of members; exceptions

Notwithstanding any other provision of law, the Board of Regents of the Smithsonian Institution may modify the number of members, manner of appointment of members, or tenure of members, of the boards or commissions under the jurisdiction of the Smithsonian Institution, other than—

(1) the Board of Regents of the Smithsonian Institution; and

(2) the boards or commissions of the National Gallery of Art, the John F. Kennedy Center for the Performing Arts, and the Woodrow Wilson International Center for Scholars.

(As amended Oct. 21, 1998, Pub. L. 105–277, Div. A, § 101(e) [Title III, § 355], 112 Stat. 2681–231, 2681–303.)

1021 § 43. Appointment of regents; terms of office; vacancies.

The regents to be selected shall be appointed as follows: The Members of the Senate by the President thereof; the Members of the House by the Speaker thereof; and the nine other persons by joint resolution of the Congress. The Members of the House so appointed shall serve for the term of two years; and on every alternate fourth Wednesday of December a like number shall be appointed in the same manner, to serve until the fourth Wednesday in December, in the second year succeeding their appointment. The Senators so appointed shall serve during the term for which they shall hold, without reelection, their office as Senators. Vacancies, occasioned by death, resignation, or otherwise, shall be filled as vacancies in committees are filled. The regular term of service for the other nine members shall be six years; and new elections thereof shall be made by joint resolutions of Congress. Vacancies occasioned by death, resignation, or otherwise may be filled in like manner by joint resolution of Congress. (R.S. § 5581; Dec. 15, 1970, Pub. L. 91–551, 84 Stat. 1440.)

TITLE 22.—FOREIGN RELATIONS AND INTERCOURSE

Chapter 7.—INTERNATIONAL BUREAUS, CONGRESSES, ETC.

* * * * * * *

§ 276c–1. Reports of expenditures by members of American groups or delegations and employees; consolidated reports by Congressional committees; public inspection. 1025

Each chairman or senior member of the House of Representatives and Senate group or delegation of the United States group or delegation to the Interparliamentary Union, the NATO Parliamentary Assembly, the Canada-United States Interparliamentary Group, the Mexico-United States Interparliamentary Group, or any similar interparliamentary group of which the United States is a member or participates, by whom or on whose behalf local currencies owned by the United States are made available and expended and/or expenditures are made from funds appropriated for the expenses of such group or delegation, shall file with the chairman of the Committee on Foreign Relations of the Senate in the case of the group or delegation of the Senate, or with the chairman of the Committee on Foreign Affairs of the House of Representatives in the case of the group or delegation of the House, an itemized report showing all such expenditures made by or on behalf of each Member or employee of the group or delegation together with the purposes of the expenditure, including per diem (lodging and meals), transportation, and other purposes. Within sixty days after the beginning of each regular session of Congress, the chairman of the Committee on Foreign Relations and the chairman of the Committee on Foreign Affairs shall prepare consolidated reports showing with respect to each such group or delegation the total amount expended, the purposes of the expenditures, the amount expended for each such purpose, the names of the Members or employees by or on behalf of whom the expenditures were made and the amount expended by or on behalf of each Member or employee for each such purpose. The consolidated reports prepared by the chairman of the Committee on Foreign Relations of the Senate shall be filed with the Secretary of the Senate, and the consolidated reports prepared by the chairman of the Committee on Foreign Affairs of the House shall be filed with the Clerk of the House and shall be open to public inspection. (As amended Pub. L. 103–437, § 9(a)(2), Nov. 2, 1994, 108 Stat. 4588; Pub. L. 104–186, Title II, § 218(1), Aug. 20, 1996, 110 Stat. 1747; Pub. L. 106–113, Div. B, § 1000(a)(7). [Div. A, Title VII, § 701(b)(2)], Nov. 29, 1999, 113 Stat. 1536, 1501A–459).

CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

§ 276d. United States group; appointment; term; meetings. 1026

Not to exceed twenty-four Members of Congress shall be appointed to meet jointly and at least annually and when Congress is not in session (except that this restriction shall not apply during the first

session of the Eighty-sixth Congress or to meetings held in the United States) with representatives of the House of Commons and Senate of the Canadian Parliament for discussion of common problems in the interests of relations between the United States and Canada. Of the Members of the Congress to be appointed for the purposes of this section (hereinafter designated as the United States group) half shall be appointed by the Speaker of the House from Members of the House (not less than four of whom shall be from the Foreign Affairs Committee), and half shall be appointed by the President of the Senate upon recommendations of the majority and minority leaders of the Senate from Members of the Senate (not less than four of whom shall be from the Foreign Relations Committee).

Such appointments shall be for the period of each meeting of the Canada-United States Interparliamentary group except for the four members of the Foreign Affairs Committee and the four members of the Foreign Relations Committee, whose appointments shall be for the duration of each Congress.

The Chairman or Vice Chairman of the House delegation shall be a Member from the Foreign Affairs Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation shall be a Member from the Foreign Relations Committee. (Pub. L. 86–42, § 1, June 11, 1959, 73 Stat. 72; Pub. L. 95–45, § 4(a), June 15, 1977, 91 Stat. 222; Pub. L. 103–437, § 9(a)(3), Nov. 2, 1994, 108 Stat. 4588.)

1027 § 276e. Authorization of appropriations; disbursements.

An appropriation of $150,000 annually is authorized, $75,000 of which shall be for the House delegation and $75,000 for the Senate delegation, or so much thereof as may be necessary, to assist in meeting the expenses of the United States group of the Canada-United States Interparliamentary group for each fiscal year for which an appropriation is made, the House and Senate portions of such appropriation to be disbursed on vouchers to be approved by the Chairman of the House delegation and the Chairman of the Senate delegation, respectively. (Pub. L. 86–42, § 2, June 11, 1959, 73 Stat. 72; Pub. L. 94–350, Title I, § 118(a), July 12, 1976, 90 Stat. 827; Pub. L. 103–236, Title V, § 502(a)(2), Apr. 30, 1994, 108 Stat. 462; Pub. L. 107–77, Title IV, § 408(b)(3), Nov. 28, 2001, 115 Stat. 791).

MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP

1028 § 276h. United States group; appointment; term; meetings.

Not to exceed twenty-four Members of Congress shall be appointed to meet jointly and at least annually with representatives of the Chamber of Deputies and Chamber of Senators of the Mexican Congress for discussion of common problems in the interests of relations between the United States and Mexico. Of the Members of the Congress to be appointed for the purposes of this section (hereinafter designated as the United States group) half shall be appointed by the Speaker of the House from Members of the House (not less than four of whom shall be from the Foreign Affairs Committee), and half shall be appointed by the President of the Senate upon recommendations of the majority and minority leaders of the Senate from Members of the Senate

(not less than four of whom shall be from the Foreign Relations Committee). Such appointments shall be for the period of each meeting of the Mexico-United States Interparliamentary group except for the four members of the Foreign Affairs Committee, and the four members of the Foreign Relations Committee, whose appointments shall be for the duration of each Congress.

The Chairman or Vice Chairman of the House delegation shall be a Member from the Foreign Affairs Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation shall be a Member from the Foreign Relations Committee. (Pub. L. 86–420, § 1, Apr. 9, 1960, 74 Stat. 40; Pub. L. 95–45, § 4(b), June 15, 1977, 91 Stat. 222; Pub. L. 103–437, § 9(a)(4), Nov. 2, 1994, 108 Stat. 4585.)

§ 276i. Authorization of appropriations; disbursements. **1029**

An appropriation of $120,000 annually is authorized, $60,000 of which shall be for the House delegation and $60,000 for the Senate delegation, or so much thereof as may be necessary, to assist in meeting the expenses of the United States group of the Mexico-United States Interparliamentary group for each fiscal year for which an appropriation is made, the House and Senate portions of such appropriation to be disbursed on vouchers to be approved by the Chairman of the House delegation and the Chairman of the Senate delegation, respectively. (As amended Pub. L. 101–515, Title III, § 304(c), Nov. 5, 1990, 104 Stat. 2129; Pub. L. 103–236, Title V, § 502(a)(1), Apr. 30, 1994, 108 Stat. 461; Pub. L. 107–77, Title IV, § 408(b)(2), Nov. 28, 2001, 115 Stat. 790).

§ 276*l*. British-American Interparliamentary Group. **1030**

(a) Establishment and meetings

Not to exceed 24 Members of Congress shall be appointed to meet annually and when the Congress is not in session (except that this restriction shall not apply to meetings held in the United States), with representatives of the House of Commons and the House of Lords of the Parliament of Great Britain for discussion of common problems in the interest of relations between the United States and Great Britain. The Members of Congress so appointed shall be referred to as the "United States group" of the United States Interparliamentary Group.

(b) Appointment of members

Of the Members of Congress appointed for purposes of this section—

(1) half shall be appointed by the Speaker of the House of Representatives from among Members of the House (not less than 4 of whom shall be members of the Committee on Foreign Affairs), and

(2) half shall be appointed by the President pro tempore of the Senate, upon recommendations of the majority and minority leaders of the Senate, from among Members of the Senate (not less than 4 of whom shall be members of the Committee on Foreign Relations) unless the majority and minority leaders of the Senate determine otherwise.

(c) Chair and Vice Chair

(1) The Chair or Vice Chair of the House delegation of the United States group shall be a member from the Committee on Foreign Affairs.

(2) The President pro tempore of the Senate shall designate the Chair or Vice Chair of the Senate delegation.

(d) Funding

There is authorized to be appropriated $50,000 for each fiscal year to assist in meeting the expenses of the United States group for each fiscal year for which an appropriation is made, half of which shall be for the House delegation and half of which shall be for the Senate delegation. The House and Senate portions of such appropriations shall be disbursed on vouchers to be approved by the Chair of the House delegation and the Chair of the Senate delegation, respectively.

(e) Certification of expenditures

The certificate of the Chair of the House delegation or the Senate delegation of the United States group shall be final and conclusive upon the accounting officers in the auditing of the accounts of the United States group.

(f) Annual report

The United States group shall submit to the Congress a report for each fiscal year for which an appropriation is made for the United States group, which shall include its expenditures under such appropriation.

(g) [Omitted.] (Pub. L. 102–138, Title I, § 168, Oct. 28, 1991, 105 Stat. 676.)

1031 § 276m. United States Delegation to the Parliamentary Assembly of the Conference on Security and Cooperation in Europe (CSCE).

(a) Establishment

In accordance with the allocation of seats to the United States in the Parliamentary Assembly of the Conference on Security and Cooperation in Europe (hereinafter referred to as the "CSCE Assembly") not to exceed 17 Members of Congress shall be appointed to meet jointly and annually with representative parliamentary groups from other Conference on Security and Cooperation in Europe (CSCE) member-nations for the purposes of—

(1) assessing the implementation of the objectives of the CSCE;

(2) discussing subjects addressed during the meetings of the Council of Ministers for Foreign Affairs and the biennial Summit of Heads of State or Government;

(3) initiating and promoting such national and multilateral measures as may further cooperation and security in Europe.

(b) Appointment of Delegation

For each meeting of the CSCE Assembly, there shall be appointed a United States Delegation, as follows:

(1) In 1992 and every even-numbered year thereafter, 9 Members shall be appointed by the Speaker of the House from Members of the House (not less than 4 of whom, including the Chairman of the United States Delegation, shall be from the Committee on

Foreign Affairs); and 8 Members shall, upon recommendations of the Majority and Minority leaders of the Senate, be appointed by the President pro tempore of the Senate from Members of the Senate (not less than 4 of whom, including the Vice Chairman of the United States Delegation, shall be from the Committee on Foreign Relations, unless the President pro tempore of the Senate, upon recommendations of the Majority and Minority leaders of the Senate, determines otherwise).

(2) In every odd-numbered year beginning in 1993, 9 Members shall, upon recommendation of the Majority and Minority Leaders of the Senate, be appointed by the President pro tempore of the Senate from Members of the Senate (not less than 4 of whom, including the Chairman of the United States Delegation, shall be from the Committee on Foreign Relations, unless the President pro tempore of the Senate, upon recommendations of the Majority and Minority leaders of the Senate, determines otherwise); and 8 Members shall be appointed by the Speaker of the House from Members of the House (not less than 4 of whom, including the Vice Chairman, shall be from the Committee on Foreign Affairs).

(c) Administrative support

For the purpose of providing general staff support and continuity between successive delegations, each United States Delegation shall have 2 secretaries (one of whom shall be appointed by the Chairman of the Committee on Foreign Affairs of the House of Representatives and one of whom shall be appointed by the Chairman of the Delegation of the Senate).

(d) Funding

(1) United States participation

There is authorized to be appropriated for each fiscal year $80,000 to assist in meeting the expenses of the United States delegation. For each fiscal year for which an appropriation is made under this subsection, half of such appropriation may be disbursed on voucher to be approved by the Chairman and half of such appropriation may be disbursed on voucher to be approved by the Vice Chairman.

(2) Availability of appropriations

Amounts appropriated pursuant to this subsection are authorized to be available until expended.

(e) Annual report

The United States Delegation shall, for each fiscal year for which an appropriation is made, submit to the Congress a report including its expenditures under such appropriation. The certificate of the Chairman and Vice Chairman of the United States Delegation shall be final and conclusive upon the accounting officers in the auditing of the accounts of the United States Delegation. (Pub. L. 102–138, Title I, § 169, Oct. 28, 1991, 105 Stat. 677.)

NOTE

There are authorized to be appropriated for each fiscal year $50,000 for expenses of United States participation in the United States-European Community Interparliamentary Group. (November 22, 1983, Public Law 98–164, § 109(c), as amend-

ed September 19, 1986, Public Law 99–415, § 7(b), and October 1, 1988, Public Law 100–459, § 303(c)).

Chapter 24.—MUTUAL SECURITY PROGRAM

1032 § 1754. Foreign currencies.

* * * * * * *

(b) Availability to Members and employees of Congress; authorization requirements; reports

(1)(A) Notwithstanding section 1306 of title 31, or any other provision of law—

(i) local currencies owned by the United States, which are in excess of the amounts reserved under section 2362(a) of this title, and of the requirements of the United States Government in payment of its obligations outside the United States, as such requirements may be determined from time to time by the President; and

(ii) any other local currencies owned by the United States in amounts not to exceed the equivalent of $75 per day per person or the maximum per diem allowance established under the authority of subchapter I of chapter 57 of Title 5 for employees of the United States Government while traveling in a foreign country, whichever is greater, exclusive of the actual cost of transportation;

shall be made available to Members and employees of the Congress for their local currency expenses when authorized as provided in subparagraph (B).

(B) The authorization required for purposes of subparagraph (A) may be provided—

(i) by the Speaker of the House of Representatives in the case of a Member or employee of the House;

(ii) by the chairman of a standing or select committee of the House of Representatives in the case of a member or employee of that committee;

(iii) by the President of the Senate, the President pro tempore of the Senate, the Majority Leader of the Senate, or the Minority Leader of the Senate, in the case of a Member or employee of the Senate;

(iv) by the chairman of a standing, select, or special committee of the Senate in the case of a member or employee of that committee or of an employee of a member of that committee; and

(v) by the chairman of a joint committee of the Congress in the case of a member or employee of that committee.

(C) Whenever local currencies owned by the United States are not otherwise available for purposes of this subsection, the Secretary of the Treasury shall purchase such local currencies as may be necessary for such purposes, using any funds in the Treasury not otherwise appropriated.

(2) On a quarterly basis, the chairman of each committee of the House of Representatives or the Senate and of each joint committee of the Congress (A) shall prepare a consolidated report (i) which itemizes the amounts and dollar equivalent values of each foreign currency expended and the amounts of dollar expenditures from appropriated funds in connection with travel outside the United States, stating the purposes of the expenditures including per diem (lodging and meals), transportation,

and other purposes, and (ii) which shows the total itemized expenditures, by such committee and by each member or employee of such committee (including in the case of a committee of the Senate, each employee of a member of the committee who received an authorization under paragraph (1) from the chairman of the committee); and (B) shall forward such consolidated report to the Clerk of the House of Representatives (if the committee is a committee of the House of Representatives or a joint committee whose funds are disbursed by the Chief Administrative Officer of the House) or to the Secretary of the Senate (if the committee is a committee of the Senate or a joint committee whose funds are disbursed by the Secretary of the Senate). Each such consolidated report shall be open to public inspection and shall be published in the Congressional Record within ten legislative days after the report is forwarded pursuant to this paragraph. In the case of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, such consolidated report may, in the discretion of the chairman of the committee, omit such information as would identify the foreign countries in which members and employees of that committee traveled.

(3)(A) Each Member or employee who receives an authorization under paragraph (1) from the Speaker of the House of Representatives, the President of the Senate, the President pro tempore of the Senate, the Majority Leader of the Senate, or the Minority Leader of the Senate, shall within thirty days after the completion of the travel involved, submit a report setting forth the information specified in paragraph (2), to the extent applicable, to the Clerk of the House of Representatives (in the case of a Member of the House or an employee whose salary is disbursed by the Chief Administrative Officer of the House) or the Secretary of the Senate (in the case of a Member of the Senate or an employee whose salary is disbursed by the Secretary of the Senate). In the case of an authorization for a group of Members or employees, such reports shall be submitted for all Members of the group by its chairman, or if there is no designated chairman, by the ranking Member or if the group does not include a Member, by the senior employee in the group. Each report submitted pursuant to this subparagraph shall be open to public inspection.

(B) On a quarterly basis, the Clerk of the House of Representatives and the Secretary of the Senate shall each prepare a consolidation of the reports received by them under this paragraph with respect to expenditures during the preceding quarter by each Member and employee or by each group in the case of expenditures made on behalf of a group which are not allocable to individual members of the group. Each such consolidation shall be open to public inspection and shall be published in the Congressional Record within ten legislative days after its completion. (Aug. 26, 1954, ch. 937, Title V, § 502, 68 Stat. 849, amended Sept. 3, 1954, ch. 1262, § 104, 68 Stat. 1223; July 8, 1955, ch. 301, § 9(a), 69 Stat. 288; July 18, 1956, ch. 627, § 9(b), 70 Stat. 560; June 30, 1958, § 401(a), 72 Stat. 268; August 27, 1958, Pub. L. 85–766, ch. X, § 1001, 72 Stat. 880; May 14, 1960, Pub. L. 86–472, § 401(a), 74 Stat. 138; July 12, 1960, Pub. L. 86–628, § 105(a), 74 Stat. 460; Sept. 4, 1961, Pub. L. 87–195, Pt. III, § 642(a)(2), 75 Stat. 460; Oct. 7, 1964, Pub. L. 88–633, 78 Stat. 1015; Oct. 18, 1973, Pub. L. 93–126, § 5, 87 Stat. 452; Aug. 13, 1974, Pub. L. 93–371, § 107, 88 Stat. 444; July

25, 1975, Pub. L. 94–59, Title XI, § 1105, 89 Stat. 299; Dec. 18, 1975, Pub. L. 94–157, Title I, ch. IV, 89 Stat. 837; July 12, 1976, Pub. L. 94–350, Title IV, § 402, 90 Stat. 833; Oct. 1, 1976, Pub. L. 94–440, Title I, § 109, 90 Stat. 1445; Sept. 26, 1978, Pub. L. 95–384, § 22(a), 92 Stat. 742; Aug. 20, 1996, Pub. L. 104–186, Title II, § 218(2), 110 Stat. 1747.)

1033 § 1928a. North Atlantic Treaty Parliamentary Conference; participation; appointment of United States Group.

Not to exceed twenty-four Members of Congress shall be appointed to meet jointly and annually with representative parliamentary groups from other NATO (North Atlantic Treaty Organization) members, for discussion of common problems in the interests of the maintenance of peace and security in the North Atlantic area. Of the Members of the Congress to be appointed for the purposes of this resolution (hereinafter designated as the "United States Group"), half shall be appointed by the Speaker of the House from Members of the House (not less than four of whom shall be from the Committee on Foreign Affairs), and half shall be appointed by the President of the Senate upon recommendations of the majority and minority leaders of the Senate from Members of the Senate. Not more than seven of the appointees from the Senate shall be of the same political party. The Chairman or Vice Chairman of the House delegation shall be a Member from the Foreign Affairs Committee, and, unless the President of the Senate, upon the recommendation of the Majority Leader, determines otherwise, the Chairman or Vice Chairman of the Senate delegation shall be a Member from the Foreign Relations Committee. Each delegation shall have a secretary. The secretaries of the Senate and House delegations shall be appointed, respectively, by the chairman of the Committee on Foreign Relations of the Senate and the chairman of the Committee on Foreign Affairs of the House of Representatives. (July 11, 1956, ch. 562, § 1, 70 Stat. 523; Dec. 16, 1963, Pub. L. 88–205, Pt. IV, § 406, 77 Stat. 392; Pub. L. 95–45 § 4(c), June 15, 1977, 91 Stat. 222; H. Res. 89, February 5, 1979; December 22, 1987, Pub. L. 100–204, Title VII, § 744(a), 101 Stat. 1396; Pub. L. 103–437, § 9(a)(5), Nov. 2, 1994, 108 Stat. 4588.)

1034 § 1928b. Authorization of appropriations.

There is authorized to be appropriated annually (1) for the annual contribution of the United States toward the maintenance of the NATO Parliamentary Assembly, such sum as may be agreed upon by the United States Group and approved by such Assembly, but in no event to exceed for any year an amount equal to 25 per centum of the total annual contributions made for that year by all members of the North Atlantic Treaty Organization toward the maintenance of such Assembly, and (2) $200,000, $100,000 for the House delegation and $100,000 for the Senate delegation, or so much thereof as may be necessary, to assist in meeting the expenses of the United States Group of the NATO Parliamentary Assembly for each fiscal year for which an appropriation is made, such appropriation to be dispersed on voucher to be approved by the Chairman of the House delegation and the Chairman of the Senate delegation. (July 11, 1956, ch. 562, § 2, 70 Stat. 523; June 30, 1958, Pub. L. 85–477, ch. V, § 502(d), 72 Stat. 273; Nov. 14, 1967, Pub. L. 90–137, Pt. IV, § 401(a), 81 Stat. 463; Feb. 7, 1972, Pub. L.

92–226, Pt. IV, § 405, 86 Stat. 34; Dec. 22, 1987, Pub. L. 100–202, § 101(a) [Title III, § 303], 101 Stat. 1329, 1329–23; Dec. 22, 1987, Pub. L. 100–204, Title VII, § 744(b), 101 Stat. 1396; Nov. 29, 1999, Pub. L. 106–113, § 1000(a)(7), 113 Stat. 1501A–459; Nov. 28, 2001, Pub. L. 107–77, Title IV, § 408(b)(1), 115 Stat. 790).

TITLE 26.—INTERNAL REVENUE CODE

Subtitle A.—INCOME TAXES

Chapter 1.—NORMAL TAXES AND SURTAXES

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Subchapter B.—Computation of Taxable Income

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Part II.—ITEMS SPECIFICALLY INCLUDED IN GROSS INCOME

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1035 § 84. Transfer of appreciated property to political organization.

(a) General rule

If—

(1) any person transfers property to a political organization, and

(2) the fair market value of such property exceeds its adjusted basis,

then for purposes of this chapter the transferor shall be treated as having sold such property to the political organization on the date of the transfer, and the transferor shall be treated as having realized an amount equal to the fair market value of such property on such date.

(b) Basis of property

In the case of a transfer of property to a political organization to which subsection (a) applies, the basis of such property in the hands of the political organization shall be the same as it would be in the hands of the transferor, increased by the amount of gain recognized to the transferor by reason of such transfer.

(c) Political organization defined

For purposes of this section, the term "political organization" has the meaning given to such term by section 527(e)(1). (Jan. 3, 1975, Pub. L. 93–625, § 13(a), 88 Stat. 2120.)

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Part VI.—ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS

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1036 § 162. Trade or business expenses.

(a) In general

There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including—

(1) a reasonable allowance for salaries or other compensation for personal services actually rendered;

(2) traveling expenses (including amounts expended for meals and lodging other than amounts which are lavish or extravagant under the circumstances) while away from home in the pursuit of a trade or business; and

(3) rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity.

For purposes of the preceding sentence, the place of residence of a Member of Congress (including any Delegate and Resident Commissioner) within the State, congressional district, or possession which he represents in Congress shall be considered his home, but amounts expended by such Members within each taxable year for living expenses shall not be deductible for income tax purposes in excess of $3,000. For purposes of paragraph (2), the taxpayer shall not be treated as being temporarily away from home during any period of employment if such period exceeds 1 year. The preceding sentence shall not apply to any Federal employee during any period for which such employee is certified by the Attorney General (or the designee thereof) as traveling on behalf of the United States in temporary duty status to investigate or prosecute, or provide support services for the investigation or prosecution of, a Federal crime. (Aug. 16, 1954, ch. 736, 68A Stat. 45; Oct. 16, 1962, Pub. L. 87–834, § 4(b), 76 Stat. 960, 976; Oct. 4, 1976, Pub. L. 94–455, § 1901(c) (4), 90 Stat. 1803; Oct. 1, 1981, Pub. L. 97–51, § 139(b)(1), 95 Stat. 967; July 18, 1982, Pub. L. 97–216, § 215(a), 96 Stat. 194; Oct. 24, 1992, Pub. L. 102–486, § 1938(a), 106 Stat. 3033; Aug. 5, 1997, Pub. L. 105–34, § 1204(a), 111 Stat. 995; July 22, 1998, Pub. L. 105–206, § 6012(a), 112 Stat. 818.)

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Subchapter F.—Exempt Organizations

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Part VI.—POLITICAL ORGANIZATIONS

§ 527. Political organizations. **1037**

(a) General rule

A political organization shall be subject to taxation under this subtitle only to the extent provided in this section. A political organization shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

(b) Tax imposed

(1) In general.—A tax is hereby imposed for each taxable year on the political organization taxable income of every political organization. Such tax shall be computed by multiplying the political organization taxable income by the highest rate of tax specified in section 11(b).

(2) Alternative tax in case of capital gains.—If for any taxable year any political organization has a net capital gain, then, in lieu of the tax imposed by paragraph (1), there is hereby imposed a tax (if such

a tax is less than the tax imposed by paragraph (1)) which shall consist of the sum of—

(A) a partial tax, computed as provided by paragraph (1), on the political organization taxable income determined by reducing such income by the amount of such gain, and

(B) an amount determined as provided in section 1201(a) on such gain.

(c) Political organization taxable income defined

(1) Taxable income defined.—For purposes of this section, the political organization taxable income of any organization for any taxable year is an amount equal to the excess (if any) of—

(A) the gross income for the taxable year (excluding any exempt function income), over

(B) the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), computed with the modifications provided in paragraph (2).

(2) Modifications.—For purposes of this subsection—

(A) there shall be allowed a specific deduction of $100,

(B) no net operating loss deduction shall be allowed under section 172, and

(C) no deduction shall be allowed under part VIII of subchapter B (relating to special deductions for corporations).

(3) Exempt function income.—For purposes of this subsection, the term "exempt function income" means any amount received as—

(A) a contribution of money or other property,

(B) membership dues, a membership fee or assessment from a member of the political organization,

(C) proceeds from a political fundraising or entertainment event, or proceeds from the sale of political campaign materials, which are not received in the ordinary course of any trade or business, or

(D) proceeds from the conducting of any bingo game (as defined in section 513(f)(2)),

to the extent such amount is segregated for use only for the exempt function of the political organization.

(d) Certain uses not treated as income to candidate

For purposes of this title, if any political organization—

(1) contributes any amount to or for the use of any political organization which is treated as exempt from tax under subsection (a) of this section,

(2) contributes any amount to or for the use of any organization described in paragraph (1) or (2) of section 509(a) which is exempt from tax under section 501(a), or

(3) deposits any amount in the general fund of the Treasury or in the general funds of any State or local government,

such amount shall be treated as an amount not diverted for the personal use of the candidate or any other person. No deduction shall be allowed under this title for the contribution or deposit of any amount described in the preceding sentence.

(e) Other definitions

For purposes of this section—

(1) Political organization.—The term "political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.

(2) Exempt function.—The term "exempt function" means the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed. Such term includes the making of expenditures relating to an office described in the preceding sentence which, if incurred by the individual, would be allowable as a deduction under section 162(a).

(3) Contributions.—The term "contributions" has the meaning given to such term by section 271(b)(2).

(4) Expenditures.—The term "expenditures" has the meaning given to such term by section 271(b)(3).

(5) Qualified State or Local Political Organization.—

(A) In general.—The term "qualified State or local political organization" means a political organization—

(i) all the exempt functions of which are solely for the purposes of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any State or local public office or office in a State or local political organization,

(ii) which is subject to State law that requires the organization to report (and it so reports)—

(I) information regarding each separate expenditure from and contribution to such organization, and

(II) information regarding the person who makes such contribution or receives such expenditure,

which would otherwise be required to be reported under this section, and

(iii) with respect to which the reports referred to in clause (ii) are (I) made public by the agency with which such reports are filed, and (II) made publicly available for inspection by the organization in the manner described in section 6104(d).

(B) Certain State law differences disregarded.—An organization shall not be treated as failing to meet the requirements of subparagraph (A)(ii) solely by reason of 1 or more of the following:

(i) The minimum amount of any expenditure or contribution required to be reported under State law is not more than $300 greater than the minimum amount required to be reported under subsection (j).

(ii) The State law does not require the organization to identify 1 or more of the following:

(I) The employer of any person who makes contributions to the organization.

(II) The occupation of any person who makes contributions to the organization.

(III) The employer of any person who receives expenditures from the organization.

(IV) The occupation of any person who receives expenditures from the organization.

(V) The purpose of any expenditure of the organization.

(VI) The date any contribution was made to the organization.

(VII) The date of any expenditure of the organization.

(C) De Minimis Errors.—An organization shall not fail to be treated as a qualified State or local political organization solely because such organization makes de minimis errors in complying with the State reporting requirements and the public inspection requirements described in subparagraph (A) as long as the organization corrects such errors within a reasonable period after the organization becomes aware of such errors.

(D) Participation of Federal candidate or office holder.—The term "qualified State or local political organization" shall not include any organization otherwise described in subparagraph (A) if a candidate for nomination or election to Federal elective public office or an individual who holds such office—

(i) controls or materially participates in the direction of the organization.

(ii) solicits contributions to the organization (unless the Secretary determines that such solicitations resulted in de minimis contributions and were made without the prior knowledge and consent, whether explicit or implicit, of the organization or its officers, directors, agents, or employees, or

(iii) directs, in whole or in part, disbursements by the organization.

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(g) Treatment of newsletter funds

(1) In general.—For purposes of this section, a fund established and maintained by an individual who holds, has been elected to, or is a candidate (within the meaning of paragraph (3)) for nomination or election to, any Federal, State, or local elective public office for use by such individual exclusively for the preparation and circulation of such individual's newsletter shall, except as provided in paragraph (2), be treated as if such fund constituted a political organization.

(2) Additional modifications.—In the case of any fund described in paragraph (1)—

(A) the exempt function shall be only the preparation and circulation of the newsletter, and

(B) the specific deduction provided by subsection (c)(2)(A) shall not be allowed.

(3) Candidate.—For purposes of paragraph (1), the term "candidate" means, with respect to any Federal, State, or local elective public office, an individual who—

(A) publicly announces that he is a candidate for nomination or election to such office, and

(B) meets the qualifications prescribed by law to hold such office.

(h) Special rule for principal campaign committees

(1) In general.—In the case of a political organization which is a principal campaign committee, paragraph (1) of subsection (b) shall be applied by substituting "the appropriate rates" for "the highest rate".

(2) Principal campaign committee defined.—

(A) In general.—For purposes of this subsection, the term "principal campaign committee" means the political committee designated by a candidate for Congress as his principal campaign committee for purposes of—

(i) section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)), and

(ii) this subsection.

(B) Designation.—A candidate may have only 1 designation in effect under subparagraph (A)(ii) at any time and such designation—

(i) shall be made at such time and in such manner as the Secretary may prescribe by regulations, and

(ii) once made, may be revoked only with the consent of the Secretary.

Nothing in this subsection shall be construed to require any designation where there is only one political committee with respect to a candidate.

(i) Organizations must notify Secretary that they are section 527 organizations

(1) In general.—Except as provided in paragraph (5), an organization shall not be treated as an organization described in this section—

(A) unless it has given notice to the Secretary electronically that it is to be so treated, or

(B) if the notice is given after the time required under paragraph (2), the organization shall not be so treated for any period before such notice is given or, in the case of any material change in the information required under paragraph (3), for the period beginning on the date on which the material change occurs and ending on the date on which such notice is given,

(2) Time to give notice.—The notice required under paragraph (1) shall be transmitted not later than 24 hours after the date on which the organization is established or, in the case of any material change in the information required under paragraph (3), not later than 30 days after such material change.

(3) Contents of notice.—The notice required under paragraph (1) shall include information regarding—

(A) the name and address of the organization (including any business address, if different) and its electronic mailing address,

(B) the purpose of the organization,

(C) the names and addresses of its officers, highly compensated employees, contact person, custodian of records, and members of its Board of Directors,

(D) the name and address of, and relationship to, any related entities (within the meaning of section 168(h)(4)),

(E) whether the organization intends to claim an exemption from the requirements of subsection (j) or section 6033, and

(F) such other information as the Secretary may require to carry out the Internal Revenue laws.

(4) Effect of failure.—In the case of an organization failing to meet the requirements of paragraph (1) for any period, the taxable income of such organization shall be computed by taking into account any exempt function income (and any deductions directly connected with the production of such income) or in the case of a failure relating to a material change, by taking into account such income and deductions only during the period beginning on the date on which the material change occurs and ending on the date on which notice is given under this subsection. For purposes of the preceding sentence, the term "exempt function income" means any amount described in a subparagraph of subsection (c)(3), whether or not segregated for use for any exempt function.

(5) Exceptions.—This subsection shall not apply to any organization—

(A) to which this section applies solely be reason of subsection (f)(1),

(B) which reasonably anticipates that it will not have gross receipts of $25,000 or more for any taxable year, or,

(C) which is a political committee of a State or local candidate or which is a State or local committee of a political party.

(6) Coordination with other requirements.—This subsection shall not apply to any person required (without regard to this subsection) to report under the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) as a political committee.

(j) Required Disclosure of Expenditures and Contributions

(1) Penalty for failure.—In the case of—

(A) a failure to make the required disclosures under paragraph (2) at the time and in the manner prescribed therefor, or

(B) a failure to include any of the information required to be shown by such disclosures or to show the correct information,

there shall be paid by the organization an amount equal to the rate of tax specified in subsection (b)(1) multiplied by the amount to which the failure relates. For purpose of subtitle F, the amount imposed by this paragraph shall be assessed and collected in the same manner as penalties imposed by section 6652(c).

(2) Required disclosure.—A political organization which accepts a contribution, or makes an expenditure, for an exempt function during any calendar year shall file with the Secretary either—

(A)(i) in the case of a calendar year in which a regularly scheduled election is held—

(I) quarterly reports, beginning with the first quarter of the calendar year in which a contribution is accepted or expenditure is made, which shall be filed not later than the fifteenth 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 not later than January 31 of the following calendar year,

(II) a pre-election report, which shall be filed not later than the twelfth day before (or posted by registered or certified mail not later than the fifteenth day before) any election with respect to which the organization makes a contribution or expenditure, and which shall be complete as of the twentieth day before the election, and

(III) a post-general election report, which shall be filed not later than the thirtieth day after the general election and which shall be complete as of the twentieth day after such general election, and

(ii) in the case of 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 for the calendar year, beginning with the first month of the calendar year in which a contribution is accepted or expenditure is made, which shall be filed not later than the twentieth 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 subparagraph (A)(i)(II), a post-general election report shall be filed in accordance with subparagraph (A)(i)(III), and a year end report shall be filed not later than January 31 of the following calendar year.

(3) Contents of report.—A report required under paragraph (2) shall contain the following information:

(A) The amount, date, and purpose of each expenditure made to a person if the aggregate amount of expenditures to such person during the calendar year equals or exceeds $500 and the name and address of the person (in the case of an individual, including the occupation and name of employer of such individual).

(B) The name and address (in the case of an individual, including the occupation and name of employer of such individual) of all contributors which contributed an aggregate amount of $200 or more to the organization during the calendar year and the amount and date of the contribution.

Any expenditure or contribution disclosed in a previous reporting period is not required to be included in the current reporting period.

(4) Contracts to spend or contribute.—For purposes of this subsection, a person shall be treated as having made an expenditure or contribution if the person has contracted or is otherwise obligated to make the expenditure or contribution.

(5) Coordination with other requirements.—This subsection shall not apply—

(A) to any person required (without regard to this subsection) to report under the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) as a political committee,

(B) to any State or local committee of a political party or political committee of a State or local candidate,

(C) to any organization which is a qualified State or local political organization,

(D) to any organization which reasonably anticipates that it will not have gross receipts of $25,000 or more for any taxable year,

(E) to any organization to which this section applies solely by reason of subsection (f)(1), or

(F) with respect to any expenditure which is an independent expenditure (as defined in section 301 of such Act).

(6) Election.—For purposes of this subsection, the term "election" means—

(A) a general, special, primary, or runoff election for a Federal office,

(B) a convention or caucus of a political party which has authority to nominate a candidate for Federal office,

(C) a primary election held for the selection of delegates to a national nominating convention of a political party, or

(D) a primary election held for the expression of a preference for the nomination of individuals for election to the office of President.

(7) Electronic filing.—Any report required under paragraph (2) with respect to any calendar year shall be filed in electronic form if the organization has, or has reason to expect to have, contributions exceeding $50,000 or expenditures exceeding $50,000 in such calendar year.

(k) Public Availability of notices and reports

(1) In general.—The Secretary shall make any notice described in subsection (i)(1) or report described in subsection (j)(7) available for public inspection on the Internet not later than 48 hours after such notice or report has been filed (in addition to such public availability as may be made under section 6104(d)(7)).

(2) Access.—The Secretary shall make the entire database of notices and reports which are made available to the public under paragraph (1) searchable by the following items (to the extent the items are required to be included in the notices and reports):

(A) Names, States, zip codes, custodians of records, directors, and general purposes of the organizations.

(B) Entities related to the organizations.

(C) Contributors to the organizations.

(D) Employers of such contributors.

(E) Recipients of expenditures by the organizations.

(F) Ranges of contributions and expenditures.

(G) Time periods of the notices and reports.

Such database shall be downloadable.

(l) Authority to waive.—The Secretary may waive all or any portion of the

(1) tax assessed on an organization by reason of the failure of the organization to comply with the requirements of subsection (i), or

(2) amount imposed under subsection (j) for a failure to comply with the requirements thereof,

on a showing that such failure was due to reasonable cause and not due to willful neglect.

(Jan. 3, 1975, Pub. L. 93–625, § 10(a), 88 Stat. 2116; Oct. 4, 1976, Pub. L. 94–455, § 1901(b)(33)(c), 90 Stat. 1801; Oct. 21, 1978, Pub. L. 95–502, § 302(a), 92 Stat. 1702; Nov. 6, 1978, Pub. L. 95–600, § 301(b)(6), 92 Stat. 2821; Aug. 13, 1981, Pub. L. 97–34, § 128, 95 Stat. 203; July 18, 1984, Pub. L. 98–369, §§ 474(r)(16), 722(c), 98 Stat. 843, 973; Oct. 22, 1986, Pub. L. 99–514, § 112(b)(1), 100 Stat. 2085; Nov. 10, 1988, Pub. L. 100–647, § 1001(b)(3)(B), 102 Stat. 3349; July 1, 2000, Pub.

L. 106–230, §§ 1(a), 2(a), 114 Stat. 477, 479; ——, 2002, Pub. L. 107–—, §§ 1(a), 2, 5(a), 6, 116 Stat. —.)

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Subchapter N.—Tax Based on Income From Sources Within or Without the United States

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Part II.—NONRESIDENT ALIENS AND FOREIGN CORPORATIONS

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Subpart D.—Miscellaneous Provisions

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§ 896. Adjustment of tax on nationals, residents, and corporations of certain foreign countries. 1038

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(d) Notification of Congress required

No proclamation shall be issued by the President pursuant to this section unless, at lest 30 days prior to such proclamation, he has notified the Senate and the House of Representatives of his intention to issue such proclamation. (Nov. 13, 1966, Pub. L. 89–809, § 105(b), 80 Stat. 1563.)

Subchapter P.—Capital Gains and Losses

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Part III.—GENERAL RULES FOR DETERMINING CAPITAL GAINS AND LOSSES

§ 1221. Capital asset defined. 1039

(a) In general.—For purposes of this subtitle, the term "capital asset" means property held by the taxpayer (whether or not connected with his trade or business), but does not include—

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(5) a publication of the United States Government (including the Congressional Record) which is received from the United States Government or any agency thereof, other than by purchase at the price at which it is offered for sale to the public, and which is held by—

(A) a taxpayer who so received such publication, or

(B) a taxpayer in whose hands the basis of such publication is determined, for purposes of determining gain from a sale or exchange, in whole or in part by reference to the basis of such publication in the hands of a taxpayer described in subparagraph (A). (Aug. 16, 1954, ch. 736. 68A Stat. 321; Oct. 4, 1976, Pub. L. 94–455, § 2132 (a), 90 Stat. 1925; Aug. 13, 1981, Pub. L. 97–34, § 505

(a), 95 Stat 331; Dec. 17, 1999, Pub. L. 106–170, § 532(a), 113 Stat. 1928.

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SUBTITLE F.—PROCEDURE AND ADMINISTRATION

Chapter 61.—INFORMATION AND RETURNS

Subchapter A.—Returns and Records

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Part III.—INFORMATION RETURNS

Subpart A.—Information Concerning Persons Subject to Special Provisions

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1040 § 6033. Returns by exempt organizations

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(g) Returns required by political organizations

(1) In general.—This section shall apply to a political organization (as defined by section 527(e)(1)) which has gross receipts of $25,000 or more for the taxable year. In the case of a political organization which is a qualified State or local political organization (as defined in section 527(e)(5)), the preceding sentence shall be applied by substituting "$100,000" for "$25,000".

(2) Annual returns.—Political organizations described in paragraph (1) shall file an annual return—

(A) containing the information required, and complying with the other requirements, under subsection (a)(1) for organizations exempt from taxation under section 501(a), with such modifications as the Secretary considers appropriate to require only information which is necessary for the purposes of carrying out section 527, and

(B) containing such other information as the Secretary deems necessary to carry out the provisions of this subsection.

(3) Mandatory exceptions from filing.—Paragraph (2) shall not apply to an organization—

(A) which is a State or local committee of a political party, or political committee of a State or local candidate,

(B) which is a caucus or association of State or local officials,

(C) which is an authorized committee (as defined in section 301(6) of the Federal Election Campaign Act of 1971) of a candidate for Federal office,

(D) which is a national committee (as defined in section 301(14) of the Federal Election Campaign Act of 1971) of a political party,

(E) which is a United States House of Representatives or United States Senate campaign committee of a political party committee,

(F) which is required to report under the Federal Election campaign Act of 1971 as a political committee (as defined in section 301(4) of such Act), or

(G) to which section 527 applies for the taxable year solely by reason of subsection (f)(1) of such section.

(4) Discretionary exception.—The Secretary may relieve any organization required under paragraph (2) to file and information return from

filing such a return if the Secretary determines that such filing is not necessary to the efficient administration of the Internal Revenue laws. (——, 2002, Pub. L. 107——, § 3(c), 116 Stat.——.)

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Subchapter B.—Miscellaneous Provisions

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§ 6103. Confidentiality and disclosure of returns and return information. 1041

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(f) Disclosure to committees of Congress

(1) Committee on Ways and Means, Committee on Finance, and Joint Committee on Taxation.—Upon written request from the chairman of the Committee on Ways and Means of the House of Representatives, the chairman of the Committee on Finance of the Senate, or the chairman of the Joint Committee on Taxation, the Secretary shall furnish such committee with any return or return information specified in such request, except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(2) Chief of Staff of Joint Committee on Taxation.—Upon written request by the Chief of Staff of the Joint Committee on Taxation, the Secretary shall furnish him with any return or return information specified in such request. Such Chief of Staff may submit such return or return information to any committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(3) Other committees.—Pursuant to an action by, and upon written request by the chairman of, a committee of the Senate or the House of Representatives (other than a committee specified in paragraph (1)) specially authorized to inspect any return or return information by a resolution of the Senate or the House of Representatives or, in the case of a joint committee (other than the joint committee specified in paragraph (1)) by concurrent resolution, the Secretary shall furnish such committee, or a duly authorized and designated subcommittee thereof, sitting in closed executive session, with any return or return information which such resolution authorizes the committee or subcommittee to inspect. Any resolution described in this paragraph shall specify the purpose for which the return or return information is to be furnished and that such information cannot reasonably be obtained from any other source.

(4) Agents of committees and submission of information to Senate or House of Representatives.—

(A) Committees described in paragraph (1).—Any committee described in paragraph (1) or the Chief of Staff of the Joint Committee on Taxation shall have the authority, acting directly, or by or through such examiners or agents as the chairman of such com-

mittee or such chief of staff may designate or appoint, to inspect returns and return information at such time and in such manner as may be determined by such chairman or chief of staff. Any return or return information obtained by or on behalf of such committee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both. The Joint Committee on Taxation may also submit such return or return information to any other committee described in paragraph (1), except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished to such committee only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(B) Other committees.—Any committee or subcommittee described in paragraph (3) shall have the right, acting directly, or by or through no more than four examiners or agents, designated or appointed in writing in equal numbers by the chairman and ranking minority member of such committee or subcommittee, to inspect returns and return information at such time and in such manner as may be determined by such chairman and ranking minority member. Any return or return information obtained by or on behalf of such committee or subcommittee pursuant to the provisions of this subsection may be submitted by the committee to the Senate or the House of Representatives, or to both, except that any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, shall be furnished to the Senate or the House of Representatives only when sitting in closed executive session unless such taxpayer otherwise consents in writing to such disclosure.

(5) Disclosure by whistleblower.—Any person who otherwise has or had access to any return or return information under this section may disclose such return or return information to a committee referred to in paragraph (1) or any individual authorized to receive or inspect information under paragraph (4)(A) if such person believes such return or return information may relate to possible misconduct, maladministration, or taxpayer abuse.

(g) Disclosure to President and certain other persons

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(5) Reporting requirements

Within 30 days after the close of each calendar quarter, the President and the head of any agency requesting returns and return information under this subsection shall each file a report with the Joint Committee on Taxation setting forth the taxpayers with respect to whom such requests were made during such quarter under this subsection, the returns or return information involved, and the reasons for such requests. The President shall not be required to report on any request for returns and return information pertaining to an individual who was an officer or employee of the executive branch of the Federal Government at the time such request was made. Reports filed pursuant to this paragraph shall not be disclosed unless the Joint Committee on Taxation determines that disclosure thereof (including identifying details) would be in the national interest. Such reports shall be maintained by the Joint

Committee on Taxation for a period not exceeding 2 years unless, within such period, the Joint Committee on Taxation determines that a disclosure to the Congress is necessary. (Pub. L. 105–65, Title V, (§ 542(b), 111 Stat. 1412; July 22, 1998, Pub. L. 105–206, Title I, § 1101(b), Title III, §§ 3702(a), (b), 3708(a), 3711(b), Title VI, §§ 6007(f)(4), 6009(d), 6012(b)(2), (4), 6019(c), 6023(22), 112 Stat. 696, 776, 777, 778, 781, 810, 812, 819, 823, 826; Oct. 21, 1998, Pub. L. 105–277, Div. J, Title I, § 1006, Title IV, §§ 4002(a), (h), 4006(a), 112 Stat. 2681–900, 2681–906, 2681–907, 2681–912; Dec. 17, 1999, Pub. L. 106–170, Title V, § 521(a)(1), 113 Stat. 1925.)

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§ 6104. Publicity of information required from certain exempt organizations and certain trusts. 1042

(a) Inspection of applications for tax exemption or notice of status

(1) Public inspection.—

(A) Organizations described in section 501 or 527.—If an organization described in section 501 (c) or (d) is exempt from taxation under section 501(a) for any taxable year or a political organization is exempt from taxation under section 527 for any taxable year, the application filed by the organization with respect to which the Secretary made his determination that such organization was entitled to exemption under section 501(a) or notice of status filed by the organization under section 527(i), together with any papers submitted in support of such application or notice, and any letter or other document issued by the Internal Revenue Service with respect to such application or notice shall be open to public inspection at the national office of the Internal Revenue Service. In the case of any application or notice filed after the date of the enactment of this subparagraph, a copy of such application or notice and such letter or document shall be open to public inspection at the appropriate field office of the Internal Revenue Service (determined under regulations prescribed by the Secretary). Any inspection under this subparagraph may be made at such times, and in such manner, as the Secretary shall by regulations prescribe. After the application of any organization for exemption from taxation under section 501(a) has been opened to public inspection under this subparagraph, the Secretary shall, on the request of any person with respect to such organization, furnish a statement indicating the subsection and paragraph of section 501 which it has been determined describes such organization.

(B) Pension, etc., plans.—The following shall be open to public inspection at such times and in such places as the Secretary may prescribe:

(i) any application filed with respect to the qualification of a pension, profit-sharing, or stock bonus plan under section 401(a) or 403(a), an individual retirement account described in section 408(a), or an individual retirement annuity described in section 408(b),

(ii) any application filed with respect to the exemption from tax under section 501(a) of an organization forming part of a plan or account referred to in clause (i),

(iii) any papers submitted in support of an application referred to in clause (i) or (ii), and

(iv) any letter or other document issued by the Internal Revenue Service and dealing with the qualification referred to in clause (i) or the exemption from tax referred to in clause (ii).

Except in the case of a plan participant, this subparagraph shall not apply to any plan referred to in clause (i) having not more than 25 participants.

(C) Certain names and compensation not to be open to public inspection.—In the case of any application, document, or other papers, referred to in subparagraph (B), information from which the compensation (including deferred compensation) of any individual may be ascertained shall not be opened to public inspection under subparagraph (B).

(D) Withholding of certain other information.—Upon request of the organization submitting any supporting papers described in subparagraph (A) or (B), the Secretary shall withhold from public inspection any information contained therein which he determines relates to any trade secret, patent, process, style of work, or apparatus, of the organization, if he determines that public disclosure of such information would adversely affect the organization. The Secretary shall withhold from public inspection any information contained in supporting papers described in subparagraph (A) or (B) the public disclosure of which he determines would adversely affect the national defense.

(2) Inspection by committee of Congress.—Section 6103(f) shall apply with respect to—

(A) the application for exemption of any organization described in section 501(c) or (d) which is exempt from taxation under section 501(a) for any taxable year or notice of status of any political organization which is exempt from taxation under section 527 for any taxable year, and any application referred to in subparagraph (B) of subsection (a)(1) of this section, and

(B) any other papers which are in the possession of the Secretary and which relate to such application,

as if such papers constituted returns.

(3) Information available on internet and in person.—

(A) In general.—The Secretary shall make publicly available, on the Internet and at the offices of the Internal Revenue Service—

(i) a list of all political organizations which file a notice with the Secretary under section 527(i), and

(ii) the name, address, electronic mailing address, custodian of records, and contact person for such organization.

(B) Time to make information available.—The Secretary shall make available the information required under subparagraph (A) not later than 5 business days after the Secretary receives a notice from a political organization under section 527(i).

(Sept. 2, 1958, Pub. L. 85–866, § 75(a) 72 Stat. 1660; Sept. 2, 1974, Pub. L. 93–406, § 1022(g)(1), (2), 88 Stat. 940; Oct. 4, 1976, Pub. L. 94–455, §§ 1201(d), 1906(b)(13)(A), 90 Stat. 1667, 1834; Nov. 6, 1978, Pub. L. 95–600, § 703(m), 92 Stat. 2943; July 18, 1984, Pub. L. 98–

369 § 491(d)(49), 98 Stat. 852; July 1, 2000, Pub. L. 106–230, § 1(b), 114 Stat. 478.)

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Chapter 78.—DISCOVERY OF LIABILITY AND ENFORCEMENT OF TITLE

Subchapter A.—Examination and Inspection

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§ 7608. Authority of Internal Revenue enforcement officers. **1043**

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(c) Rules relating to undercover operations

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(4) Audits.—

(A) The Service shall conduct a detailed financial audit of each undercover investigative operation which is closed in each fiscal year; and

(i) submit the results of the audit in writing to the Secretary; and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Service shall also submit a report annually to the Congress specifying as to its undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the 1-year period for which such report is submitted;

(ii) the number, by programs, of undercover investigative operations commenced in the 1-year period for which such report is submitted;

(iii) the number, by programs, of undercover investigative operations closed in the 1-year period for which such report is submitted; and

(iv) the following information with respect to each undercover investigative operation pending as of the end of the 1-year period for which such report is submitted or closed during such 1-year period—

(I) the date the operation began and the date of the certification referred to in the last sentence of paragraph (1),

(II) the total expenditures under the operation and the amount and use of the proceeds from the operation,

(III) a detailed description of the operation including the potential violation being investigated and whether the operation is being conducted under grand jury auspices, and

(IV) the results of the operation including the results of criminal proceedings.

(Nov. 18, 1988, Pub. L. 100–690, § 7601(c)(2), 102 Stat. 4504; July 30, 1996, Pub. L. 104–168, § 1205(c)(1), 110 Stat. 1471.)

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Chapter 79.—DEFINITIONS

1044 § 7701. Definitions.

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(j) Tax treatment of Federal Thrift Savings Fund

(1) In general.—For purposes of this title—

(A) the Thrift Savings Fund shall be treated as a trust described in section 401(a) which is exempt from taxation under section 501(a);

(B) any contribution to, or distribution from, the Thrift Savings Fund shall be treated in the same manner as contributions to or distributions from such a trust; and

(C) subject to section 401(k)(4)(B) and any dollar limitation on the application of section 402(e)(3), contributions to the Thrift Savings Fund shall not be treated as distributed or made available to an employee or Member nor as a contribution made to the Fund by an employee or Member merely because the employee or Member has, under the provisions of subchapter III of chapter 84 of title 5, United States Code, and section 8351 of such title 5, an election whether the contribution will be made to the Thrift Savings Fund or received by the employee or Member in cash.

(2) Nondiscrimination requirements.—Notwithstanding any other provision of the law, the Thrift Savings Fund is not subject to the nondiscrimination requirements applicable to arrangements described in section 401(k) or to matching contributions (as described in section 401(m)), so long as it meets the requirements of this section.

(3) Coordination with Social Security Act.—Paragraph (1) shall not be construed to provide that any amount of the employee's or Member's basic pay which is contributed to the Thrift Savings Fund shall not be included in the term "wages" for the purposes of section 209 of the Social Security Act or section 3121(a) of this title.

(4) Definitions.—For purposes of this subsection, the terms "Member", "employee", and "Thrift Savings Fund" shall have the same respective meanings as when used in subchapter III of chapter 84 of title 5, United States Code.

(5) Coordination with other provisions of law.—No provision of law not contained in this title shall apply for purposes of determining the treatment under this title of the Thrift Savings Fund or any contribution to, or distribution from, such Fund. (Oct. 22, 1986, Pub. L. 99–514, § 1147(a), 100 Stat. 2493; Dec. 22, 1987, Pub. L. 100–202, § 624(a), 101 Stat. 1329–429; Nov. 10, 1988, Pub. L. 100–647, § 1011A(m)(1), 102 Stat. 3483; Nov. 5, 1990, Pub. L. 101–508, § 11704(a)(34), 104 Stat. 1388–519; July 3, 1992, Pub. L. 102–318, § 521(b)(43), 106 Stat. 313.)

(k) Treatment of certain amounts paid to charity

In the case of any payment which, except for section 501(b) of the Ethics in Government Act of 1978, might be made to any officer or employee of the Federal Government but which is made instead on behalf of such officer or employee to an organization described in section 170(c)—

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

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

For purposes of this subsection, a Senator, a Representative in, or a Delegate or Resident Commissioner to, the Congress shall be treated as an officer or employee of the Federal Government. (Nov. 30, 1989, Pub. L. 101–194, § 602, 103 Stat. 1762; Aug. 14, 1991, Pub. L. 102–90, § 314(e), 103 Stat. 469–470.)

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Chapter 80.—GENERAL RULES

Subchapter A.—Application of Internal Revenue Laws

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§ 7802. Internal Revenue Service Oversight Board. **1045**

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(d) Specific responsibilities

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(4) Budget.—To—

(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner;

(B) submit such budget request to the Secretary of the Treasury; and

(C) ensure that the budget request supports the annual and long-range strategic plans.

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The Secretary shall submit the budget request referred to in paragraph (4)(B) for any fiscal year to the President who shall submit such request, without revision, to Congress together with the President's annual budget request for the Internal Revenue Service for such fiscal year.

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(f) Administrative matters

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(3) Reports.—

(A) Annual.—The Oversight Board shall each year report with respect to the conduct of its responsibilities under this title to the President, the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

(B) Additional report.—Upon a determination by the Oversight Board under subsection (c)(1)(B) that the organization and operation of the Internal Revenue Service are not allowing it to carry out its mission, the Oversight Board shall report such determination to the Committee on Ways and Means of the House of Representa-

tives and the Committee on Finance of the Senate. (July 22, 1998, Pub. L. 105–206, § 1101(a), 112 Stat. 691.)

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1046 § 7803. Commissioner of Internal Revenue; other officials.

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(c) Office of the Taxpayer Advocate

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(2) Functions of office.

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(B) Annual reports.—

(i) Objectives.—Not later than June 30 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

(ii) Activities.—Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Office of the Taxpayer Advocate during the fiscal year ending during such calendar year. (July 22, 1998, Pub. L. 105–206, § 1102(a), 112 Stat. 697.)

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1047 § 7805. Rules and regulations.

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(b) Retroactivity of regulations

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(6) Congressional authorization.—The limitation of paragraph (1) may be superseded by a legislative grant from Congress authorizing the Secretary to prescribe the effective date with respect to any regulation. (July 30, 1996, Pub. L. 104–168, § 1101(a), 110 Stat. 1468.)

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SUBTITLE G.—THE JOINT COMMITTEE ON TAXATION

Chapter 91.—ORGANIZATION AND MEMBERSHIP OF THE JOINT COMMITTEE

1048 § 8001. Authorization.

There shall be a joint congressional committee known as the Joint Committee on Taxation (hereinafter in this subtitle referred to as the "Joint Committee"). (Aug. 16, 1954, ch. 736, 68A Stat. 925; Oct. 4, 1976, Pub. L. 94–455, § 1907(a)(1), 90 Stat. 1835.)

1049 § 8002. Membership.

(a) Number and selection

The Joint Committee shall be composed of 10 members as follows:

(1) From Committee on Finance.—Five members who are members of the Committee on Finance of the Senate, three from the majority and two from the minority party, to be chosen by such Committee; and

(2) From Committee on Ways and Means.—Five members who are members of the Committee on Ways and Means of the House of Representatives, three from the majority and two from the minority party, to be chosen by such Committee.

(b) Tenure of office

(1) General limitation.—No person shall continue to serve as a member of the Joint Committee after he has ceased to be a member of the committee by which he was chosen, except that—

(2) Exception.—The members chosen by the Committee on Ways and Means who have been reelected to the House of Representatives may continue to serve as members of the Joint Committee notwithstanding the expiration of the Congress.

(c) Vacancies

A vacancy in the Joint Committee—

(1) Effect.—Shall not affect the power of the remaining members to execute the functions of the Joint Committee; and

(2) Manner of filling.—Shall be filled in the same manner as the original selection, except that—

(A) Adjournment or recess of Congress.—In case of a vacancy during an adjournment or recess of Congress for a period of more than 2 weeks, the members of the Joint Committee who are members of the Committee entitled to fill such vacancy may designate a member of such Committee to serve until his successor is chosen by such Committee; and

(B) Expiration of Congress.—In the case of a vacancy after the expiration of a Congress which would be filled by the Committee on Ways and Means, the members of such Committee who are continuing to serve as members of the Joint Committee may designate a person who, immediately prior to such expiration, was a member of such Committee and who is reelected to the House of Representatives, to serve until his successor is chosen by such Committee.

(d) Allowances

The members shall serve without compensation in addition to that received for their services as members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Joint Committee, other than expenses in connection with meetings of the Joint Committee held in the District of Columbia during such times as the Congress is in session. (Aug. 16, 1954, ch. 736, 68A Stat. 925.)

§ 8003. Election of chairman and vice chairman. **1050**

The Joint Committee shall elect a chairman and vice chairman from among its members. (Aug. 16, 1954, ch. 736, 68A Stat. 926.)

§ 8004. Appointment and compensation of staff. **1051**

Except as otherwise provided by law, the Joint Committee shall have power to appoint and fix the compensation of the Chief of Staff of

the Joint Committee and such experts and clerical, stenographic, and other assistants as it deems advisable. (Aug. 16, 1954, ch. 736, 68A Stat. 926; Oct. 4, 1976, Pub. L. 94–455, § 1907(a)(2), 90 Stat. 1835.)

1052 § 8005. Payment of expenses.

The expenses of the Joint Committee shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives, upon vouchers signed by the chairman or the vice chairman. (Aug. 16, 1954, ch. 736, 68A Stat. 926.)

Chapter 92.—POWERS AND DUTIES OF THE JOINT COMMITTEE

1053 § 8021. Powers.

(a) To obtain data and inspect income returns

For powers of the Joint Committee to obtain and inspect income returns, see section 6103(f).

(b) Relating to hearings and sessions

The Joint Committee, or any subcommittee thereof, is authorized—

(1) To hold.—To hold hearings and to sit and act at such places and times;

(2) To require attendance of witnesses and production of books.—To require by subpoena (to be issued under the signature of the chairman or vice chairman) or otherwise the attendance of such witnesses and the production of such books, papers, and documents;

(3) To administer oaths.—To administer such oaths; and

(4) To take testimony.—To take such testimony;

as it deems advisable.

(c) To procure printing and binding

The Joint Committee, or any subcommittee thereof, is authorized to have such printing and binding done as it deems advisable.

(d) To make expenditures

The Joint Committee, or any subcommittee thereof, is authorized to make such expenditures as it deems advisable.

(e) Investigations

The Joint Committee shall review all requests (other than requests by the chairman or ranking member of a committee or subcommittee) for investigations of the Internal Revenue Service by the General Accounting Office, and approve such requests when appropriate, with a view towards eliminating overlapping investigations, ensuring that the General Accounting Office has the capacity to handle the investigation, and ensuring that investigations focus on areas of primary importance to tax administration.

(f) Relating to Joint Reviews

(1) In general.—The Chief of Staff, and the staff of the Joint Committee, shall provide such assistance as is required for joint reviews described in paragraph (2).

(2) Joint reviews.—Before June 1 of each calendar year after 1998 and before 2004, there shall be a joint review of the strategic plans

and budget for the Internal Revenue Service and such other matters as the Chairman of the Joint Committee deems appropriate. Such joint review shall be held at the call of the Chairman of the Joint Committee and shall include two members of the majority and one member of the minority from each of the Committees on Finance, Appropriations, and Governmental Affairs of the Senate, and the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives.

(Aug. 16, 1954, ch. 736, 68A Stat. 927; Oct. 4, 1976, Pub. L. 94–455, § 1907(a)(3), 90 Stat. 1835; Nov. 10, 1988, Pub. L. 100–647, § 1018(s)(1), 102 Stat. 3586; July 22, 1998, Pub. L. 105–206, § 4001(a), 112 Stat. 783.)

§ 8022. Duties. **1054**

It shall be the duty of the Joint Committee—

(1) Investigation.—

(A) Operation and effects of law.—To investigate the operation and effects of the Federal system of internal revenue taxes;

(B) Administration.—To investigate the administration of such taxes by the Internal Revenue Service or any executive department, establishment, or agency charged with their administration; and

(C) Other investigations.—To make such other investigations in respect of such system of taxes as the Joint Committee may deem necessary.

(2) Simplification of law.—

(A) Investigation of methods.—To investigate measures and methods for the simplification of such taxes, particularly the income tax; and

(B) Publication of proposals.—To publish, from time to time, for public examination and analysis, proposed measures and methods for the simplification of such taxes.

(3) Reports.—

(A) To report, from time to time, to the Committee on Finance and the Committee on Ways and Means, and, in its discretion, to the Senate or House of Representatives, or both, the results of its investigations, together with such recommendations as it may deem advisable.

(B) Subject to amounts specifically appropriated to carry out this subparagraph, to report, at least once each Congress, to the Committee on Finance and the Committee on Ways and Means on the overall state of the Federal tax system, together with recommendations with respect to possible simplification proposals and other matters relating to the administration of the Federal tax system as it may deem advisable.

(C) To report, for each calendar year after 1998 and before 2004, to the Committees on Finance, Appropriations, and Governmental Affairs of the Senate, and to the Committees on Ways and Means, Appropriations, and Government Reform and Oversight of the House of Representatives, with respect to—

(i) strategic and business plans for the Internal Revenue Service;

(ii) progress of the Internal Revenue Service in meeting its objectives;

(iii) the budget for the Internal Revenue Service and whether it supports its objectives;

(iv) progress of the Internal Revenue Service in improving taxpayer service and compliance;

(v) progress of the Internal Revenue Service on technology modernization; and

(vi) the annual filing season.

(4) Cross reference.—

For duties of the Joint Committee relating to refunds of income and estate taxes, see section 6405. (Aug. 16, 1954, ch. 736, 68A Stat. 927; July 22, 1998, Pub. L. 105–206, § 4002(a), 112 Stat. 784.)

1055 § 8023. Additional powers to obtain data.

(a) Securing of data

The Joint Committee or the Chief of Staff of the Joint Committee, upon approval of the Chairman or Vice Chairman, is authorized to secure directly from the Internal Revenue Service or the office of the Chief Counsel for the Internal Revenue Service, or directly from any executive department, board, bureau, agency, independent establishment, or instrumentality of the Government, information, suggestions, rulings, data, estimates, and statistics, for the purpose of making investigations, reports, and studies relating to internal revenue taxation. In the investigation by the Joint Committee on Taxation of the administration of the internal revenue taxes by the Internal Revenue Service, the Chief of Staff of the Joint Committee on Taxation is authorized to secure directly from the Internal Revenue Service such tax returns, or copies of tax returns, and other relevant information, as the Chief of Staff deems necessary for such investigation, and the Internal Revenue Service is authorized and directed to furnish such tax returns and information to the Chief of Staff together with a brief report, with respect to each return, as to any action taken or proposed to be taken by the Service as a result of any audit of the return.

(b) Furnishing of data

The Internal Revenue Service, the office of the Chief Counsel for the Internal Revenue Service, executive departments, boards, bureaus, agencies, independent establishments, and instrumentalities are authorized and directed to furnish such information, suggestions, rulings, data, estimates, and statistics directly to the Joint Committee or to the Chief of Staff of the Joint Committee, upon request made pursuant to this section.

(c) Application of subsections (a) and (b)

Subsections (a) and (b) shall be applied in accordance with their provisions without regard to any reorganization plan becoming effective on, before, or after the date of the enactment of this subsection. (Aug. 16, 1954, ch. 736, 68A Stat. 928; Sept. 22, 1959, Pub. L. 86–368, § 2(b), 73 Stat. 648; Oct. 4, 1976, Pub. L. 94–455, §§ 1210(c), 1907(a)(4), 90 Stat. 1711, 1835.)

SUBTITLE H.—FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS

Chapter 95.—PRESIDENTIAL ELECTION CAMPAIGN FUND

* * * * * * *

§ 9009. Reports to Congress; regulations. 1056

(a) Reports

The Commission shall, as soon as practicable after each presidential election, submit a full report to the Senate and House of Representatives setting forth—

(1) the qualified campaign expenses (shown in such detail as the Commission determines necessary) incurred by the candidates of each political party and their authorized committees;

(2) the amounts certified by it under section 9005 for payment to the eligible candidates for each political party;

(3) the amount of payments, if any, required from such candidates under section 9007, and the reasons for each payment required;

(4) the expenses incurred by the national committee of a major party or minor party with respect to a presidential nominating convention;

(5) the amounts certified by it under section 9008(g) for payment to each such committee; and

(6) the amount of payments, if any, required from such committees under section 9008(h), and the reasons for each such payment.

Each report submitted pursuant to this section shall be printed as a Senate document.

(b) Regulations, etc

The Commission is authorized to prescribe such rules and regulations in accordance with the provisions of subsection (c), to conduct such examinations and audits (in addition to the examinations and audits required by section 9007(a)), to conduct such investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this chapter.

(c) Review of regulations

(1) The Commission, before prescribing any rule or regulation under subsection (b), shall transmit a statement with respect to such rule or regulation to the Senate and to the House of Representatives, in accordance with the provisions of this subsection. Such statement shall set forth the proposed rule or regulation and shall contain a detailed explanation and justification of such rule or regulation.

(2) If either such House does not, through appropriate action, disapprove the proposed rule or regulation set forth in such statement no later than 30 legislative days after receipt of such statement, then the Commission may prescribe such rule or regulation. Whenever a committee of the House of Representatives reports any resolution relating to any such 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 to. The Commission may not prescribe any rule or regulation which is disapproved by either such House under this paragraph.

(3) For purposes of this subsection, the term "legislative days" does not include any calendar day on which both Houses of the Congress are not in session.

(4) For purposes of this subsection, the term "rule or regulation" means a provision or series of interrelated provisions stating a single separable rule of law. (Dec. 10, 1971, Pub. L. 92–178, § 801, 85 Stat. 569; Oct. 15, 1974, Pub. L. 93–443, §§ 404(c)(12), (13), 406(b), 88 Stat. 1292, 1296; May 11, 1976, Pub. L. 94–283, § 304(a), 90 Stat. 498.)

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Chapter 96.—PRESIDENTIAL PRIMARY MATCHING PAYMENT ACCOUNT

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1057 § 9039. Reports to Congress; regulations.

(a) Reports

The Commission shall, as soon as practicable after each matching payment period, submit a full report to the Senate and House of Representatives setting forth—

(1) the qualified campaign expenses (shown in such detail as the Commission determines necessary) incurred by the candidates of each political party and their authorized committees,

(2) the amounts certified by it under section 9036 for payment to each eligible candidate, and

(3) the amount of payments, if any, required from candidates under section 9038, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

(b) Regulations, etc

The Commission is authorized to prescribe rules and regulations in accordance with the provisions of subsection (c), to conduct examinations and audits (in addition to the examinations and audits required by section 9038(a)), to conduct investigations, and to require the keeping and submission of any books, records, and information, which it determines to be necessary to carry out its responsibilities under this chapter.

(c) Review of regulations

(1) The Commission, before prescribing any rule or regulation under subsection (b), shall transmit a statement with respect to such rule or regulation to the Senate and to the House of Representatives, in accordance with the provisions of this subsection. Such statement shall set forth the proposed rule or regulation and shall contain a detailed explanation and justification of such rule or regulation.

(2) If either such House does not, through appropriate action, disapprove the proposed rule or regulation set forth in such statement no later than 30 legislative days after receipt of such statement, then the Commission may prescribe such rule or regulation. Whenever a committee of the House of Representatives reports any resolution relat-

ing to any such 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 to. The Commission may not prescribe any rule or regulation which is disapproved by either such House under this paragraph.

(3) For purposes of this subsection, the term "legislative days" does not include any calendar day on which both Houses of the Congress are not in session.

(4) For purposes of this subsection, the term "rule or regulation" means a provision or series of interrelated provisions stating a single separable rule of law. (Oct. 15, 1974, Pub. L. 93–443, § 408(c), 88 Stat. 1301; May 11, 1976, Pub. L. 94–283, § 304(b), 90 Stat. 499.)

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SUBTITLE I.—TRUST FUND CODE

Chapter 98.—TRUST FUND CODE

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Subchapter B.—General Provisions

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§ 9602. Management of trust funds. **1058**

(a) Report

It shall be the duty of the Secretary of the Treasury to hold each Trust Fund established by subchapter A, and (after consultation with any other trustees of the Trust Fund) to report to the Congress each year on the financial condition and the results of the operations of each such Trust Fund during the preceding fiscal year and on its expected condition and operations during the next 5 fiscal years. Such report shall be printed as a House document of the session of the Congress to which the report is made. (Dec. 29, 1981, Pub. L. 97–119, § 103(a), 95 Stat. 1638.)

TITLE 28.—JUDICIARY AND JUDICIAL PROCEDURE

Chapter 85.—DISTRICT COURTS; JURISDICTION

1061 § 1365. Senate actions.

(a) The United States District Court for the District of Columbia shall have original jurisdiction, without regard to the amount in controversy, over any civil action brought by the Senate or any authorized committee or subcommittee of the Senate to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened refusal or failure to comply with, any subpena or order issued by the Senate or committee or subcommittee of the Senate to any entity acting or purporting to act under color or authority of State law or to any natural person to secure the production of documents or other materials of any kind or the answering of any deposition or interrogatory or to secure testimony or any combination thereof. This section shall not apply to an action to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened refusal to comply with, any subpena or order issued to an officer or employee of the executive branch of the Federal Government acting within his or her official capacity, except that this section shall apply if the refusal to comply is based on the assertion of a personal privilege or objection and is not based on a governmental privilege or objection the assertion of which has been authorized by the executive branch of the Federal Government.

(b) Upon application by the Senate or any authorized committee or subcommittee of the Senate, the district court shall issue an order to an entity or person refusing, or failing to comply with, or threatening to refuse or not to comply with, a subpena or order of the Senate or committee or subcommittee of the Senate requiring such entity or person to comply forthwith. Any refusal or failure to obey a lawful order of the district court issued pursuant to this section may be held by such court to be a contempt thereof. A contempt proceeding shall be commenced by an order to show cause before the court why the entity or person refusing or failing to obey the court order should not be held in contempt of court. Such contempt proceeding shall be tried by the court and shall be summary in manner. The purpose of sanctions imposed as a result of such contempt proceeding shall be to compel obedience to the order of the court. Process in any such action or contempt proceeding may be served in any judicial district wherein the entity or party refusing, or failing to comply, or threatening to refuse or not to comply, resides, transacts business, or may be found, and subpenas for witnesses who are required to attend such proceeding may run into any other district. Nothing in this section shall confer upon such court jurisdiction to affect by injunction or otherwise the issuance or effect of any subpena or order of the Senate or any committee or subcommittee of the Senate or to review, modify, suspend, terminate, or set aside any such subpena or order. An action, contempt proceeding, or sanction brought or imposed pursuant to this section shall not abate

upon adjournment sine die by the Senate at the end of a Congress if the Senate or the committee or subcommittee of the Senate which issued the subpena or order certifies to the court that it maintains its interest in securing the documents, answers, or testimony during such adjournment.

[(c) Repealed. Pub. L. 98–620, Title IV, § 402(29)(D), Nov. 8, 1984, 98 Stat. 3359]

(d) The Senate or any committee or subcommittee of the Senate commencing and prosecuting a civil action or contempt proceeding under this section may be represented in such action by such attorneys as the Senate may designate.

(e) A civil action commenced or prosecuted under this section, may not be authorized pursuant to the Standing Order of the Senate "authorizing suits by Senate Committees" (S. Jour. 572, May 28, 1928).

(f) For the purposes of this section the term "committee" includes standing, select, or special committees of the Senate established by law or resolution.

(Added Pub. L. 95–521, Title VII, § 705(f)(1), Oct. 26, 1978, 92 Stat. 1879, § 1364, and amended Pub. L. 98–620, Title IV, § 402(29)(D), Nov. 8, 1984, 98 Stat. 3359; renumbered § 1365, Pub. L. 99–336, § 6(a)(1)(B), June 19, 1986, 100 Stat. 638; Pub. L. 104–292, § 4, Oct. 11, 1996, 110 Stat. 3460.)

Chapter 91.—UNITED STATES COURT OF FEDERAL CLAIMS

§ 1492. Congressional reference cases. 1062

Any bill, except a bill for a pension, may be referred by either House of Congress to the chief judge of the United States Court of Federal Claims for a report in conformity with section 2509 of this title. (June 25, 1948, ch. 646, 62 Stat. 941; Oct. 15, 1966, Pub. L. 89–681, § 1, 80 Stat. 958. April 2, 1982, Pub. L. 97–164, Title I, 133(b), 96 Stat. 40; Oct. 29, 1992, Pub. L. 102–572, Title IX, § 902(a)(1), 106 Stat. 4516.)

Chapter 115.—EVIDENCE; DOCUMENTARY

§ 1736. Congressional Journals. 1063

Extracts from the Journals of the Senate and the House of Representatives, and from the Executive Journal of the Senate when the injunction of secrecy is removed, certified by the Secretary of the Senate or the Clerk of the House of Representatives shall be received in evidence with the same effect as the originals would have. (June 25, 1948, ch. 646, § 1, 62 Stat. 947.)

Chapter 131.—RULES OF COURTS

§ 2076. [Repealed] (Pub. L. 100–702, § 401(c), 102 Stat. 4650). 1064

Chapter 165.—UNITED STATES COURT OF FEDERAL CLAIMS PROCEDURE

§ 2509. Congressional reference cases. 1065

(a) Whenever a bill, except a bill for a pension, is referred by either House of Congress to the chief judge of the United States Court of

Federal Claims pursuant to section 1492 of this title, the chief judge shall designate a judge as hearing officer for the case and a panel of three judges of the court to serve as a reviewing body. One member of the review panel shall be designated as presiding officer of the panel.

(b) Proceedings in a congressional reference case shall be under rules and regulations prescribed for the purpose by the chief judge who is hereby authorized and directed to require the application of the pertinent rules of practice of the Court of Federal Claims insofar as feasible. Each hearing officer and each review panel shall have authority to do and perform any acts which may be necessary or proper for the efficient performance of their duties, including the power of subpena and the power to administer oaths and affirmations. None of the rules, rulings, findings, or conclusions authorized by this section shall be subject to judicial review.

(c) The hearing officer to whom a congressional reference case is assigned by the chief judge shall proceed in accordance with the applicable rules to determine the facts, including facts relating to delay or laches, facts bearing upon the question whether the bar of any statute of limitation should be removed, or facts claimed to excuse the claimant for not having resorted to any established legal remedy. He shall append to his findings of fact conclusions sufficient to inform Congress whether the demand is a legal or equitable claim or a gratuity, and the amount, if any, legally or equitably due from the United States to the claimant.

(d) The findings and conclusions of the hearing officer shall be submitted by him, together with the record in the case, to the review panel for review by it pursuant to such rules as may be provided for the purpose, which shall include provision for submitting the report of the hearing officer to the parties for consideration, exception, and argument before the panel. The panel, by majority vote, shall adopt or modify the findings or the conclusions of the hearing officer.

(e) The panel shall submit its report to the chief judge for transmission to the appropriate House of Congress.

(f) Any act or failure to act or other conduct by a party, a witness, or an attorney which would call for the imposition of sanctions under the rules of practice of the Court of Federal Claims shall be noted by the panel or the hearing officer at the time of occurrence thereof and upon failure of the delinquent or offending party, witness, or attorney to make prompt compliance with the order of the panel or the hearing officer a full statement of the circumstances shall be incorporated in the report of the panel.

(g) The Court of Federal Claims is hereby authorized and directed, under such regulations as it may prescribe, to provide the facilities and services of the office of the clerk of the court for the filing, processing, hearing, and dispatch of congressional reference cases and to include within its annual appropriations the costs thereof and other costs of administration, including (but without limitation to the items herein listed) the salaries and traveling expenses of the judges serving as hearing officers and panel members, mailing and service of process, necessary physical facilities, equipment, and supplies, and personnel (including secretaries and law clerks). (Oct. 15, 1966, Pub. L. 89–681, § 2, 80 Stat. 958; April 2, 1982, Pub. L. 97–164, Title I, § 139(h), 96 Stat. 42; Oct. 29, 1992, Pub. L. 102–572, Title IX, § 902(a), 106 Stat. 4516.)

TITLE 31.—MONEY AND FINANCE

Chapter 7.—GENERAL ACCOUNTING OFFICE

§ 701. Definitions. **1070**

In this chapter—

(1) "agency" includes the District of Columbia government but does not include the legislative branch or the Supreme Court.

(2) "appropriations" means appropriated amounts and includes, in appropriate context—

(A) funds;

(B) authority to make obligations by contract before appropriations; and

(C) other authority making amounts available for obligation or expenditure. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 887.)

§ 712. Investigating the use of public money. **1071**

The Comptroller General shall—

(1) investigate all matters related to the receipt, disbursement, and use of public money;

(2) estimate the cost to the United States Government of complying with each restriction on expenditures of a specific appropriation in a general appropriation law and report each estimate to Congress with recommendations the Comptroller General considers desirable;

(3) analyze expenditures of each executive agency the Comptroller General believes will help Congress decide whether public money has been used and expended economically and efficiently;

(4) make an investigation and report ordered by either House of Congress or a committee of Congress having jurisdiction over revenue, appropriations, or expenditures; and

(5) give a committee of Congress having jurisdiction over revenue, appropriations, or expenditures, the help and information the committee requests. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 889.)

§ 717. Evaluating programs and activities of the United States Government. **1072**

(a) In this section, "agency" means a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government.

(b) The Comptroller General shall evaluate the results of a program or activity the Government carries out under existing law—

(1) on the initiative of the Comptroller General;

(2) when either House of Congress orders an evaluation; or

(3) when a committee of Congress with jurisdiction over the program or activity requests the evaluation.

(c) The Comptroller General shall develop and recommend to Congress ways to evaluate a program or activity the Government carries out under existing law.

(d)(1) On request of a committee of Congress, the Comptroller General shall help the committee to—

(A) develop a statement of legislative goals and ways to assess and report program performance related to the goals, including recommended ways to assess performance, information to be reported, responsibility for reporting, frequency of reports, and feasibility of pilot testing; and

(B) assess program evaluations prepared by and for an agency.

(2) On request of a member of Congress, the Comptroller General shall give the member a copy of the material the Comptroller General compiles in carrying out this subsection that has been released by the committee for which the material was compiled. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 893.)

1073 § 718. Availability of draft reports.

(a) A draft report of an audit under section 714 of this title shall be submitted to the Financial Institutions Examination Council, the Federal Reserve Board, the Federal Deposit Insurance Corporation, or the Office of the Comptroller of the Currency for comment for 30 days.

(b)(1) The Comptroller General may submit a part of a draft report to an agency for comment for more than 30 days only if the Comptroller General decides, after a showing by the agency, that a longer period is necessary and likely to result in a more accurate report. The report may not be delayed because the agency does not comment within the comment period.

(2) When a draft report is submitted to an agency for comment, the Comptroller General shall make the draft report available on request to—

(A) either House of Congress, a committee of Congress, or a member of Congress if the report was begun because of a request of the House, committee, or member; or

(B) the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives if the report was not begun because of a request of either House of Congress, a committee of Congress, or a member of Congress.

(3) This subsection is subject to statutory and executive order guidelines for handling and storing classified information and material.

(c) A final report of the Comptroller General shall include—

(1) a statement of significant changes of a finding, conclusion, or recommendation in an earlier draft report because of comments on the draft by an agency;

(2) a statement of the reasons the changes were made; and

(3) for a draft report submitted under subsection (a) of this section, written comments of the agency submitted during the comment period. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 894.)

1074 § 719. Comptroller General reports.

(a) At the beginning of each regular session of Congress, the Comptroller General shall report to Congress (and to the President when requested by the President) on the work of the Comptroller General. A report shall include recommendations on—

(1) legislation the Comptroller General considers necessary to make easier the prompt and accurate making and settlement of accounts; and

(2) other matters related to the receipt, disbursement, and use of public money the Comptroller General considers advisable.

(b)(1) The Comptroller General shall include in the report to Congress under subsection (a) of this section—

(A) a review of activities under sections 717 (b)–(d) and 731(e)(2) of this title, including recommendations under section 717(c) of this title;

(B) information on carrying out duties and powers of the Comptroller General under clauses (A) and (C) of this paragraph, subsections (g) and (h) of this section, and sections 717, 731(e)(2), 734, 1112, and 1113 of this title; and

(C) the name of each officer and employee of the General Accounting Office assigned or detailed to a committee of Congress, the committee to which the officer or employee is assigned or detailed, the length of the period of assignment or detail, a statement on whether the assignment or detail is finished or continuing, and compensation paid out of appropriations available to the Comptroller General for the period of the assignment or detail that has been completed.

(2) In a report under subsection (a) of this section or in a special report to Congress when Congress is in session, the Comptroller General shall include recommendations on greater economy and efficiency in public expenditures.

(3) The report under subsection (a) shall also include a statement of the staff hours and estimated cost of work performed on audits, evaluations, investigations, and related work during each of the three fiscal years preceding the fiscal year in which the report is submitted, stated separately for each division of the General Accounting Office by category as follows:

(A) A category for work requested by the chairman of a committee of Congress, the chairman of a subcommittee of such a committee, or any other Member of Congress.

(B) A category for work required by law to be performed by the Comptroller General.

(C) A category for work initiated by the Comptroller General in the performance of the Comptroller General's general responsibilities.

(c) The Comptroller General shall report to Congress—

(1) specially on expenditures and contracts an agency makes in violation of law;

(2) on the adequacy and effectiveness of—

(A) administrative audits of accounts and claims in an agency; and

(B) inspections by an agency of offices and accounts of fiscal officials; and

(3) as frequently as practicable on audits carried out under sections 713 and 714 of this title.

(d) The Comptroller General shall report on analyses carried out under section 712(3) of this title to the Committees on Governmental Affairs and Appropriations of the Senate, the Committees on Government Oper-

ations and Appropriations of the House, and the committees with jurisdiction over legislation related to the operation of each executive agency.

(e) The Comptroller General shall give the President information on expenditures and accounting the President requests.

(f) When the Comptroller General submits a report to Congress, the Comptroller General shall deliver copies of the report to—

(1) the Committees on Governmental Affairs and Appropriations of the Senate;

(2) the Committees on Government Operations and Appropriations of the House;

(3) a committee of Congress that requested information on any part of a program or activity of a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government that is the subject of any part of a report; and

(4) any other committee of Congress requesting a copy.

(g)(1) The Comptroller General shall prepare—

(A) each month a list of reports issued during the prior month; and

(B) at least once each year a list of reports issued during the prior 12 months.

(2) A copy of each list shall be sent to each committee of Congress and each member of Congress. On request, the Comptroller General promptly shall provide a copy of a report to a committee or member.

(h) On request of a committee of Congress, the Comptroller General shall explain to and discuss with the committee or committee staff a report the Comptroller General makes that would help the committee—

(1) evaluate a program or activity of an agency within the jurisdiction of the committee; or

(2) in its consideration of proposed legislation.

[(i) Redesignated (h)]

(As amended Pub. L. 104–316, Title I, § 115(b), Oct. 19, 1996, 110 Stat. 3834; Pub. L. 105–85, Div. A, Title X, § 1044, Nov. 18, 1997, 111 Stat. 1887.)

1075 § 720. Agency reports.

(a) In this section, "agency" means a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government.

(b) When the Comptroller General makes a report that includes a recommendation to the head of an agency, the head of the agency shall submit a written statement on action taken on the recommendation by the head of the agency. The statement shall be submitted to—

(1) The Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives before the 61st day after the date of the report; and

(2) The Committees on Appropriations of both Houses of Congress in the first request for appropriations submitted more than 60 days after the date of the report. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 896.)

1076 § 734. Assignments and details to Congress.

The Comptroller General may assign or detail an officer or employee of the General Accounting Office to full-time continuous duty with a

committee of Congress for not more than one year. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 899; Pub. L. 98–367, Title I, § 8, July 17, 1984, 98 Stat. 475.)

Chapter 11.—THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION

§ 1101. Definitions. **1077**

In this chapter—

(1) "agency" includes the District of Columbia government but does not include the legislative branch or the Supreme Court.

(2) "appropriations" means appropriated amounts and includes, in appropriate context—

(A) funds;

(B) authority to make obligations by contract before appropriations; and

(C) other authority making amounts available for obligation or expenditure. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 907.)

§ 1102. Fiscal year. **1078**

The fiscal year of the Treasury begins on October 1 of each year and ends on September 30 of the following year. Accounts of receipts and expenditures required under law to be published each year shall be published for the fiscal year. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 908.)

§ 1103. Budget ceiling. **1079**

Congress reaffirms its commitment that budget outlays of the United States Government for a fiscal year may be not more than the receipts of the Government for that year. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 908.)

§ 1104. Budget and appropriations authority of the President. **1080**

(a) The President shall prepare budgets of the United States Government under section 1105 of this title and proposed deficiency and supplemental appropriations under section 1107 of this title. To the extent practicable, the President shall use uniform terms in stating the purposes and conditions of appropriations.

(b) Except as provided in this chapter, the President shall prescribe the contents and order of statements in the budget on expenditures and estimated expenditures and statements on proposed appropriations and information submitted with the budget and proposed appropriations. The President shall include with the budget and proposed appropriations information on personnel and other objects of expenditure in the way that information was included in the budget for fiscal year 1950. However, the requirement that information be included in the budget in that way may be waived or changed by joint action of the Committees on Appropriations of both Houses of Congress. This subsection does not limit the authority of a committee of Congress to request information in a form it prescribes.

(c) When the President makes a basic change in the form of the budget, the President shall submit with the budget information showing where items in the budget for the prior fiscal year are contained in the present budget. However, the President may change the functional

categories in the budget only in consultation with the Committees on Appropriations and on the Budget of both Houses of Congress. Committees of the House of Representatives and Senate shall receive prompt notification of all such changes.

(d) The President shall develop programs and prescribe regulations to improve the compilation, analysis, publication, and dissemination of statistical information by executive agencies. The President shall carry out this subsection through the Administrator for the Office of Information and Regulatory Affairs in the Office of Management and Budget.

(e) Under regulations prescribed by the President, each agency shall provide information required by the President in carrying out this chapter. The President has access to, and may inspect, records of an agency to obtain information. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 908; Pub. L. 99–177, Dec. 12, 1985, 99 Stat. 1060.)

1081 § 1105. Budget contents and submission to Congress.

(a) On or after the first Monday in January but not later than the first Monday in February of each year, the President shall submit a budget of the United States Government for the following fiscal year. Each budget shall include a budget message and summary and supporting information. The President shall include in each budget the following:

(1) information on activities and functions of the Government.

(2) when practicable, information on costs and achievements of Government programs.

(3) other desirable classifications of information.

(4) a reconciliation of the summary information on expenditures with proposed appropriations.

(5) except as provided in subsection (b) of this section, estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year.

(6) estimated receipts of the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year under—

(A) laws in effect when the budget is submitted; and

(B) proposals in the budget to increase revenues.

(7) appropriations, expenditures, and receipts of the Government in the prior fiscal year.

(8) estimated expenditures and receipts, and appropriations and proposed appropriations, of the Government for the current fiscal year.

(9) balanced statements of the—

(A) condition of the Treasury at the end of the prior fiscal year;

(B) estimated condition of the Treasury at the end of the current fiscal year; and

(C) estimated condition of the Treasury at the end of the fiscal year for which the budget is submitted if financial proposals in the budget are adopted.

(10) essential information about the debt of the Government.

(11) other financial information the President decides is desirable to explain in practicable detail the financial condition of the Government.

(12) for each proposal in the budget for legislation that would establish or expand a Government activity or function, a table showing—

(A) the amount proposed in the budget for appropriation and for expenditure because of the proposal in the fiscal year for which the budget is submitted; and

(B) the estimated appropriation required because of the proposal for each of the 4 fiscal years after that year that the proposal will be in effect.

(13) an allowance for additional estimated expenditures and proposed appropriations for the fiscal year for which the budget is submitted.

(14) an allowance for unanticipated uncontrollable expenditures for that year.

(15) a separate statement on each of the items referred to in section 301(a) (1)–(5) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a) (1)–(5)).

(16) the level of tax expenditures under existing law in the tax expenditures budget (as defined in section 3(a)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 622(a)(3)) for the fiscal year for which the budget is submitted, considering projected economic factors and changes in the existing levels based on proposals in the budget.

(17) information on estimates of appropriations for the fiscal year following the fiscal year for which the budget is submitted for grants, contracts, and other payments under each program for which there is an authorization of appropriations for that following fiscal year when the appropriations are authorized to be included in an appropriation law for the fiscal year before the fiscal year in which the appropriation is to be available for obligation.

(18) a comparison of the total amount of budget outlays for the prior fiscal year, estimated in the budget submitted for that year, for each major program having relatively uncontrollable outlays with the total amount of outlays for that program in that year.

(19) a comparison of the total amount of receipts for the prior fiscal year, estimated in the budget submitted for that year, with receipts received in that year, and for each major source of receipts, a comparison of the amount of receipts estimated in that budget with the amount of receipts from that source in that year.

(20) an analysis and explanation of the differences between each amount compared under clauses (18) and (19) of this subsection.

(21) a horizontal budget showing—

(A) the programs for meteorology and of the National Climate Program established under section 5 of the National Climate Program Act (15 U.S.C. 2904);

(B) specific aspects of the program of, and appropriations for, each agency; and

(C) estimated goals and financial requirements.

(22) a statement of budget authority, proposed budget authority, budget outlays, and proposed budget outlays, and descriptive information in terms of—

(A) a detailed structure of national needs that refers to the missions and programs of agencies (as defined in section 101 of this title); and

(B) the missions and basic programs.

(23) separate appropriation accounts for appropriations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.).

(24) recommendations on the return of Government capital to the Treasury by a mixed-ownership corporation (as defined in section 9101(2) of this title) that the President decides are desirable.

(25) a separate appropriation account for appropriations for each Office of Inspector General of an establishment defined under section 11(2) of the Inspector General Act of 1978.

(26) a separate statement of the amount of appropriations requested for the Office of National Drug Control Policy and each program of the National Drug Control Program.

(27) a separate statement of the amount of appropriations requested for the Office of Federal Financial Management.

(28) beginning with fiscal year 1999, a Federal Government performance plan for the overall budget as provided for under section 1115.

(29) information about the Violent Crime Reduction Trust Fund, including a separate statement of amounts in that Trust Fund.

(30) an analysis displaying, by agency, proposed reductions in full-time equivalent positions compared to the current year's level in order to comply with section 5 of the Federal Workforce Restructuring Act of 1994.

(31) a separate statement of the amount of appropriations requested for the Chief Financial Officer in the Executive Office of the President.

(32) 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.

(33) a separate appropriation account for appropriations for the Inspectors General Criminal Investigator Academy and the Inspectors General Forensic Laboratory of the Department of the Treasury.

(34) with respect to the amount of appropriations requested for use by the Export-Import Bank of the United States, a separate statement of the amount requested for its program budget, the amount requested for its administrative expenses, and of the amount requested for its administrative expenses, the amount requested for technology expenses.

(b) Estimated expenditures and proposed appropriations for the legislative branch and the judicial branch to be included in each budget under subsection (a)(5) of this section shall be submitted to the President before October 16 of each year and included in the budget by the President without change.

(c) The President shall recommend in the budget appropriate action to meet an estimated deficiency when the estimated receipts for the fiscal year for which the budget is submitted (under laws in effect when

the budget is submitted) and the estimated amounts in the Treasury at the end of the current fiscal year available for expenditure in the fiscal year for which the budget is submitted, are less than the estimated expenditures for that year. The President shall make recommendations required by the public interest when the estimated receipts and estimated amounts in the Treasury are more than the estimated expenditures.

(d) When the President submits a budget or supporting information about a budget, the President shall include a statement on all changes about the current fiscal year that were made before the budget or information was submitted.

(e)(1) The President shall submit with materials related to each budget transmitted under subsection (a) on or after January 1, 1985, an analysis for the ensuing fiscal year that shall identify requested appropriations or new obligational authority and outlays for each major program that may be classified as a public civilian capital investment program and for each major program that may be classified as a military capital investment program, and shall contain summaries of the total amount of such appropriations or new obligational authority and outlays for public civilian capital investment programs and summaries of the total amount of such appropriations or new obligational authority and outlays for military capital investment programs. In addition, the analysis under this paragraph shall contain—

(A) an estimate of the current service levels of public civilian capital investment and of military capital investment and alternative high and low levels of such investments over a period of ten years in current dollars and over a period of five years in constant dollars;

(B) the most recent assessment analysis and summary, in a standard format, of public civilian capital investment needs in each major program area over a period of ten years;

(C) an identification and analysis of the principal policy issues that affect estimated public civilian capital investment needs for each major program; and

(D) an identification and analysis of factors that affect estimated public civilian capital investment needs for each major program, including but not limited to the following factors:

(i) economic assumptions;

(ii) engineering standards;

(iii) estimates of spending for operation and maintenance;

(iv) estimates of expenditures for similar investments by State and local governments; and

(v) estimates of demand for public services derived from such capital investments and estimates of the service capacity of such investments.

To the extent that any analysis required by this paragraph relates to any program for which Federal financial assistance is distributed under a formula prescribed by law, such analysis shall be organized by State and within each State by major metropolitan area if data are available.

(2) For purposes of this subsection, any appropriation, new obligational authority, or outlay shall be classified as a public civilian capital investment to the extent that such appropriation, authority, or outlay will be used for the construction, acquisition, or rehabilitation of any physical

asset that is capable of being used to produce services or other benefits for a number of years and is not classified as a military capital investment under paragraph (3). Such assets shall include (but not be limited to)—

(A) roadways or bridges,
(B) airports or airway facilities,
(C) mass transportation systems,
(D) wastewater treatment or related facilities,
(E) water resources projects,
(F) hospitals,
(G) resource recovery facilities,
(H) public buildings,
(I) space or communications facilities,
(J) railroads, and
(K) federally assisted housing.

(3) For purposes of this subsection, any appropriation, new obligational authority, or outlay shall be classified as a military capital investment to the extent that such appropriation, authority, or outlay will be used for the construction, acquisition, or rehabilitation of any physical asset that is capable of being used to produce services or other benefits for purposes of national defense and security for a number of years. Such assets shall include military bases, posts, installations, and facilities.

(4) Criteria and guidelines for use in the identification of public civilian and military capital investments, for distinguishing between public civilian and military capital investments, and for distinguishing between major and nonmajor capital investment programs shall be issued by the Director of the Office of Management and Budget after consultation with the Comptroller General and the Congressional Budget Office. The analysis submitted under the subsection shall be accompanied by an explanation of such criteria and guidelines.

(5) For purposes of this subsection—

(A) the term "construction" includes the design, planning, and erection of new structures and facilities, the expansion of existing structures and facilities, the reconstruction of a project at an existing site or adjacent to an existing site, and the installation of initial and replacement equipment for such structures and facilities;

(B) the term "acquisition" includes the addition of land, sites, equipment, structures, facilities, or rolling stock by purchase, lease-purchase, trade, or donation; and

(C) the term "rehabilitation" includes the alteration of or correction of deficiencies in an existing structure or facility so as to extend the useful life or improve the effectiveness of the structure or facility, the modernization or replacement of equipment at an existing structure or facility, and the modernization of, or replacement of parts for, rolling stock.

(f)[1] The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared in a manner consistent with the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985 that apply to that and subsequent fiscal years.

[1] Subsection (f) expired on September 30, 2002, pursuant to section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 note).

(g)(1) The Director of the Office of Management and Budget shall establish the funding for advisory and assistance services for each department and agency as a separate object class in each budget annually submitted to the Congress under this section.

(2)(A) In paragraph (1), except as provided in subparagraph (B), the term "advisory and assistance services" means the following services when provided by nongovernmental sources:

(i) Management and professional support services.

(ii) Studies, analyses, and evaluations.

(iii) Engineering and technical services.

(B) In paragraph (1), the term "advisory and assistance services" does not include the following services:

(i) Routine automated data processing and telecommunications services unless such services are an integral part of a contract for the procurement of advisory and assistance services.

(ii) Architectural and engineering services, as defined in section 1102 of Title 40.

(iii) Research on basic mathematics or medical, biological, physical, social, psychological, or other phenomena.

(As amended Pub. L. 98–501, Title II, § 203, Oct. 19, 1984, 98 Stat. 2324; Pub. L. 99–177, Title II, § 241, Dec. 12, 1985, 99 Stat. 1063; Pub. L. 100–119, Title I, § 106(f), Sept. 29, 1987, 101 Stat. 781; Pub. L. 100–418, Title V, § 5301, Aug. 23, 1988, 102 Stat. 1462; Pub. L. 100–504, Title I, § 108, Oct. 18, 1988, 102 Stat. 2529; Pub. L. 100–690, Title I, §§ 1006, 1009, Nov. 18, 1988, 102 Stat. 4187, 4188; Pub. L. 101–508, Title XIII, § 13112(c), Nov. 5, 1990, 104 Stat. 1388–608; Pub. L. 101–576, Title II, § 203(b), Nov. 15, 1990, 104 Stat. 2841; Pub. L. 103–62, § 4(a), Aug. 3, 1993, 107 Stat. 286; Pub. L. 103–272, § 4(f)(1)(E), July 5, 1994, 108 Stat. 1362; Pub. L. 103–322, Title IX, § 90208(a), Title XXXI, § 310001(e), Sept. 13, 1994, 108 Stat. 1995, 2103; Pub. L. 103–355, Title II, § 2454(a), Oct. 13, 1994, 108 Stat. 3326; Pub. L. 104–287, § 4(l), Oct. 11, 1996, 110 Stat. 3388; Pub. L. 105–33, Title X, § 10209(b), Aug. 5, 1997, 111 Stat. 711; Pub. L. 105–277, Div. C, Title VII, § 713(c), Oct. 21, 1998, 112 Stat. 2681–693; Pub. L. 106–58, Title VI, § 638(f), Sept. 29, 1999, 113 Stat. 475; Pub. L. 106–422, § 2(c), Nov. 1, 2000, 114 Stat. 1874; Pub. L. 107–189, § 4(a), June 14, 2002, 116 Stat. 699; Pub. L. 107–217, § 3(h)(3), Aug. 21, 2002, 116 Stat. 1299.)

§ 1106. Supplemental budget estimates and changes. **1082**

(a) Before July 16 of each year, the President shall submit to Congress a supplemental summary of the budget for the fiscal year for which the budget is submitted under section 1105(a) of this title. The summary shall include—

(1) for that fiscal year—

(A) substantial changes in or reappraisals of estimates of expenditures and receipts;

(B) substantial obligations imposed on the budget after its submission;

(C) current information on matters referred to in section 1105(a) (8) and (9) (B) and (C) of this title; and

(D) additional information the President decides is advisable to provide Congress with complete and current information about the budget and current estimates of the functions, obliga-

tions, requirements, and financial condition of the United States Government.

(2) for the 4 fiscal years following the fiscal year for which the budget is submitted, information on estimated expenditures for programs authorized to continue in future years, or that are considered mandatory, under law; and

(3) for future fiscal years, information on estimated expenditures of balances carried over from the fiscal year for which the budget is submitted.

(b) Before July 16 of each year, the President shall submit to Congress a statement of changes in budget authority requested, estimated budget outlays, and estimated receipts for the fiscal year for which the budget is submitted (including prior changes proposed for the executive branch of the Government) that the President decides are necessary and appropriate based on current information. The statement shall include the effect of those changes on the information submitted under section 1105(a)(1)–(14) and (b) of this title and shall include supporting information as practicable. The statement submitted before July 16 may be included in the information submitted under subsection (a)(1) of this section.

(c)[1] Subsection (f) of section 1105 shall apply to revisions and supplemental summaries submitted under this section to the same extent that such subsection applies to the budget submitted under section 1105(a) to which such revisions and summaries relate. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 911; Pub. L. 99–77 Title II, § 242, Dec. 12, 1985, Stat. 1063.)

1083 § 1107. Deficiency and supplemental appropriations.

The President may submit to Congress proposed deficiency and supplemental appropriations the President decides are necessary because of laws enacted after the submission of the budget or that are in the public interest. The President shall include the reasons for the submission of the proposed appropriations and the reasons the proposed appropriations were not included in the budget. When the total proposed appropriations would have required the President to make a recommendation under section 1105(c) of this title if they had been included in the budget, the President shall make a recommendation under that section. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 911.)

1084 § 1108. Preparation and submission of appropriations requests to the President.

(a) In this section (except subsections (b)(1) and (e)), "agency" means a department, agency, or instrumentality of the United States Government.

(b)(1) The head of each agency shall prepare and submit to the President each appropriation request for the agency. The request shall be prepared and submitted in the form prescribed by the President under this chapter and by the date established by the President. When the head of an agency does not submit a request by that date, the President shall prepare the request for the agency to be included in the budget or changes in the budget or as deficiency and supplemental appropria-

[1] Subsection (c) expired on September 30, 2002, pursuant to section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 note).

tions. The President may change agency appropriation requests. Agency appropriation requests shall be developed from cost-based budgets in the way and at times prescribed by the President. The head of the agency shall use the cost-based budget to administer the agency and to divide appropriations or amounts.

(2) An officer or employee of an agency in the executive branch may submit to the President or Congress a request for legislation authorizing deficiency or supplemental appropriations for the agency only with the approval of the head of the agency.

(c) The head of an agency shall include with an appropriation request submitted to the President a report that the statement of obligations submitted with the request contains obligations consistent with section 1501 of this title. The head of the agency shall support the report with a certification of the consistency and shall support the certification with records showing that the amounts have been obligated. The head of the agency shall designate officials to make the certifications, and those officials may not delegate the duty to make the certifications. The certifications and records shall be kept in the agency—

(1) in a form that makes audits and reconciliations easy; and

(2) for a period necessary to carry out audits and reconciliations.

(d) To the extent practicable, the head of an agency shall—

(1) provide information supporting the agency's budget request for its missions by function and subfunction (including the mission of each organizational unit of the agency); and

(2) relate the agency's programs to its missions.

(e) Except as provided in subsection (f) of this section, an officer or employee of an agency (as defined in section 1101 of this title) may submit to Congress or a committee of Congress an appropriations estimate or request, a request for an increase in that estimate or request, or a recommendation on meeting the financial needs of the Government only when requested by either House of Congress.

(f) The Interstate Commerce Commission shall submit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the President or the Office of Management and Budget. An officer of an agency may not impose conditions on or impair communication by the Commission with Congress, or a committee or member of Congress, about the information.

(g) Amounts available under law are available for field examinations of appropriation estimates. The use of the amounts is subject only to regulations prescribed by the appropriate standing committees of Congress. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 912.)

§ 1109. Current programs and activities estimates. **1085**

(a) On or before the first Monday after January 3 of each year (on or before February 5 in 1986), the President shall submit to both Houses of Congress the estimated budget outlays and proposed budget authority that would be included in the budget for the following fiscal year if programs and activities of the United States Government were carried on during that year at the same level as the current fiscal year without a change in policy. The President shall state the estimated budget outlays and proposed budget authority by function and subfunction under the classifications in the budget summary table under the heading

"Budget Authority and Outlays by Function and Agency", by major programs in each function, and by agency. The President shall also include a statement of the economic and program assumptions on which those budget outlays and budget authority are based, including inflation, real economic growth, and unemployment rates, program caseloads, and pay increases.

(b) The Joint Economic Committee shall review the estimated budget outlays and proposed budget authority and submit an economic evaluation of the budget outlays and budget authority to the Committees on the Budget of both Houses before March 1 of each year. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 913; Pub. L. 99–177, Title II, § 222, Dec. 12, 1985, 99 Stat. 1060.)

1086 § 1110. Year-ahead requests for authorizing legislation.

A request to enact legislation authorizing new budget authority to continue a program or activity for a fiscal year shall be submitted to Congress before May 16 of the year before the year in which the fiscal year begins. If a new program or activity will continue for more than one year, the request must be submitted for at least the first and second fiscal years. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 913.)

1087 § 1111. Improving economy and efficiency.

To improve economy and efficiency in the United States Government, the President shall—

(1) make a study of each agency to decide, and may send Congress recommendations, on changes that should be made in—

(A) the organization, activities, and business methods of agencies;

(B) agency appropriations;

(C) the assignment of particular activities to particular services; and

(D) regrouping of services; and

(2) evaluate and develop improved plans for the organization, coordination, and management of the executive branch of the Government. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 913.)

1088 § 1112. Fiscal, budget, and program information.

(a) In this section, "agency" means a department, agency, or instrumentality of the United States Government except a mixed/ownership Government corporation.

(b) In cooperation with the Comptroller General, the Secretary of the Treasury and the Director of the Office of Management and Budget shall establish and maintain standard data processing and information systems for fiscal, budget, and program information for use by agencies to meet the needs of the Government, and to the extent practicable, of State and local governments.

(c) The Comptroller General—

(1) in cooperation with the Secretary, the Director of the Office of Management and Budget, and the Director of the Congressional Budget Office, shall establish, maintain, and publish standard terms and classifications for fiscal, budget, and program information of the Government, including information on fiscal policy, receipts, expenditures, program, projects, activities, and functions;

(2) when advisable, shall report to Congress on those terms and classifications, and recommend legislation necessary to promote the establishment, maintenance, and use of standard terms and classifications by the executive branch of the Government; and

(3) in carrying out this subsection, shall give particular consideration to the needs of the Committees on Appropriations and on the Budget of both Houses of Congress, the Committee on Ways and Means of the House, the Committee on Finance of the Senate, and the Congressional Budget Office.

(d) Agencies shall use the standard terms and classifications published under subsection (c)(1) of this section in providing fiscal, budget, and program information to Congress.

(e) In consultation with the President, the head of each executive agency shall take actions necessary to achieve to the extent possible—

(1) consistency in budget and accounting classifications;

(2) synchronization between those classifications and organizational structure; and

(3) information by organizational unit on performance and program costs to support budget justifications.

(f) In cooperation with the Director of the Congressional Budget Office, the Comptroller General, and appropriate representatives of State and local governments, the Director of the Office of Management and Budget (to the extent practicable) shall provide State and local governments with fiscal, budget, and program information necessary for accurate and timely determination by those governments of the impact on their budget of assistance of the United States Government. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 913.)

§ 1113. Congressional information. **1089**

(a)(1) When requested by a committee of Congress having jurisdiction over receipts or appropriations, the President shall provide the committee with assistance and information.

(2) When requested by a committee of Congress, additional information related to the amount of an appropriation originally requested by an Office of Inspector General shall be submitted to the committee.

(b) When requested by a committee of Congress, by the Comptroller General, or by the Director of the Congressional Budget Office, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the head of each executive agency shall—

(1) provide information on the location and kind of available fiscal, budget, and program information;

(2) to the extent practicable, prepare summary tables of that fiscal, budget, and program information and related information the committee, the Comptroller General, or the Director of the Congressional Budget Office considers necessary; and

(3) provide a program evaluation carried out or commissioned by an executive agency.

(c) In cooperation with the Director of the Congressional Budget Office, the Secretary, and the Director of the Office of Management and Budget, and Comptroller General shall—

(1) establish and maintain a current directory of sources of, and information systems for, fiscal, budget, and program information and a brief description of the contents of each source and system;

(2) when requested, provide assistance to committees of Congress and members of Congress in obtaining information from the sources in the directory; and

(3) when requested, provide assistance to committees and, to the extent practicable, to members of Congress in evaluating the information obtained from the sources in the directory.

(d) To the extent they consider necessary, the Comptroller General and the Director of the Congressional Budget Office individually or jointly shall establish and maintain a file of information to meet recurring needs of Congress for fiscal, budget, and program information to carry out this section and sections 717 and 1112 of this title. The file shall include information on budget requests, congressional authorizations to obligate and expend, apportionment and reserve actions, and obligations and expenditures. The Comptroller General and the Director shall maintain the file and an index to the file so that it is easier for the committees and agencies of Congress to use the file and index through data processing and communications techniques.

(e)(1) The Comptroller General shall—

(A) carry out a continuing program to identify the needs of committees and members of Congress for fiscal, budget, and program information to carry out this section and section 1112 of this title;

(B) assist committees of Congress in developing their information needs;

(C) monitor recurring reporting requirements of Congress and committees; and

(D) make recommendations to Congress and committees for changes and improvements in those reporting requirements to meet information needs identified by the Comptroller General, to improve their usefulness to congressional users, and to eliminate unnecessary reporting.

(2) Before September 2 of each year, the Comptroller General shall report to Congress on—

(A) the needs identified under paragraph (1)(A) of this subsection;

(B) the relationship of those needs to existing reporting requirements;

(C) the extent to which reporting by the executive branch of the United States Government currently meets the identified needs;

(D) the changes to standard classifications necessary to meet congressional needs;

(E) activities, progress, and results of the program of the Comptroller General under paragraph (1) (B)–(D) of this subsection; and

(F) progress of the executive branch in the prior year.

(3) Before March 2 of each year, the Director of the Office of Management and Budget and the Secretary shall report to Congress on plans for meeting the needs identified under paragraph (1)(A) of this subsection, including—

(A) plans for carrying out changes to classifications to meet information needs of Congress;

(B) the status of information systems in the prior year; and

(C) the use of standard classifications. (Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 914; Pub. L. 97–452, § 1(3), Jan. 12, 1983, 96 Stat. 2467.)

§ 1114. Repealed. (Oct. 13, 1994, Pub. L. 103–355, § 2454(c)(2), 108 Stat. 3326.) **1090**

Chapter 33.—DEPOSITING, KEEPING, AND PAYING MONEY

Subchapter II.—Payments

§ 3332. Required direct deposit. **1091**

(a)(1) Notwithstanding any other provision of law, all Federal wage, salary, and retirement payments shall be paid to recipients of such payments by electronic funds transfer, unless another method has been determined by the Secretary of the Treasury to be appropriate.

(2) Each recipient of Federal wage, salary, or retirement payments shall designate one or more financial institutions or other authorized payment agents and provide the payment certifying or authorizing agency information necessary for the recipient to receive electronic funds transfer payments through each institution so designated.

(b)(1) The head of each agency shall waive the requirements of subsection (a) of this section for a recipient of Federal wage, salary, or retirement payments authorized or certified by the agency upon written request by such recipient.

(2) Federal wage, salary, or retirement payments shall be paid to any recipient granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

(c)(1) The Secretary of the Treasury may waive the requirements of subsection (a) of this section for any group of recipients upon request by the head of an agency under standards prescribed by the Secretary of the Treasury.

(2) Federal wage, salary, or retirement payments shall be paid to any member of a group granted a waiver under paragraph (1) of this subsection by any method determined appropriate by the Secretary of the Treasury.

(d) This section shall apply only to recipients of Federal wage or salary payments who begin to receive such payments on or after January 1, 1995, and recipients of Federal retirement payments who begin to receive such payments on or after January 1, 1995.

(e)(1) Notwithstanding subsections (a) through (d) of this section, sections 5120(a) and (d) of title 38, and any other provision of law, all Federal payments to a recipient who becomes eligible for that type of payment after 90 days after the date of the enactment of the Debt Collection Improvement Act of 1996 shall be made by electronic funds transfer.

(2) The head of a Federal agency shall, with respect to Federal payments made or authorized by the agency, waive the application of paragraph (1) to a recipient of those payments upon receipt of written certification from the recipient that the recipient does not have an account with a financial institution or an authorized payment agent.

(f)(1) Notwithstanding any other provision of law (including subsections (a) through (e) of this section and sections 5120(a) and (d) of title 38), except as provided in paragraph (2) all Federal payments made after January 1, 1999, shall be made by electronic funds transfer.

(2)(A) The Secretary of the Treasury may waive application of this subsection to payments—

(i) for individuals or classes of individuals for whom compliance imposes a hardship;

(ii) for classifications or types of checks; or

(iii) in other circumstances as may be necessary.

(B) The Secretary of the Treasury shall make determinations under subparagraph (A) based on standards developed by the Secretary.

(g) Each recipient of Federal payments required to be made by electronic funds transfer shall—

(1) designate 1 or more financial institutions or other authorized agents to which such payments shall be made; and

(2) provide to the Federal agency that makes or authorizes the payments information necessary for the recipient to receive electronic funds transfer payments through each institution or agent designated under paragraph (1).

(h) The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by a payment recipient under this section shall constitute a full acquittance to the United States for the amount of the payment.

(i)(1) The Secretary of the Treasury may prescribe regulations that the Secretary considers necessary to carry out this section.

(2) Regulations under this subsection shall ensure that individuals required under subsection (g) to have an account at a financial institution because of the application of subsection (f)(1)—

(A) will have access to such an account at a reasonable cost; and

(B) are given the same consumer protections with respect to the account as other account holders at the same financial institution.

(j) For purposes of this section—

(1) The term "electronic funds transfer" means any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, that is initiated through an electronic terminal, telephone, computer, or magnetic tape, for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes Automated Clearing House transfers, Fed Wire transfers, transfers made at automatic teller machines, and point-of-sale terminals.

(2) The term "Federal agency" means—

(A) an agency (as defined in section 101 of this title); and

(B) a Government corporation (as defined in section 103 of title 5).

(3) The term "Federal payments" includes—

(A) Federal wage, salary, and retirement payments;

(B) vendor and expense reimbursement payments; and

(C) benefit payments.

Such term shall not include any payment under the Internal Revenue Code of 1986.

(As amended Pub. L. 98–369, Title VIII, § 2814, July 18, 1984, 98 Stat. 1207; Pub. L. 103–356, Title IV, § 402(a), Oct. 13, 1994, 108 Stat. 3412; Pub. L. 104–134, Title III, § 31001(x)(1), Apr. 26, 1996, 110 Stat. 1321–376.)

TITLE 39.—POSTAL SERVICE

Part IV.—MAIL MATTER

Chapter 32.—PENALTY AND FRANKED MAIL[1]

§ 3201. Definitions. **1095**

As used in this chapter—

(1) "penalty mail" means official mail, other than franked mail, which is authorized by law to be transmitted in the mail without prepayment of postage;

(2) "penalty cover" means envelopes, wrappers, labels, or cards used to transmit penalty mail;

(3) "frank" means the autographic or facsimile signature of persons authorized by sections 3210–3216 and 3218 of this title to transmit matter through the mail without prepayment of postage or other indicia contemplated by sections 733 and 907 of title 44;

(4) "franked mail" means mail which is transmitted in the mail under a frank;

(5) "Members of Congress" includes Senators, Representatives, Delegates, and Resident Commissioners; and

(6) "missing child" has the meaning provided by section 403(1) of the Juvenile Justice and Delinquency Prevention Act of 1974. (Aug. 12, 1970, Pub. L. 91–375, § 2, 84 Stat. 751; Aug. 9, 1985, Pub. L. 99–87, § 1(b), 99 Stat. 291.)

§ 3210. Franked mail transmitted by the Vice President, Members of Congress, and congressional officials. **1096**

(a)(1) It is the policy of the Congress that the privilege of sending mail as franked mail shall be established under this section in order to assist and expedite the conduct of the official business, activities, and duties of the Congress of the United States.

(2) It is the intent of the Congress that such official business, activities, and duties cover all matters which directly or indirectly pertain to the legislative process or to any congressional representative functions generally, or to the functioning, working, or operating of the Congress and the performance of official duties in connection therewith, and shall include, but not be limited to, the conveying of information to the public, and the requesting of the views of the public, or the views and information of other authority of government, as a guide or a means of assistance in the performance of those functions.

(3) It is the intent of the Congress that mail matter which is frankable specifically includes, but is not limited to—

(A) mail matter to any person and to all agencies and officials of Federal, State, and local governments regarding programs, deci-

[1] For United States Postal Service regulation on congressional franking privilege, see Senate Manual section **1105.** See also the Regulations Governing the Use of the Mailing Frank by Members and Officers of the United States Senate, issued by the Select Committee on Ethics. See also Regulations Governing Franked Mail, issued by the Senate Committee on Rules and Administration.

sions, and other related matters of public concern or public service, including any matter relating to actions of a past or current Congress;

(B) the usual and customary congressional newsletter or press release which may deal with such matters as the impact of laws and decisions on State and local governments and individual citizens; reports on public and official actions taken by Members of Congress; and discussions of proposed or pending legislation or governmental actions and the positions of the Members of Congress on, and arguments for or against, such matters;

(C) the usual and customary congressional questionnaire seeking public opinion on any law, pending or proposed legislation, public issue, or subject;

(D) mail matter dispatched by a Member of Congress between his Washington office and any congressional district offices, or between his district offices;

(E) mail matter directed by one Member of Congress to another Member of Congress or to representatives of the legislative bodies of State and local governments;

(F) mail matter expressing congratulations to a person who has achieved some public distinction;

(G) mail matter, including general mass mailings, which consist of Federal laws, Federal regulations, other Federal publications, publications purchased with Federal funds, or publications containing items of general information;

(H) mail matter which consists of voter registration or election information or assistance prepared and mailed in a nonpartisan manner;

(I) mail matter which constitutes or includes a biography or autobiography of any Member of, or Member-elect to, Congress or any biographical or autobiographical material concerning such Member or Member-elect or the spouse or other members of the family of such Member or Member-elect, and which is so mailed as a part of a Federal publication or in response to a specific request therefor and is not included for publicity purposes in a newsletter or other general mass mailing of the Member or Member-elect under the franking privilege; or

(J) mail matter which contains a picture, sketch, or other likeness of any Member or Member-elect and which is so mailed as a part of a Federal publication or in response to a specific request therefor and, when contained in a newsletter or other general mass mailing of any Member or Member-elect, is not of such size, or does not occur with such frequency in the mail matter concerned, as to lead to the conclusion that the purpose of such picture, sketch, or likeness is to advertise the Member or Member-elect rather than to illustrate accompanying text.

(4) It is the intent of the Congress that the franking privilege under this section shall not permit, and may not be used for, the transmission through the mails as franked mail, of matter which in its nature is purely personal to the sender or to any other person and is unrelated to the official business, activities, and duties of the public officials covered by subsection (b)(1) of this section.

(5) It is the intent of the Congress that a Member of or Member-elect to Congress may not mail as franked mail—

(A) mail matter which constitutes or includes any article, account, sketch, narration, or other text laudatory and complimentary of any Member of, or Member-elect to, Congress on a purely personal or political basis rather than on the basis of performance of official duties as a Member or on the basis of activities as a Member-elect;

(B) mail matter which constitutes or includes—

(i) greetings from the spouse or other members of the family of such Member or Member-elect, unless it is a brief reference in otherwise frankable mail;

(ii) reports of how or when such Member or Member-elect, or the spouse or any other member of the family of such Member or Member-elect, spends time other than in the performance of, or in connection with, the legislative, representative, and other official functions of such Member or the activities of such Member-elect as a Member-elect; or

(iii) any card expressing holiday greetings from such Member or Member-elect; or

(C) mail matter which specifically solicits political support for the sender or any other person or any political party, or a vote or financial assistance for any candidate for any public office.

The House Commission on Congressional Mailing Standards and the Select Committee on Standards and Conduct of the Senate shall prescribe for their respective Houses such rules and regulations and shall take such other action, as the Commission or Committee considers necessary and proper for the Members and Members-elect to conform to the provisions of this clause and applicable rules and regulations. Such rules and regulations shall include, but not be limited to, provisions prescribing the time within which such mailings shall be mailed at or delivered to any postal facility to attain compliance with this clause and the time when such mailings shall be deemed to have been so mailed or delivered and such compliance attained.

(6)(A) It is the intent of Congress that a Member of, or Member-elect to, Congress may not mail any mass mailing as franked mail—

(i) if the mass mailing is mailed fewer than 60 days (or, in the case of a Member of the House, fewer than 90 days) immediately before the date of any primary election or general election (whether regular, special, or runoff) in which the Member is a candidate for reelection; or

(ii) in the case of a Member of, or Member-elect to, the House who is a candidate for any other public office, if the mass mailing—

(I) is prepared for delivery within any portion of the jurisdiction of or the area covered by the public office which is outside the area constituting the congressional district from which the Member or Member-elect was elected; or

(II) is postmarked fewer than 90 days immediately before the date of any primary election or general election (whether regular, special, or runoff) in which the Member or Member-elect is a candidate for any other public office.

(B) Any mass mailing which is mailed by the chairman of any organization referred to in the last sentence of section 3215 of this title which

relates to the normal and regular business of the organization may be mailed without regard to the provisions of this paragraph.

(C) No Member of the Senate may mail any mass mailing as franked mail if such mass mailing is mailed fewer than 60 days immediately before the date of any primary election or general election (whether regular, special, or runoff) for any national, State or local office in which such Member is a candidate for election.

(D) The Select Committee on Ethics of the Senate and the House Commission on Congressional Mailing Standards shall prescribe for their respective Houses rules and regulations, and shall take other action as the Committee or the Commission considers necessary and proper for Members and Members-elect to comply with the provisions of this paragraph and applicable rules and regulations. The rules and regulations shall include provisions prescribing the time within which mailings shall be mailed at or delivered to any postal facility and the time when the mailings shall be deemed to have been mailed or delivered to comply with the provisions of this paragraph.

(E) As used in this section, the term "mass mailing" means, with respect to a session of Congress, any mailing of newsletters or other pieces of mail with substantially identical content (whether such mail is deposited singly or in bulk, or at the same time or different times), totaling more than 500 pieces in that session, except that such term does not include any mailing—

(i) of matter in direct response to a communication from a person to whom the matter is mailed;

(ii) from a Member of Congress to other Members of Congress, or to Federal, State, or local government officials; or

(iii) of a news release to the communications media.

(F) For purposes of subparagraphs (A) and (C) if mail matter is of a type which is not customarily postmarked, the date on which such matter would have been postmarked if it were of a type customarily postmarked shall apply.

(7) A Member of the House of Representatives may not send any mass mailing outside the congressional district from which the Member was elected.

(b)(1) The Vice President, each Member of or Member-elect to Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House), the Legislative Counsels of the House of Representatives and the Senate, the Law Revision Counsel of the House of Representatives, and the Senate Legal Counsel may send, as franked mail, matter relating to their official business, activities, and duties, as intended by Congress to be mailable as franked mail under subsection (a) (2) and (3) of this section.

(2) If a vacancy occurs in the Office of the Secretary of the Senate, the Sergeant at Arms of the Senate, an elected officer of the House of Representatives (other than a Member of the House), the Legislative Counsel of the House of Representatives or the Senate, the Law Revision Counsel of the House of Representatives, or the Senate Legal Counsel any authorized person may exercise the franking privilege in the officer's name during the period of the vacancy.

(3) The Vice President, each Member of Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, and each of the elected

officers of the House (other than a Member of the House), during the 90-day period immediately following the date on which they leave office, may send, as franked mail, matter on official business relating to the closing of their respective offices. The House Commission on Congressional Mailing Standards and the Select Committee on Standards and Conduct of the Senate[1] shall prescribe for their respective Houses such rules and regulations, and shall take such other action as the Commission or Committee considers necessary and proper, to carry out the provisions of this paragraph.

(c) Franked mail may be in any form appropriate for mail matter, including, but not limited to, correspondence, newsletters, questionnaires, recordings, facsimiles, reprints, and reproductions. Franked mail shall not include matter which is intended by Congress to be nonmailable as franked mail under subsection (a) (4) and (5) of this section.

(d)(1) A Member of Congress may mail franked mail with a simplified form of address for delivery within that area constituting the congressional district or State from which the Member was elected.

(2) A Member-elect to the Congress may mail franked mail with a simplified form of address for delivery within that area constituting the congressional district or the State from which he was elected.

(3) A Delegate, Delegate-elect, Resident Commissioner, or Resident Commissioner-elect to the House of Representatives may mail franked mail with a simplified form of address for delivery within the area from which he was elected.

(4) Any franked mail which is mailed under this subsection shall be mailed at the equivalent rate of postage which assures that the mail will be sent by the most economical means practicable.

(5) The Senate Committee on Rules and Administration and the House Commission on Congressional Mailing Standards shall prescribe for their respective Houses rules and regulations governing any franked mail which is mailed under this subsection and shall by regulation limit the number of such mailings allowed under this subsection.

(6)(A) Any Member of, or Member-elect to, the House of Representatives entitled to make any mailing as franked mail under this subsection shall, before making any 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 the proposed mailing is in compliance with the provisions of this subsection.

(B) The Senate Select Committee on Ethics may require any Member of, or Member-elect to, the Senate entitled to make any mailings as franked mail under this subsection to submit a sample or description of the mail matter to the Committee for an advisory opinion as to whether the proposed mailing is in compliance with the provisions of this subsection.

(7) Franked mail mailed with a simplified form of address under this subsection—

(A) shall be prepared as directed by the Postal Service; and

(B) may be delivered to—

(i) each box holder or family on a rural or star route;

(ii) each post office box holder; and

(iii) each stop or box on a city carrier route.

[1] Name changed to the Select Committee on Ethics by S. Res. 4, 95–1, Feb. 4, 1977.

(8) For the purposes of this subsection, a congressional district includes, in the case of a Representative at Large or Representative at Large-elect, the State from which he was elected.

(e) The frankability of mail matter shall be determined under the provisions of this section by the type and content of the mail sent, or to be sent.

(f) Any mass mailing which otherwise would be permitted to be mailed as franked mail under this section shall not be so mailed unless the cost of preparing and printing the mail matter is paid exclusively from funds appropriated by Congress, except that an otherwise frankable mass mailing may contain, as an enclosure or supplement, any public service material which is purely instructional or informational in nature, and which in content is frankable under this section.

(g) Notwithstanding any other provision of Federal, State, or local law, or any regulation thereunder, the equivalent amount of postage determined under section 3216 of this title on franked mail mailed under the frank of the Vice President or a Member of Congress, and the cost of preparing or printing such frankable matter for such mailing under the frank, shall not be considered as a contribution to, or an expenditure by, the Vice President or a Member of Congress for the purpose of determining any limitation on expenditures or contributions with respect to any such official, imposed by any Federal, State, or local law or regulation, in connection with any campaign of such official for election to any Federal office. (Aug. 12, 1970, Pub. L. 91–375, § 2, 84 Stat. 754; July 9, 1971, Pub. L. 92–51, § 101, 85 Stat. 132; Dec. 18, 1973, Pub. L. 93–191, § 1(a), 87 Stat. 737; Dec. 23, 1975, Pub. L. 94–177, § 1(b), 89 Stat. 1032; Oct. 26, 1978, Pub. L. 95–521, § 714(a), 92 Stat. 1884; Oct. 26, 1981, Pub. L. 97–69, §§ 1, 2, 3, 4, 95 Stat. 1041–1043; Sept. 24, 1982, Pub. L. 97–263, § 1, 96 Stat. 1132; Pub. L. 101–163, Title III, § 318, Nov. 21, 1989, 103 Stat. 1068; Pub. L. 101–520, Title III, §§ 311(h)(1), 316, Nov. 5, 1990, 104 Stat. 2280, 2283; Pub. L. 102–392, Title III, § 309(a), Oct. 6, 1992, 106 Stat. 1722; Pub. L. 104–197, Title I, § 102(a), Sept. 16, 1996, 110 Stat. 2401.)

1097 § 3211. Public documents.

The Vice President, Members of Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House) during the 90-day period immediately following the expiration of their respective terms of office, may send and receive as franked mail all public documents printed by order of Congress. (Aug. 12, 1970, Pub. L. 91–375, § 2, 84 Stat. 754; Dec. 18, 1973, Pub. L. 93–191, § 2, 87 Stat. 741; Oct. 26, 1981, Pub. L. 97–69, § 5(a), 95 Stat. 1043.)

1098 § 3212. Congressional Record under frank of Members of Congress.

(a) Members of Congress may send the Congressional Record as franked mail.

(b) Members of Congress may send, as franked mail, any part, of, or a reprint of any part of, the Congressional Record, including speeches or reports contained therein, if such matter is mailable as franked mail under section 3210 of this title. (Aug. 12, 1970, Pub. L. 91–375, § 2, 84 Stat. 754; Dec. 18, 1973, Pub. L. 93–191, § 3, 87 Stat. 741.)

CROSS REFERENCE

For extracts from Congressional Record furnished Members of Congress and the Resident Commissioner in envelopes ready for mailing, see section 907 of title 44, United States Code (Senate Manual section **1196**).

§ 3213. Seeds and reports from Department of Agriculture. **1099**

Seeds and agricultural reports emanating from the Department of Agriculture may be mailed—

(1) as penalty mail by the Secretary of Agriculture; and

(2) during the 90-day period immediately following the expiration of their terms of office, as franked mail by Members of Congress. (Aug. 12, 1970, Pub. L. 91–375, § 2, 84 Stat. 754; Oct. 26, 1981, Pub. L. 97–69, § 5(b), 95 Stat. 1043.)

§ 3215. Lending or permitting use of frank unlawful. **1100**

A person entitled to use a frank may not lend it or permit its use by any committee, organization, or association, or permit its use by any person for the benefit or use of any committee, organization, or association. This section does not apply to any standing, select, special, or joint committee, or subcommittee thereof, or commission, of the Senate, House of Representatives, or Congress, composed of Members of Congress, or to the Democratic caucus or the Republican conference of the House of Representatives or of the Senate. (Aug. 12, 1970, Pub. L. 91–375, § 2, 84 Stat. 754; Dec. 18, 1973, Pub. L. 93–191, § 10, 87 Stat. 746.)

§ 3216. Reimbursement for franked mailings. **1101**

(a) The equivalent of—

(1) postage on, and fees and charges in connection with, mail matter sent through the mails—

(A) under the franking privilege (other than under section 3219 of this title), by the Vice President, Members of and Members-elect to Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, each of the elected officers of the House of Representatives (other than a Member of the House), the Legislative Counsels of the House of Representatives and the Senate, the Law Revision Counsel of the House of Representatives, and the Senate Legal Counsel; and

(B) by the survivors of a Member of Congress under section 3218 of this title; and

(2) those portions of fees and charges to be paid for handling and delivery by the Postal Service of Mailgrams considered as franked mail under section 3219 of this title;

shall be paid by appropriation for the official mail costs of the Senate and the House of Representatives for that purpose and then paid to the Postal Service as postal revenue. Except as to Mailgrams and except as provided by sections 733 and 907 of title 44, envelopes, wrappers, cards, or labels used to transmit franked mail shall bear, in the upper right-hand corner, the sender's signature, or a facsimile thereof.

(b) Postage on, and fees and charges in connection with, mail matter sent through the mails under section 3214 of this title shall be paid each fiscal year, out of any appropriation made for that purpose, to the Postal Service as postal revenue in an amount equivalent to the

postage, fees, and charges which would otherwise be payable on, or in connection with, such mail matter.

(c) Payment under subsection (a) or (b) of this section shall be deemed payment for all matter mailed under the frank and for all fees and charges due the Postal Service in connection therewith.

(d) Money collected for matter improperly mailed under the franking privilege shall be deposited as miscellaneous receipts in the general fund of the Treasury.

(e)(1) Not later than two weeks after the last day of each quarter of the fiscal year, or as soon as practicable thereafter, the Postmaster General shall send to the Chief Administrative Officer of the House of Representatives, the House Commission on Congressional Mailing Standards, the Secretary of the Senate, and the Senate Committee on Rules and Administration a report which shall contain a tabulation of the estimated number of pieces and costs of franked mail, as defined in section 3201 of this title, in each mail classification sent through the mail for that quarter and for the preceding quarters in the fiscal year, together with separate tabulations of the number of pieces and costs of such mail sent by the House and by the Senate.

(2) Two weeks after the close of the second quarter of the fiscal year, or as soon as practicable thereafter, the Postmaster General shall send to the Chief Administrative Officer of the House of Representatives, the House Commission on Congressional Mailing Standards, the Committee on House Oversight, the Secretary of the Senate, and the Senate Committee on Rules and Administration, a statement of the costs of postage on, and fees and charges in connection with, mail matter sent through the mails as described in paragraph (1) of this subsection for the preceding two quarters together with an estimate of such costs for the balance of the fiscal year. As soon as practicable after receipt of this statement, the House Commission on Congressional Mailing Standards, the Committee on House Oversight, and the Senate Committee on Rules and Administration shall consider promulgating such regulations for their respective Houses as may be necessary to ensure that total postage costs, as described in paragraph (1) of this subsection, will not exceed the amounts available for the fiscal year. (Aug. 12, 1970, Pub. L. 91–375, § 2, 84 Stat. 754; July 9, 1971, Pub. L. 92–51, § 101, 85 Stat. 132; Dec. 18, 1973, Pub. L. 93–191, § 7, 87 Stat. 745; Mar. 27, 1974, Pub. L. 93–255, § 2(a), 88 Stat. 52; Oct. 26, 1978, Pub. L. 95–521, § 714(b), 92 Stat. 1884; Oct. 26, 1981, Pub. L. 97–69, § 6(a), 95 Stat. 1043; Sept. 24, 1982, Pub. L. 97–263, § 1, 96 Stat. 1132; Pub. L. 101–163, Title III, § 316(b), formerly § 316(c), § 317, Nov. 21, 1989, 103 Stat. 1067, renumbered Pub. L. 101–520, Title III, § 311(h)(3)(B), Nov. 5, 1990, 104 Stat. 2280; Pub. L. 102–90, Title III, § 306, Aug. 14, 1991, 105 Stat. 466; Pub. L. 104–186, Title II, § 220, Aug. 20, 1996, 110 Stat. 1748.)

1102 § 3218. Franked mail for survivors of Members of Congress.

Upon the death of a Member of Congress during his term of office, the surviving spouse of such Member (or, if there is no surviving spouse, a member of the immediate family of the Member designated by the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, in accordance with rules and procedures established by the Secretary or the Clerk) may send, for a period not to exceed 180

days after his death, as franked mail, nonpolitical correspondence relating to the death of the Member. (Aug. 12, 1970, Pub. L. 91–375, § 2, 84 Stat. 755; Dec. 18, 1973, Pub. L. 93–191, § 11, 87 Stat. 746; Oct. 26, 1981, Pub. L. 97–69, § 6 (b) and (c), 95 Stat. 1043.)

§ 3219. Mailgrams. **1103**

Any Mailgram sent by the Vice President, a Member of or Member-elect to Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, an elected officer of the House of Representatives (other than a Member of the House), the Legislative Counsel of the House of Representatives or the Senate, the Law Revision Counsel of the House of Representatives, or the Senate Legal Counsel, and then delivered by the Postal Service, shall be considered as franked mail, subject to section 3216(a)(2) of this title, if such Mailgram contains matter of the kind authorized to be sent by that official as franked mail under section 3210 of this title. (Added Dec. 18, 1973, Pub. L. 93–191, § 12, 87 Stat. 746; Oct. 26, 1978, Pub. L. 95–521, § 714(c), 92 Stat. 1884; Sept. 24, 1982, Pub. L. 97–263, § 1, 96 Stat. 1132.)

§ 3220. Use of official mail in the location and recovery of missing children. **1104**

(a)(1) The Office of Juvenile Justice and Delinquency Prevention, after consultation with appropriate public and private agencies, shall prescribe general guidelines under which penalty mail may be used to assist in the location and recovery of missing children. The guidelines shall provide information relating to—

(A) the form and manner in which materials and information relating to missing children (such as biographical data and pictures, sketches, or other likenesses) may be included in penalty mail;

(B) appropriate sources from which such materials and information may be obtained;

(C) the procedures by which such materials and information may be obtained; and

(D) any other matter which the Office considers appropriate.

(2) Each executive department and independent establishment of the Government of the United States shall prescribe regulations under which penalty mail sent by such department or establishment may be used in conformance with the guidelines prescribed under paragraph (1).

(b) The Senate Committee on Rules and Administration and the House Commission on Congressional Mailing Standards shall prescribe for their respective Houses rules and regulations, and shall take such other action as the Committee or Commission considers necessary and proper, in order that purposes similar to those of subsection (a) may, in the discretion of the congressional official or office concerned, be carried out by the use of franked mail sent by such official or office.

(c) As used in this section, "Office of Juvenile Justice and Delinquency Prevention" and "Office" each means the Office of Juvenile Justice and Delinquency Prevention within the Department of Justice, as established by section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974. (Aug. 9, 1985, Pub. L. 99–87, § 1(a)(1), 99 Stat. 290.)

1105 Domestic Mail Manual Provisions Relating to the Congressional Franking Privilege

Part E050—Official Mail (Franked)

1.0 Basic Information

1.1 *Members of Congress.* Official mail of Members of Congress is sent without prepayment of postage and bears instead a written or printed facsimile signature or a specified marking. Exhibit 1.1 shows what is accepted under frank and who is authorized its use.

1.2 *Former President and Spouse.* Any former President of the United States and any surviving spouse of a former President may send non-political mail as franked mail if it bears the sender's written or facsimile signature and the words "Postage and Fees Paid" in the upper right corner of the address side.

1.3 *Surviving Spouse of Member of Congress.* When a Member of Congress dies during the term of office, the Member's surviving spouse may send correspondence relating to the death without prepayment of postage, for a period not to exceed 180 days after the death of the Member. The mail must bear the sender's written or facsimile signature in the upper right corner of the address side. If there is no surviving spouse, this privilege may be exercised by an immediate family member of the deceased Member of Congress designated by the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate.

1.4 *Use.* A person entitled to use franked mail may not lend this frank or permit its use by any committee, organization, association, or other person. This restriction does not apply to a committee of the Congress.

1.5 *Criteria.* Franked mail must be addressed to the recipient by name, except under A040, and it must meet the mailability criteria in C010, C020, and C030 and the physical standards for the class of mail used.[1]

1.6 *Handling.* Franked mail is entitled to all special services for which it is properly endorsed, and is handled and forwarded as ordinary mail, except that after delivery to the addressee, it may not be remailed.

1.7 *Package to One Addressee.* A person entitled to use franked mail may send a package of franked mail to one addressee, who may open the package and, on behalf of such person, address the franked articles and mail them.

[1] Part A040 describes alternative addressing formats. Part C010 gives general mailability standards (such as requisite dimensions, packaging, and containers). Part C020 describes articles and substances prohibited because they may be injurious to life, health or property (such as liquor or firearms). Part C030 refers to restricted forms of printed materials (such as deceptive solicitations or sexually oriented advertisements).

Exhibit 1.1

User Entitled	Matter Permitted	Marking Required	Period Authorized
Vice President of the United States, Members of Congress, Resident Commissioners, Secretary of the Senate, Sergeant at Arms of the Senate, and each elected officer of the House of Representatives (other than Members of the House)	Public documents printed by order of Congress	"Public Document" and "U.S.S." or "M.C." must appear on address side	During 90 days immediately after expiration of term of office.
Members of Congress and Resident Commissioners	"*Congressional Record*" or any part of it (including reprints of any part, speech, or report contained in it) if for official business, activities, or duties	"*Congressional Record*" or "*Part of Congressional Record*" and "U.S.S." or "M.C." must appear on the address side	During term of office only.
Members of Congress	Seed and agricultural reports from Department of Agriculture	Signature and title (written or printed facsimile) of person entitled to frank must appear on address side	During 90 days immediately after expiration of term of office.
Vice President of the United States, Members and Members-elect of Congress, Resident Commissioners, Secretary of the Senate, Sergeant at Arms of the Senate, each elected officer of the House of Representatives (other than a Member of the House), Legislative Counsels of the House of Representatives and the Senate, Law Revision Counsel of the House of Representatives, and Senate Legal Counsel	Official correspondence including Mailgrams	Mailgrams may be sent in standard Mailgram envelopes. For other correspondence, signature and title (written or printed facsimile) of person entitled to frank must appear on address side	During term of office only. When position of Secretary, Sergeant at Arms, elected officer, Legislative Counsel, Law Revision Counsel, or Senate Legal Counsel is vacant, privileges may be exercised in officer's name by authorized persons.
Vice President-elect	All mail connected with preparation for assumption of official duties as Vice President	Signature and title (written or printed facsimile) of Vice President-elect must appear on address side	Until assumption of duties as Vice President.
Former Vice President, each former Member of Congress, former Secretary of the Senate, former Sergeant at Arms of the Senate, each former elected officer of the House (other than former Member of the House), and each former Delegate or Resident Commissioner	Matter on official business about closing of offices	Signature and title (written or printed facsimile) of person entitled to frank must appear on address side	During 90 days immediately after date of leaving office.
Former Speakers of the House	Public documents, seeds, and agricultural reports from Department of Agriculture, official correspondence including Mailgrams	Signature and title (written or printed facsimile) of former Speaker, or Mailgram or public document marking as shown above, must appear on address side	For as long as former Speaker determines necessary.

TITLE 40.—PUBLIC BUILDINGS, PROPERTY, AND WORKS

Subtitle II—Public Buildings and Works

Part B—United States Capitol

Chapter 51.—UNITED STATES CAPITOL BUILDINGS AND GROUNDS

1106 § 5101. Definition.

In this chapter, the term "Capitol Buildings" means the United States Capitol, the Senate and House Office Buildings and garages, the Capitol Power Plant, all subways and enclosed passages connecting two or more of those structures, and the real property underlying and enclosed by any of those structures.

1107 § 5102. Legal description and jurisdiction of United States Capitol Grounds

(a) Legal Description

The United States Capitol Grounds comprises all squares, reservations, streets, roadways, walks, and other areas as defined on a map entitled "Map showing areas comprising United States Capitol Grounds", dated June 25, 1946, approved by the Architect of the Capitol, and recorded in the Office of the Surveyor of the District of Columbia in book 127, page 8, including all additions added by law after June 25, 1946.

(b) Jurisdiction

(1) Architect of the Capitol.

The jurisdiction and control over the Grounds, vested prior to July 31, 1946, by law in the Architect, is extended to the entire area of the Grounds. Except as provided in paragraph (2), the Architect is responsible for the maintenance and improvement of the Grounds, including those streets and roadways in the Grounds as shown on the map referred to in subsection (a) as being under the jurisdiction and control of the Commissioners of the District of Columbia.

(2) Mayor of the District of Columbia.

(A) In general

The Mayor of the District of Columbia is responsible for the maintenance and improvement of those portions of the following streets which are situated between the curblines of those streets: Constitution Avenue from Second Street Northeast to Third Street Northwest, First Street from D Street Northeast to D Street Southeast, D Street from First Street Southeast to Washington Avenue Southwest, and First Street from the north side of Louisiana Avenue to the intersection of C Street and Washington Avenue Southwest, Pennsylvania Avenue Northwest from First Street Northwest to

Third Street Northwest, Maryland Avenue Southwest from First Street Southwest to Third Street Southwest, Second Street Northeast from F Street Northeast to C Street Southeast; C Street Southeast from Second Street Southeast to First Street Southeast; that portion of Maryland Avenue Northeast from Second Street Northeast to First Street Northeast; that portion of New Jersey Avenue Northwest from D Street Northwest to Louisiana Avenue; that portion of Second Street Southwest from the north curb of D Street to the south curb of Virginia Avenue Southwest; that portion of Virginia Avenue Southwest from the east curb of Second Street Southwest to the west curb of Third Street Southwest; that portion of Third Street Southwest from the south curb of Virginia Avenue Southwest to the north curb of D Street Southwest; that portion of D Street Southwest from the west curb of Third Street Southwest to the east curb of Second Street Southwest; that portion of Washington Avenue Southwest, including sidewalks and traffic islands, from the south curb of Independence Avenue Southwest to the west curb of South Capitol Street.

(B) Repair and maintenance of utility services

The Mayor may enter any part of the Grounds to repair or maintain or, subject to the approval of the Architect, construct or alter, any utility service of the District of Columbia Government.

§ 5103. Restrictions on public use of United States Capitol Grounds 1108

Public travel in, and occupancy of, the United States Capitol Grounds is restricted to the roads, walks, and places prepared for that purpose.

§ 5104. Unlawful activities 1109

(a) Definitions

In this section—

(1) Act of physical violence.—The term "act of physical violence" means any act involving—

(A) an assault or other infliction or threat of infliction of death or bodily harm on an individual; or

(B) damage to, or destruction of, real or personal property.

(2) Dangerous weapon.—The term "dangerous weapon" includes—

(A) all articles enumerated in section 14(a) of the Act of July 8, 1932 (ch. 465, 47 Stat. 654); and

(B) a device designed to expel or hurl a projectile capable of causing injury to individuals or property, a dagger, a dirk, a stiletto, and a knife having a blade over three inches in length.

(3) Explosives.—The term "explosives" has the meaning given that term in section 841(d) of title 18.

(4) Firearm.—The term "firearm" has the meaning given that term in section 921(3) of title 18.

(b) Obstruction of Roads

A person may not occupy the roads in the United States Capitol Grounds in a manner that obstructs or hinders their proper use, or use the roads in the area of the Grounds, south of Constitution Avenue and B Street and north of Independence Avenue and B Street, to convey

goods or merchandise, except to or from the United States Capitol on Federal Government service.

(c) Sale of Articles, Display of Signs, and Solicitations

A person may not carry out any of the following activities in the Grounds:

(1) offer or expose any article for sale.

(2) display a sign, placard, or other form of advertisement.

(3) solicit fares, alms, subscriptions, or contributions.

(d) Injuries to Property

A person may not step or climb on, remove, or in any way injure any statue, seat, wall, fountain, or other erection or architectural feature, or any tree, shrub, plant, or turf, in the Grounds.

(e) Capitol Grounds and Buildings Security

(1) Firearms, dangerous weapons, explosives, or incendiary devices.—An individual or group of individuals—

(A) except as authorized by regulations prescribed by the Capitol Police Board—

(i) may not carry on or have readily accessible to any individual on the Grounds or in any of the Capitol Buildings a firearm, a dangerous weapon, explosives, or an incendiary device;

(ii) may not discharge a firearm or explosives, use a dangerous weapon, or ignite an incendiary device, on the Grounds or in any of the Capitol Buildings; or

(iii) may not transport on the Grounds or in any of the Capitol Buildings explosives or an incendiary device; or

(B) may not knowingly, with force and violence, enter or remain on the floor of either House of Congress.

(2) Violent entry and disorderly conduct.—An individual or group of individuals may not willfully and knowingly—

(A) enter or remain on the floor of either House of Congress or in any cloakroom or lobby adjacent to that floor, in the Rayburn Room of the House of Representatives, or in the Marble Room of the Senate, unless authorized to do so pursuant to rules adopted, or an authorization given, by that House;

(B) enter or remain in the gallery of either House of Congress in violation of rules governing admission to the gallery adopted by that House or pursuant to an authorization given by that House;

(C) with the intent to disrupt the orderly conduct of official business, enter or remain in a room in any of the Capitol Buildings set aside or designated for the use of either House of Congress or a Member, committee, officer, or employee of Congress or either House of Congress;

(D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress;

(E) obstruct, or impede passage through or within, the Grounds or any of the Capitol Buildings;

(F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings; or

(G) parade, demonstrate, or picket in any of the Capitol Buildings.

(3) Exemption of Government officials.—This subsection does not prohibit any act performed in the lawful discharge of official duties by—

(A) a Member of Congress;

(B) an employee of a Member of Congress;

(C) an officer or employee of Congress or a committee of Congress; or

(D) an officer or employee of either House of Congress or a committee of that House.

(f) Parades, Assemblages, and Display of Flags

Except as provided in section 5106 of this title, a person may not—

(1) parade, stand, or move in processions or assemblages in the Grounds; or

(2) display in the Grounds a flag, banner, or device designed or adapted to bring into public notice a party, organization, or movement.

§ 5105. Assistance to authorities by Capitol employees **1110**

Each individual employed in the service of the Federal Government in the United States Capitol or within the United States Capitol Grounds shall prevent, as far as may be in the individual's power, a violation of a provision of this chapter or section 9, 9A, 9B, 9C, or 14 of the Act of July 31, 1946. (Ch. 707, 60 Stat. 719, 720), and shall aid the police in securing the arrest and conviction of the individual violating the provision.

§ 5106. Suspension of prohibitions **1111**

(a) Authority to Suspend

To allow the observance in the United States Capitol Grounds of occasions of national interest becoming the cognizance and entertainment of Congress, the President of the Senate and the Speaker of the House of Representatives concurrently may suspend any of the prohibitions contained in sections 5103 and 5104 of this title that would prevent the use of the roads and walks within the Grounds by processions or assemblages, and the use in the Grounds of suitable decorations, music, addresses, and ceremonies, if responsible officers have been appointed and the President and the Speaker determine that adequate arrangements have been made to maintain suitable order and decorum in the proceedings and to guard the United States Capitol and its grounds from injury.

(b) Power to Suspend Prohibitions in Absence of President or Speaker

If either the President or Speaker is absent from the District of Columbia, the authority to suspend devolves on the other officer. If both officers are absent, the authority devolves on the Capitol Police Board.

(c) Authority of Mayor To Permit Use of Louisiana Avenue

Notwithstanding subsection (a) and section 5104(f) of this title, the Capitol Police Board may grant the Mayor of the District of Columbia authority to permit the use of Louisiana Avenue for any of the purposes prohibited by section 5104(f).

1112 § 5107. Concerts on grounds

Sections 5102, 5103, 5104(b)–(f), 5105, 5105, and 5109 of this title and sections 9, 9A, 9B, and 9C of the Act of July 31, 1946 (ch. 707, 60 Stat. 719, 720), do not prohibit a band in the service of the Federal Government from giving concerts in the United States Capitol Grounds at times which will not interfere with Congress and as authorized by the Architect of the Capitol.

1113 § 5108. Audit of private organizations

A private organization (except a political party or committee constituted for the election of federal officials), whether or not organized for profit and whether or not any of its income inures to the benefit of any person, that performs services or conducts activities in the United States Capitol Buildings or Grounds is subject to a special audit of its accounts for each year in which it performs those services or conducts those activities. The Comptroller General shall conduct the audit and report the results of the audit to the Senate and the House of Representatives.

1114 § 5109. Penalties

(a) Firearms, Dangerous Weapons, Explosives, or Incendiary Device Offenses

An individual or group violating section 5104(e)(1) of this title, or attempting to commit a violation, shall be fined under title 18, imprisoned for not more than five years, or both.

(b) Other Offenses

A person violating section 5103 or 5104(b), (c), (d), (e)(2), or (f) of this title, or attempting to commit a violation, shall be fined under title 18, imprisoned for not more than six months, or both.

(c) Procedure

(1) In general

An action for a violation of this chapter or section 9, 9A, 9B, 9C or 14 of the Act of July 31, 1946 (ch. 707, 60 Stat. 719, 720), including an attempt or a conspiracy to commit a violation, shall be brought by the Attorney General in the name of the United States. This chapter and sections 9, 9A, 9B, 9C and 14 do not supersede any provision of federal law or the laws of the District of Columbia. Where the conduct violating this chapter or section 9, 9A, 9B, 9C or 14 also violates federal law or the laws of the District of Columbia, both violations may be joined in a single action.

(2) Venue

An action under this section for a violation of—

(A) section 5104(e)(1) of this title or for conduct that constitutes a felony under federal law or the laws of the District of Columbia

shall be brought in the United States District Court for the District of Columbia; and

(B) any other section referred to in subsection (a) may be brought in the Superior Court of the District of Columbia.

(3) Amount of penalty

The penalty which may be imposed on a person convicted in an action under this subsection is the highest penalty authorized by any of the laws the defendant is convicted of violating.

Part C—Federal Building Complexes

Chapter 65.—THURGOOD MARSHALL FEDERAL JUDICIARY BUILDING

§ 6501. Definition 1115

In this chapter, the term "Chief Justice" means the Chief Justice of the United States or the designee of the Chief Justice, except that when there is a vacancy in the office of the Chief Justice, the most senior associate justice of the Supreme Court shall be deemed to be the Chief Justice for purposes of this chapter until the vacancy is filled.

§ 6502. Thurgood Marshall Federal Judiciary Building 1116

(a) Establishment and Designation

There is a Federal Judiciary Building in Washington, D.C., known and designated as the "Thurgood Marshall Federal Judiciary Building".

(b) Title

(1) Squares 721 and 722.—Title to squares 721 and 722 remains in the Federal Government.

(2) Building.—Title to the Building and other improvements constructed or otherwise made immediately reverts to the Government at the expiration of not more than 30 years from the effective date of the lease agreement referred to in section 6504 of this title without payment of any compensation by the Government.

(c) Limitations

(1) Size of building.—The Building (excluding parking facilities) may not exceed 520,000 gross square feet in size above the level of Columbia Plaza in the District of Columbia.

(2) Height of building.—The height of the Building and other improvements shall be compatible with the height of surrounding Government and historic buildings and conform to the provisions of the Act of June 1, 1910 (ch. 263, 36 Stat. 452) (known as the Building Height Act of 1910).

(3) Design.—The Building and other improvements shall—

(A) be designed in harmony with historical and Government buildings in the vicinity;

(B) reflect the symbolic importance and historic character of the United States Capitol and other buildings on the United States Capitol Grounds; and

(C) represent the dignity and stability of the Government.

(d) Approval of Chief Justice

All final decisions regarding architectural design of the Building are subject to the approval of the Chief Justice.

(e) Chilled Water and Steam From Capitol Power Plant

If the Building is connected with the Capitol Power Plant, the Architect of the Capitol shall furnish chilled water and steam from the Plant to the Building on a reimbursable basis.

(f) Construction Standards

The Building and other improvements constructed under this chapter shall meet all standards applicable to construction of a federal building.

(g) Accounting System

The Architect shall maintain an accounting system for operation and maintenance of the Building and other improvements which will allow accurate projections of the dates and cost of major repairs, improvements, reconstructions, and replacements of the Building and improvements and other capital expenditures on the Building and improvements.

(h) Nonapplicability of Certain Laws

(1) Building codes, permits, or inspection.—The Building is not subject to any law of the District of Columbia relating to building codes, permits, or inspection, including any such law enacted by Congress.

(2) Taxes.—The Building and other improvements constructed under this chapter are not subject to any law of the District of Columbia relating to real estate and personal property taxes, special assessments, or other taxes, including any such law enacted by Congress.

1117 § 6503. Commission for the Judiciary Office Building

(a) Establishment and Membership

There is a Commission for the Judiciary Office Building, composed of the following 13 members or their designees:

(1) Two individuals appointed by the Chief Justice from among justices of the Supreme Court and other judges of the United States.

(2) The members of the House Office Building Commission.

(3) The majority leader and minority leader of the Senate.

(4) The Chairman and the ranking minority member of the Senate Committee on Rules and Administration.

(5) The Chairman and the ranking minority member of the Senate Committee on Environment and Public Works.

(6) The Chairman and ranking minority member of the Committee on Transportation and Infrastructure of the House of Representatives.

(b) Quorum

Seven members of the Commission is a quorum.

(c) Duties

The Commission is responsible for the supervision of the design, construction, operation, maintenance, structural, mechanical, and domestic care, and security of the Thurgood Marshall Federal Judiciary Building. The Commission shall prescribe regulations to govern the actions of the Architect of the Capitol under this chapter and to govern the use and occupancy of all space in the Building.

§ 6504. Lease of building **1118**

(a) Lease Agreement

Under an agreement with the person selected to construct the Thurgood Marshall Federal Judiciary Building, the Architect of the Capitol shall lease the Building to carry out the objectives of this chapter.

(b) Minimum Requirements of Lease Agreement

The agreement includes at a minimum the following:

(1) Limit on length of lease.—The Architect will lease the Building and other improvements for not more than 30 years from the effective date of the agreement.

(2) Rental rate.—The rental rate per square foot of occupiable space for all space in the Building and other improvements will be in the best interest of the Federal Government and will carry out the objectives of this chapter. The aggregate rental rate for all space in the Building and other improvements shall produce an amount at least equal to the amount necessary to amortize the cost of development of squares 721 and 722 in the District of Columbia over the life of the lease.

(3) Authority to make space available and sublease space.—The Architect may make space available and sublease space in the Building and other improvements in accordance with section 6506 of this title.

(4) Other terms and conditions.—The agreement contains terms and conditions the Architect prescribes to carry out the objectives of this chapter.

(c) Obligation of Amounts

Obligation of amounts for lease payments under this section may only be made—

(1) on an annual basis; and

(2) from the account described in section 6507 of this title.

§ 6505. Structural and mechanical care and security **1119**

(a) Structural and Mechanical Care

The Architect of the Capitol, under the direction of the Commission for the Judiciary Office Building—

(1) is responsible for the structural and mechanical care and maintenance of the Thurgood Marshall Federal Judiciary Building and improvements, including the care and maintenance of the grounds of the Building, in the same manner and to the same extent as for the structural and mechanical care and maintenance of the Supreme Court Building under section 6111 of this title; and

(2) shall perform all other duties and work required for the operation and domestic care of the Building and improvements.

(b) Security

(1) Capitol Police.—The United States Capitol Police—

(A) are responsible for all exterior security of the Building and other improvements constructed under this chapter; and

(B) may police the Building and other improvements, including the interior and exterior, and may make arrests within the interior and exterior of the Building and other improvements for any violation of federal or state law or the laws of the District of Columbia, or any regulation prescribed under any of those laws.

(2) Marshal of the Supreme Court.—This chapter does not interfere with the obligation of the Marshal of the Supreme Court to protect justices, officers, employees, or other personnel of the Supreme Court who may occupy the Building and other improvements.

(3) Reimbursement.—The Architect shall transfer from the account described in section 6507 of this title amounts necessary to reimburse the United States Capitol Police for expenses incurred in providing exterior security under this subsection. The Capitol Police may accept amounts the Architect transfers under this paragraph. Those amounts shall be credited to the appropriation account charged by the Capitol Police in carrying out security duties.

1120 § 6506. Allocation of space

(a) Priority

(1) Judicial branch.—Subject to this section, the Architect of the Capitol shall make available to the judicial branch of the Federal Government all space in the Thurgood Marshall Federal Judiciary Building and other improvements constructed under this chapter. The space shall be made available on a reimbursable basis and substantially in accordance with the report referred to in section 3(b)(1) of the Judiciary Office Building Development Act (Public Law 100–480, 102 Stat. 2330).

(2) Other Federal Governmental entities.—The Architect may make available to Federal Governmental entities which are not part of the judicial branch and which are not staff of Members of Congress or congressional committees any space in the Building and other improvements that the Chief Justice decides is not needed by the judicial branch. The space shall be made available on a reimbursable basis.

(3) Other persons.—If any space remains, the Architect may sublease it pursuant to subsection (e), under the direction of the Commission for the Judiciary Office Building, to any person.

(b) Space for Judicial Branch and Other Federal Governmental Entities

Space made available under subsection (a)(1) or (2) is subject to—

(1) terms and conditions necessary to carry out the objectives of this chapter; and

(2) reimbursement at the rate established under section 6504(b)(2) of this title plus an amount necessary to pay each year for the cost of administering the Building and other improvements (including the cost of operation, maintenance, rehabilitation, security, and structural, mechanical, and domestic care) that is attributable to the space, with the amount to be determined by the Architect and—

(A) in the case of the judicial branch, the Director of the Administrative Office of the United States Courts; or

(B) in the case of any federal governmental entity not a part of the judicial branch, the entity.

(c) Space for Judicial Branch

(1) Assignment of space within judicial branch.—The Director may assign space made available to the judicial branch under subsection (a)(1) among offices of the judicial branch as the Director considers appropriate.

(2) Vacating occupied space.—When the Chief Justice notifies the Architect that the judicial branch requires additional space in the Building

and other improvements, the Architect shall accommodate those requirements within 90 days after the date of the notification, except that if the space was made available to the Administrator of General Services, it shall be vacated expeditiously by not later than a date the Chief Justice and the Administrator agree on.

(3) Unoccupied space.—The Chief Justice has the right of first refusal to use unoccupied space in the Building to meet the needs of the judicial branch.

(d) Lease by Architect

(1) Authority to lease.—Subject to approval by the Committees on Appropriations of the House of Representatives and the Senate, the House Office Building Commission, and the Committee on Rules and Administration of the Senate, the Architect may lease and occupy not more than 75,000 square feet of space in the Building.

(2) Payments.—Payments under the lease shall be made on vouchers the Architect approves. Necessary amounts may be appropriated—

(A) to the Architect to carry out this subsection, including amounts for acquiring and installing furniture and furnishings; and

(B) to the Sergeant at Arms of the Senate to plan for, acquire, and install telecommunications equipment and services for the Architect with respect to space leased under this subsection.

(e) Subleased Space

(1) Rental rate.—Space subleased by the Architect under subsection (a)(3) is subject to reimbursement at a rate which is comparable to prevailing rental rates for similar facilities in the area but not less than the rate established under section 6504(b)(2) of this title plus an amount the Architect and the person subleasing the space agree is necessary to pay each year for the cost of administering the Building (including the cost of operation, maintenance, rehabilitation, security, and structural, mechanical, and domestic care) that is attributable to the space.

(2) Limitation.—A sublease under subsection (a)(3) must be compatible with the dignity and functions of the judicial branch offices housed in the Building and must not unduly interfere with the activities and operations of the judicial branch agencies housed in the Building. Sections 5104(c) and 5108 of this title do not apply to any space in the Building and other improvements subleased to a non-Government tenant under subsection (a)(3).

(3) Collection of rent.—The Architect shall collect rent for space subleased under subsection (a)(3).

(f) Deposit of Rent and Reimbursements

Amounts received under subsection (a)(3) (including lease payments and reimbursements) shall be deposited in the account described in section 6507 of this title.

§ 6507. Account in Treasury **1121**

(a) Establishment and Contents of Separate Account

There is a separate account in the Treasury. The account includes all amounts deposited in the account under section 6506(f) of this title and amounts appropriated to the account. However, the appropriated amounts may not be more than $2,000,000.

(b) Use of Amounts

Amounts in the account are available to the Architect of the Capitol—

(1) for paying expenses for structural, mechanical, and domestic care, maintenance, operation, and utilities of the Thurgood Marshall Federal Judiciary Building and other improvements constructed under this chapter;

(2) for reimbursing the United States Capitol Police for expenses incurred in providing exterior security for the Building and other improvements;

(3) for making lease payments under section 6504 of this title; and

(4) for necessary personnel (including consultants).

Chapter 89—NATIONAL CAPITAL MEMORIALS AND COMMEMORATIVE WORKS

1122 § 8901. Purposes

The purposes of this chapter are—

(1) to preserve the integrity of the comprehensive design of the L'Enfant and McMillan plans for the Nation's Capital;

(2) to ensure the continued public use and enjoyment of open space in the District of Columbia;

(3) to preserve, protect and maintain the limited amount of open space available to residents of, and visitors to, the Nation's Capital; and

(4) to ensure that future commemorative works in areas administered by the National Park Service and the Administrator of General Services in the District of Columbia and its environs—

(A) are appropriately designed, constructed, and located; and

(B) reflect a consensus of the lasting national significance of the subjects involved.

1123 § 8902. Definitions and nonapplication

(a) Definitions

In this chapter, the following definitions apply:

(1) Commemorative work.—The term "commemorative work"—

(A) means any statue, monument, sculpture, memorial, plaque, inscription, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of an individual, group, event or other significant element of American history; but

(B) does not include an item described in subclause (A) that is located within the interior of a structure or a structure which is primarily used for other purposes.

(2) Person.—The term "person" means—

(A) a public agency; and

(B) an individual, group or organization—

(i) described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and exempt from tax under section 501(a) of the Code (26 U.S.C. 501(a)); and

(ii) authorized by Congress to establish a commemorative work in the District of Columbia and its environs.

(3) The District of Columbia and its environs.—The term "the District of Columbia and its environs" means land and property located in Areas

I and II as depicted on the map numbered 869/86501, and dated May 1, 1986, that the National Park Service and the Administrator of General Services administer.

(b) Nonapplication

This chapter does not apply to commemorative works authorized by a law enacted before January 3, 1985.

§ 8903. Congressional authorization of commemorative works **1124**

(a) In General

Commemorative works—

(1) may be established on federal lands referred to in section 8901(4) of this title only as specifically authorized by law; and

(2) are subject to applicable provisions of this chapter.

(b) Military Commemorative Works

A military commemorative work may be authorized only to commemorate a war or similar major military conflict or a branch of the armed forces. A commemorative work commemorating a lesser conflict or a unit of an armed force may not be authorized. Commemorative works to a war or similar major military conflict may not be authorized until at least 10 years after the officially designated end of the event.

(c) Works Commemorating Events, Individuals, or Groups

A commemorative work commemorating an event, individual, or group of individuals, except a military commemorative work as described in subsection (b), may not be authorized until after the 25th anniversary of the event, death of the individual, or death of the last surviving member of the group.

(d) Consultation With National Capital Memorial Commission

In considering legislation authorizing commemorative works in the District of Columbia and its environs, the Committee on House Administration of the House of Representatives and the Committee on Energy and Natural Resources of the Senate shall solicit the views of the National Capital Memorial Commission.

(e) Expiration of Legislative Authority

Legislative authority for a commemorative work expires at the end of the seven-year period beginning on the date the authority is enacted unless the Secretary of the Interior or Administrator of General Services, as appropriate, has issued a construction permit for the commemorative work during that period.

§ 8904. National Capital Memorial Commission **1125**

(a) Establishment and Composition

There is a National Capital Memorial Commission. The membership of the Commission consists of—

(1) the Director of the National Park Service;

(2) the Architect of the Capitol;

(3) the Chairman of the American Battle Monuments Commission;

(4) the Chairman of the Commission of Fine Arts;

(5) the Chairman of the National Capital Planning Commission;

(6) the Mayor of the District of Columbia;

(7) the Commissioner of the Public Buildings Service of the General Services Administration; and

(8) the Secretary of Defense.

(b) Chairman

The Director is the Chairman of the National Capital Memorial Commission.

(c) Advisory Role

The National Capital Memorial Commission shall advise the Secretary of the Interior and the Administrator of General Services on policy and procedures for establishment of, and proposals to establish, commemorative works in the District of Columbia and its environs and on other matters concerning commemorative works in the Nation's Capital as the Commission considers appropriate.

(d) Meetings

The National Capital Memorial Commission shall meet at least twice annually.

1126 § 8905. Site and design approval

(a) Consultation on, and Submission of, Proposals

A person authorized by law to establish a commemorative work in the District of Columbia and its environs may request a permit for construction of the commemorative work only after the following requirements are met:

(1) Consultation.—The person must consult with the National Capital Memorial Commission regarding the selection of alternative sites and designs for the commemorative work.

(2) Submittal.—Following consultation in accordance with clause (1), the Secretary of the Interior or the Administrator of General Services, as appropriate, must submit, on behalf of the person, site and design proposals to the Commission of Fine Arts and the National Capital Planning Commission for their approval.

(b) Decision Criteria

In considering site and design proposals, the Commission of Fine Arts, National Capital Planning Commission, Secretary, and Administrator shall be guided by, but not limited by, the following criteria:

(1) Surroundings.—To the maximum extent possible, a commemorative work shall be located in surroundings that are relevant to the subject of the work.

(2) Location.—A commemorative work shall be located so that—

(A) it does not interfere with, or encroach on, an existing commemorative work; and

(B) to the maximum extent practicable, it protects open space and existing public use.

(3) Material.—A commemorative work shall be constructed of durable material suitable to the outdoor environment.

(4) Landscape features.—Landscape features of commemorative works shall be compatible with the climate.

§ 8906. Criteria for issuance of construction permit 1127

(a) Criteria for Issuing Permit

Before issuing a permit for the construction of a commemorative work in the District of Columbia and its environs, the Secretary of the Interior or Administrator of General Services, as appropriate, shall determine that—

(1) the site and design have been approved by the Secretary or Administrator, the National Capital Planning Commission and the Commission of Fine Arts;

(2) knowledgeable individuals qualified in the field of preservation and maintenance have been consulted to determine structural soundness and durability of the commemorative work and to ensure that the commemorative work meets high professional standards;

(3) the person authorized to construct the commemorative work has submitted contract documents for construction of the commemorative work to the Secretary or Administrator; and

(4) the person authorized to construct the commemorative work has available sufficient amounts to complete construction of the project.

(b) Donation for Perpetual Maintenance and Preservation

(1) Amount.—In addition to the criteria described in subsection (a), a construction permit may not be issued unless the person authorized to construct the commemorative work has donated an amount equal to 10 percent of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation of the commemorative work. The amounts shall be credited to a separate account in the Treasury.

(2) Availability.—The Secretary of the Treasury shall make any part of the donated amount available to the Secretary of the Interior or Administrator for maintenance at the request of the Secretary of the Interior or Administrator. The Secretary of the Interior or Administrator shall not request more from the separate account than the total amount deposited by persons establishing commemorative works in areas the Secretary of the Interior or Administrator administers.

(3) Inventory of available amounts.—The Secretary of the Interior and Administrator shall maintain an inventory of amounts available under this subsection. The amounts are not subject to annual appropriations.

(4) Nonapplicability.—This subsection does not apply when a department or agency of the Federal Government constructs the work and less than 50 percent of the funding for the work is provided by private sources.

(c) Suspension for Misrepresentation in Fundraising

The Secretary of the Interior or Administrator may suspend any activity under this chapter that relates to the establishment of a commemorative work if the Secretary or Administrator determines that fundraising efforts relating to the work have misrepresented an affiliation with the work or the Federal Government.

(d) Annual Report

The person authorized to construct a commemorative work under this chapter must submit to the Secretary of the Interior or Administrator an annual report of operations, including financial statements audited by an independent certified public accountant. The person shall pay for the report.

1128 § 8907. Temporary site designation

(a) Criterion for Designation

If the Secretary of the Interior, in consultation with the National Capital Memorial Commission, determines that a site where commemorative works may be displayed on a temporary basis is necessary to aid in the preservation of the limited amount of open space available to residents of, and visitors to, the Nation's Capital, a site may be designated on land the Secretary administers in the District of Columbia.

(b) Plan

A designation may be made under subsection (a) only if, at least 120 days before the designation, the Secretary, in consultation with the Commission, prepares and submits to Congress a plan for the site. The plan shall include specifications for the location, construction, and administration of the site and criteria for displaying commemorative works at the site.

(c) Risk and Agreement To Indemnify

A commemorative work displayed at the site shall be installed, maintained, and removed at the sole expense and risk of the person authorized to display the work. The person shall agree to indemnify the United States for any liability arising from the display of the commemorative work under this section.

1129 § 8908. Areas I and II

(a) Availability of Map

The Secretary of the Interior and Administrator of General Services shall make available, for public inspection at appropriate offices of the National Park Service and the General Services Administration, the map numbered 869/86501, and dated May 1, 1986.

(b) Specific Conditions Applicable to Area I and Area II

(1) Area I.—After seeking the advice of the National Capital Memorial Commission, the Secretary or Administrator, as appropriate, may recommend the location of a commemorative work in Area I only if the Secretary or Administrator decides that the subject of the commemorative work is of preeminent historical and lasting significance to the United States. The Secretary or Administrator shall notify the Commission, the Committee on House Administration of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate of the recommendation that a commemorative work should be located in Area I. The location of a commemorative work in Area I is deemed to be authorized only if the recommendation is approved by law not later than 150 calendar days after the notification.

(2) Area II.—Commemorative works of subjects of lasting historical significance to the American people may be located in Area II.

§ 8909. Administrative 1130

(a) Maintenance of Documentation of Design and Construction

Complete documentation of design and construction of each commemorative work located in the District of Columbia and its environs shall be provided to the Secretary of the Interior or Administrator of General Services, as appropriate, and shall be permanently maintained in the manner provided by law.

(b) Responsibility for Maintenance of Completed Work

On completion of any commemorative work in the District of Columbia and its environs, the Secretary or Administrator, as appropriate, shall assume responsibility for maintaining the work.

(c) Regulations or Standards

The Secretary and Administrator shall prescribe appropriate regulations or standards to carry out this chapter.

TITLE 41.—PUBLIC CONTRACTS

Chapter 1.—GENERAL PROVISIONS

1131 § 6a–1. Architect of the Capitol, exception from advertisement requirement.

On and after July 27, 1965, the purchase of supplies and equipment and the procurement of services for all branches under the Architect of the Capitol may be made in the open market without compliance with section 5 of this title in the manner common among businessmen, when the aggregate amount of the purchase or the service does not exceed $25,000 in any instance. (As amended Pub. L. 93–356, § 2, July 25, 1974, 88 Stat. 390, Pub. L. 98–191 § 9(c), Dec. 1, 1983, 98 Stat. 1332.)

1132 § 6a–2. Architect of the Capitol, authority for personal services contracts with legal entities.

Notwithstanding any other provision of law, the Architect of the Capitol is authorized to contract for personal services with any firm, partnership, corporation, association, or other legal entity in the same manner as he is authorized to contract for personal services with individuals under the provisions of section 5 of this title. (Pub. L. 96–558, Dec. 19, 1980, 94 Stat. 3263.)

1133 § 22. Interest of Member of Congress.

No member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon. (R.S. § 3741; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 249; Jan. 25, 1934, ch. 5, 48 Stat. 337; June 27, 1934, ch. 847, Title V, § 510, 48 Stat. 1264; Aug. 26, 1937, ch. 821, 50 Stat. 838; Oct. 13, 1994, Pub. L. 103–355, § 6004, 108 Stat. 3364.)

NOTE

Section 903 of the Supplemental Appropriations Act, 1983, provided the following:

SEC. 903. (a) Notwithstanding any provision to the contrary in any contract which is entered into by any person and either the Administrator of General Services or a contracting officer of any executive agency and under which such person agrees to sell or lease to the Federal Government (or any one or more entities thereof) any unit of property, supplies, or services at a specified price or under specified terms and conditions (or both), such person may sell or lease to the Congress the same type of such property, supplies, or services at a unit price or under terms and conditions (or both) which are different from those specified in such contract; and any such sale or lease of any unit or units of such property, supplies, or services to the Congress shall not be taken into account for the purpose of determining the price at which, or the terms and conditions under which, such person is obligated under such contract to sell or lease any unit of such property, supplies, or services to any entity of the Federal Government other than the Congress. For purposes of the preceding sentence, any sale or lease of property, supplies, or services to the Senate (or any office or instrumen-

tality thereof), or to the House of Representatives (or any office or instrumentality thereof) shall be deemed to be a sale or lease of such property, supplies, or services to the Congress.

(b) The provisions of this section shall take effect with respect to sales or leases of property, supplies, or services to the Congress after July 29, 1983.

TITLE 42.—THE PUBLIC HEALTH AND WELFARE

Chapter 126.—EQUAL OPPORTUNITY FOR INDIVIDUALS WITH DISABILITIES

* * * * * * *

1135 § 12209. Instrumentalities of the Congress.

The General Accounting Office, the Government Printing Office, and the Library of Congress shall be covered as follows:

(1) In general

The rights and protections under this chapter shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) Establishment of remedies and procedures by instrumentalities

The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1).

(3) Report to Congress

The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) Definition of instrumentalities

For purposes of this section, the term "instrumentality of the Congress" means the following: the General Accounting Office, the Government Printing Office, and the Library of Congress.

(5) Enforcement of employment rights

The remedies and procedures set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) shall be available to any employee of an instrumentality of the Congress who alleges a violation of the rights and protections under sections 102 through 104 of this Act that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.

(6) Enforcement of rights to public services and accommodations

The remedies and procedures set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) shall be available to any qualified person with a disability who is a visitor, guest, or patron of an instrumentality of Congress and who alleges a violation of the rights and protections under sections 201 through 230 or section 302 or 303 of this Act that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.

(7) Construction.

Nothing in this section shall alter the enforcement procedures for individuals with disabilities provided in the General Accounting Office Personnel Act of 1980 [31 U.S.C.A. § 731 et seq.] and regulations promulgated pursuant to that Act. (Pub. L. 101–336, Title V, § 509, July 26, 1990, 104 Stat. 373; Pub. L. 102–166, Title III, § 315, Nov. 21, 1991, 105 Stat. 1095; Pub. L. 104–1, § 201, Jan. 23, 1995, 109 Stat. 8, 16.)

TITLE 44.—PUBLIC PRINTING AND DOCUMENTS

Chapter 1.—JOINT COMMITTEE ON PRINTING

1139 § 101. Joint Committee on Printing: membership.

The Joint Committee on Printing shall 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. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1238; Feb. 17, 1981, Pub. L. 97–4, 95 Stat. 6; Pub. L. 104–186, Title II, § 223(1), Aug. 20, 1996, 110 Stat. 1751.)

1140 § 102. Joint Committee on Printing: succession; powers during recess.

The members of the Joint Committee on Printing who are reelected to the succeeding Congress shall continue as members of the committee until their successors are chosen. The President of the Senate and the Speaker of the House of Representatives shall, on the last day of a Congress, appoint members of their respective Houses who have been elected to the succeeding Congress to fill vacancies which may then be about to occur on the Committee, and the appointees and members of the Committee who have been reelected shall continue until their successors are chosen.

When Congress is not in session, the Joint Committee may exercise all its powers and duties as when Congress is in session. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1238.)

1141 § 103. Joint Committee on Printing: remedial powers.

The Joint Committee on Printing may use any measures it considers necessary to remedy neglect, delay, duplication, or waste in the public printing and binding and the distribution of Government publications. (Oct. 2, 1968, Pub. L. 90–620, 82 Stat. 1239.)

Chapter 3.—GOVERNMENT PRINTING OFFICE

1142 § 301. Public Printer: appointment.

The President of the United States shall nominate and, by and with the advice and consent of the Senate, appoint a suitable person, who must be a practical printer and versed in the art of bookbinding, to take charge of and manage the Government Printing Office. His title shall be Public Printer. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1239; June 6, 1972, Pub. L. 92–310, § 210(a) (1), (2), 86 Stat. 204.)

1143 § 302. Deputy Public Printer: appointment; duties.

The Public Printer shall appoint a suitable person, who must be a practical printer and versed in the art of bookbinding, to be the Deputy Public Printer. He shall perform the duties formerly required of the chief clerk, supervise the buildings occupied by the Government Printing

Office, and perform any other duties required of him by the Public Printer. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1239.)

§ 303. Public Printer and Deputy Public Printer: pay. **1144**

The annual rate of pay for the Public Printer shall be a rate which is equal to the rate for level III of the Executive Schedule of subchapter II of chapter 53 of title 5. The annual rate of pay for the Deputy Public Printer shall be a rate which is equal to the rate for level IV of such Executive Schedule. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1239; Aug. 9, 1975, Pub. L. 94–82, § 204(c)(1), 89 Stat. 421; Pub. L. 101–520, Title II, 5209, Nov. 5, 1990, 104 Stat. 2274.)

§ 304. Public Printer: vacancy in office. **1145**

In case of the death, resignation, absence, or sickness of the Public Printer, the Deputy Public Printer shall perform the duties of the Public Printer until a successor is appointed or his absence or sickness ceases; but the President may direct any other officer of the Government, whose appointment is vested in the President by and with the advice and consent of the Senate, to perform the duties of the vacant office until a successor is appointed, or the sickness or absence of the Public Printer ceases. A vacancy occasioned by death or resignation may not be filled temporarily under this section for longer than ten days, and a temporary appointment, designation, or assignment of another officer may not be made except to fill a vacancy happening during a recess of the Senate. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1239.)

§ 305. Public Printer: employees; pay. **1146**

(a) The Public Printer may employ journeymen, apprentices, laborers, and other persons necessary for the work of the Government Printing Office at rates of wages and salaries, including compensation for night and overtime work, he considers for the interest of the Government and just to the persons employed, except as otherwise provided by this section. He may not employ more persons than the necessities of the public work require nor more than four hundred apprentices at one time. The minimum pay of journeymen printers, pressmen, and bookbinders employed in the Government Printing Office shall be at the rate of 90 cents an hour for the time actually employed. Except as provided by the preceding part of this section the rate of wages, including compensation for night and overtime work, for more than ten employees of the same occupation shall be determined by a conference between the Public Printer and a committee selected by the trades affected, and the rates and compensation so agreed upon shall become effective upon approval by the Joint Committee on Printing. When the Public Printer and the committee representing a trade fail to agree as to wages, salaries, and compensation, either party may appeal to the Joint Committee on Printing, and the decision of the Joint Committee is final. The wages, salaries, and compensation so determined are not subject to change oftener than once a year.

(b) The Public Printer may grant an employee paid on an annual basis compensatory time off from duty instead of overtime pay for overtime work. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1240; Dec. 26, 1969, Pub. L. 91–167, 83 Stat. 453; July 31, 1970, Pub. L. 91–369, 84 Stat. 693.)

Chapter 5.—PRODUCTION AND PROCUREMENT OF PRINTING AND BINDING

1147 § 501. Government printing, binding, and blank-book work to be done at Government Printing Office.

All printing, binding, and blank-book work for Congress, the Executive Office, the Judiciary, other than the Supreme Court of the United States, and every executive department, independent office and establishment of the Government, shall be done at the Government Printing Office, except—

(1) classes of work the Joint Committee on Printing considers to be urgent or necessary to have done elsewhere; and

(2) printing in field printing plants operated by an executive department, independent office or establishment, and the procurement of printing by an executive department, independent office or establishment from allotments for contract field printing, if approved by the Joint Committee on Printing.

Printing or binding may be done at the Government Printing Office only when authorized by law. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1243.) (Note: See *Immigration and Naturalization Service* v. *Chadha* (1983; 462 U.S. 919; 103 S.Ct. 2764) relating to similar legislative veto provisions found unconstitutional.)

1148 § 502. Procurement of printing, binding, and blank-book work by Public Printer.

Printing, binding, and blank-book work authorized by law, which the Public Printer is not able or equipped to do at the Government Printing Office, may be produced elsewhere under contracts made by him with the approval of the Joint Committee on Printing. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1243.) (Note: See *Immigration and Naturalization Service* v. *Chadha* (1983; 462 U.S. 919; 103 S.Ct. 2764) relating to similar legislative veto provisions found unconstitutional.)

1149 § 506. Time for printing documents or reports which include illustrations or maps.

A document or report to be illustrated or accompanied by maps may not be printed by the Public Printer until the illustrations or maps designed for it are ready for publication. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1244.)

1150 § 507. Orders for printing to be acted upon within one year.

An order for public printing may not be acted upon by the Public Printer after the expiration of one year unless the entire copy and illustrations for the work have been furnished within that period. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1244.)

1151 § 508. Annual estimates of quantity of paper required for public printing and binding.

At the beginning of each session of Congress, the Public Printer shall submit to the Joint Committee on Printing estimates of the quantity of paper of all descriptions required for the public printing and binding during the ensuing year. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1244.)

Chapter 7.—CONGRESSIONAL PRINTING AND BINDING

§ 701. "Usual number" of documents and reports; distribution of House and Senate documents and reports; binding; reports on private bills; number of copies printed; distribution.[1] 1152

(a) The order by either House of Congress to print a document or report shall signify the "usual number" of copies for binding and distribution among those entitled to receive them. A greater number may not be printed unless ordered by either House, or as provided by this section. When a special number of a document or report is ordered printed, the usual number shall also be printed, unless already ordered.

(b) The "usual number" of documents and reports shall be one thousand six hundred and eighty-two copies, which shall be printed at one time and distributed as follows:

Of the House documents and reports, unbound—to the Senate document room, one hundred and fifty copies; to the office of the Secretary of the Senate, ten copies; to the House document room, not to exceed five hundred copies; to the office of the Clerk of the House of Representatives, twenty copies; to the Library of Congress, ten copies, as provided by section 1718 of this title.

Of the Senate documents and reports, unbound—to the Senate document room, two hundred and twenty copies; office of the Secretary of the Senate, ten copies; to the House document room, not to exceed five hundred copies; to the Clerk's office of the House of Representatives, ten copies; to the Library of Congress, ten copies, as provided by section 1718 of this title.

(c) Of the number printed, the Public Printer shall bind a sufficient number of copies for distribution as follows:

Of the House documents and reports, bound—to the Senate library, fifteen copies; to the Library of Congress, not to exceed one hundred and fifty copies, as provided by section 1718 of this title; to the House of Representatives library, fifteen copies; to the Superintendent of Documents, as many copies as are required for distribution to the State libraries and designated depositories.

Of the Senate documents and reports, bound—to the Senate library, fifteen copies; to the Library of Congress, copies as provided by sections 1718 and 1719 of this title; to the House of Representatives library, fifteen copies; to the Superintendent of Documents, as many copies as may be required for distribution to State libraries and designated depositories. In binding documents the Public Printer shall give precedence to those that are to be distributed to libraries and to designated depositories. But a State library or designated depository entitled to documents that may prefer to have its documents in unbound form, may do so by notifying the Superintendent of Documents to that effect prior to the convening of each Congress.

(d) The usual number of reports on private bills, concurrent or simple resolutions, may not be printed. Instead there shall be printed of each

[1] The number of copies to be printed or the distribution thereof as specified in sections 701, 706, 713, 721, 723, 726, 906, 1339, and 1718 of title 44, United States Code, have been changed by the Joint Committee on Printing under authority of section 103 of title 44 (Senate Manual section **1141**), or as a result of sequestrations of funds mandated by Pub. L. 99–177, the Balanced Budget and Emergency Deficit Control Act of 1985. For current regulations, consult the Joint Committee on Printing.

Senate report on a private bill, simple or concurrent resolution, in addition to those required to be furnished the Library of Congress, three hundred and forty-five copies, which shall be distributed as follows: to the Senate document room, two hundred and twenty copies; to the Secretary of the Senate, fifteen copies; to the House document room, one hundred copies; to the Superintendent of Documents, ten copies; and of each House report on a private bill, simple or concurrent resolution, in addition to those for the Library of Congress, two hundred and sixty copies, which shall be distributed as follows: to the Senate document room, one hundred and thirty-five copies; to the Secretary of the Senate, fifteen copies; to the House document room, one hundred copies; to the Superintendent of Documents, ten copies.

This section does not prevent the binding of all Senate and House reports in the reserve volumes bound for and delivered to the Senate and House libraries, nor abridge the right of the Vice President, Senators, Representatives, Resident Commissioner, Secretary of the Senate, and Clerk of the House to have bound in half morocco, or material not more expensive, one copy of every public document to which he may be entitled. At least twelve copies of each report on bills for the payment or adjudication of claims against the Government shall be kept on file in the Senate document room. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1246.)

CROSS REFERENCE

Distribution of Government publications to Library of Congress, see section 1718 of this title (Senate Manual section **1207**).

1153 § 702. Extra copies of documents and reports.

Copies in addition to the "usual number" of documents and reports shall be printed promptly when ready for publication, and may be bound in paper or cloth as the Joint Committee on Printing directs. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1247.)

1154 § 703. Printing extra copies.

Orders for printing copies in addition to the "usual number", otherwise than provided for by this section, shall be by simple, concurrent, or joint resolution. Either House may print extra copies to the amount of $1,200 by simple resolution; if the cost exceeds that sum, the printing shall be ordered by concurrent resolution, unless the resolution is self-appropriating, when it shall be by joint resolution. Resolutions, when presented to either House, shall be referred to the Committee on House Oversight of the House of Representatives or the Committee on Rules and Administration of the Senate, who, in making their report, shall give the probable cost of the proposed printing upon the estimate of the Public Printer; and extra copies may not be printed before the committee has reported. The printing of additional copies may be performed upon orders of the Joint Committee on Printing within a limit of $700 in cost in any one instance. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1247; Pub. L. 104–186; Title II, § 223(2), Aug. 20, 1996, 110 Stat. 1751.)

1155 § 704. Reprinting bills, laws, and reports from committees not exceeding fifty pages.

When the supply is exhausted, the Secretary of the Senate and the Clerk of the House of Representatives may order the reprinting of not

more than one thousand copies of a pending bill, resolution, or public law, not exceeding fifty pages, or a report from a committee or congressional commission on pending legislation not accompanied by testimony or exhibits or other appendices and not exceeding fifty pages. The Public Printer shall require each requisition for reprinting to cite the specific authority of law for its execution. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1248.)

§ 705. Duplicate orders to print. **1156**

The Public Printer shall examine the orders of the Senate and House of Representatives for printing, and in case of duplication shall print under the first order received. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1248.)

§ 706. Bills and resolutions: number and distribution.[1] **1157**

There shall be printed of each Senate and House public bill and joint resolution six hundred and twenty-five copies, which shall be distributed as follows:

to the Senate document room, two hundred and twenty-five copies;
to the office of Secretary of Senate, fifteen copies;
to the House document room, three hundred and eighty-five copies.

There shall be printed of each Senate private bill, when introduced, when reported, and when passed, three hundred copies, which shall be distributed as follows:

to the Senate document room, one hundred and seventy copies;
to the Secretary of the Senate, fifteen copies;
to the House document room, one hundred copies;
to the Superintendent of Documents, ten copies.

There shall be printed of each House private bill, when introduced, when reported, and when passed, two hundred and sixty copies, which shall be distributed as follows:

to the Senate document room, one hundred and thirty-five copies;
to the Secretary of the Senate, fifteen copies;
to the House document room, one hundred copies;
to the Superintendent of Documents, ten copies.

Bills and resolutions shall be printed in bill form, and, unless specially ordered by either House shall be printed only when referred to a committee, when favorably reported back, and after their passage by either House.

Of concurrent and simple resolutions, when reported, and after their passage by either House, only two hundred and sixty copies shall be printed, except by special order, and shall be distributed as follows:

to the Senate document room, one hundred and thirty-five copies;
to the Secretary of the Senate, fifteen copies;
to the House document room, one hundred copies;
to the Superintendent of Documents, ten copies. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1248.)

§ 707. Bills and resolutions: style and form. **1158**

Subject to sections 205 and 206 of Title 1, the Joint Committee on Printing may authorize the printing of a bill or resolution, with index and ancillaries, in the style and form the Joint Committee on Printing

[1] See footnote to Senate Manual section **1152**.

considers most suitable in the interest of economy and efficiency, and to so continue until final enactment in both Houses of Congress. The committee may also curtail the number of copies of bills or resolutions, including the slip form of a public Act or public resolution. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1248.)

1159 § 708. Bills and resolutions: binding sets for Congress.

The Public Printer shall bind four sets of Senate and House of Representatives bills, joint and concurrent resolutions of each Congress, two for the Senate and two for the House, to be furnished him from the files of the Senate and House document room, the volumes when bound to be kept there for reference. (Oct 22, 1968, Pub. L. 90–620, 82 Stat. 1249.)

1160 § 709. Public and private laws, postal conventions, and treaties.

The Public Printer shall print in slip form copies of public and private laws, postal conventions, and treaties, to be charged to the congressional allotment for printing and binding. The Joint Committee on Printing shall control the number and distribution of copies. (Oct 22, 1968, Pub. L. 90–620, 82 Stat. 1249.)

1161 § 711. Printing Acts, joint resolutions, and treaties.

The Public Printer, on receiving from the Archivist of the United States a copy of an Act or joint resolution, or from the Secretary of State, a copy of a treaty, shall print an accurate copy and transmit it in duplicate to the Archivist of the United States or to the Secretary of State, as the case may be, for revision. On the return of one of the revised duplicates, he shall make the marked corrections and print the number specified by section 709 of this title. (As amended Pub. L. 98–497, Title I, § 107(b)(1), Oct. 19, 1984, 98 Stat. 2286.)

1162 § 713. Journals of Houses of Congress.[1]

There shall be printed of the Journals of the Senate and House of Representatives eight hundred and twenty copies, which shall be distributed as follows:

to the Senate document room, ninety copies for distribution to Senators, and twenty-five additional copies;

to the Senate library, ten copies;

to the House document room, three hundred and sixty copies for distribution to Members, and twenty-five additional copies;

to the Department of State, four copies;

to the Superintendent of Documents, one hundred and forty-four copies to be distributed to three libraries in each of the States to be designated by the Superintendent of Documents; and

to the library of the House of Representatives, ten copies.

The remaining number of the Journals of the Senate and House of Representatives, consisting of twenty-five copies, shall be furnished to the Secretary of the Senate and the Clerk of the House of Representatives, respectively, as the necessities of their respective offices require, as rapidly as signatures are completed for distribution. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1249; Apr. 2, 1982, Pub. L. 97–164, § 158, 96 Stat. 47.)

[1] See footnote to Senate Manual section **1152**.

1163 **§ 714. Printing documents for Congress in two or more editions; printing of full number and allotment of full quota.**

The Joint Committee on Printing shall establish rules to be observed by the Public Printer, by which public documents and reports printed for Congress, or either House, may be printed in two or more editions, to meet the public requirements. The aggregate of the editions may not exceed the number of copies otherwise authorized. This section does not prevent the printing of the full number of a document or report, or the allotment of the full quota to Senators and Representatives, as otherwise authorized, when a legitimate demand for the full complement is known to exist. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1250.)

§ 715. Senate and House documents and reports for Department of State. 1164

The Public Printer shall print, in addition to the usual number, and furnish the Department of State twenty copies of each Senate and House of Representatives document and report. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1250.)

CROSS REFERENCES

For distribution of House and Senate documents and reports, see sections 701, 1718, and 1719 of this title (Senate Manual sections **1152, 1207,** and **1208**).

§ 716. Printing of documents not provided for by law. 1165

Either House may order the printing of a document not already provided for by law, when accompanied by an estimate from the Public Printer as to the probable cost. An executive department, bureau, board, or independent office of the Government submitting reports or documents in response to inquiries from Congress shall include an estimate of the probable cost of printing to the usual number. This section does not apply to reports or documents not exceeding fifty pages. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1250.)

§ 717. Appropriation chargeable for printing of document or report by order of Congress. 1166

The cost of the printing of a document or report printed by order of Congress which, under section 1107 of this title, cannot be properly charged to another appropriation or allotment of appropriation already made, upon order of the Joint Committee on Printing, shall be charged to the allotment of appropriation for printing and binding for Congress. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1250.)

§ 718. Lapse of authority to print. 1167

The authority to print a document or report, or a publication authorized by law to be printed, for distribution by Congress, shall lapse when the whole number of copies has not been ordered within two years from the date of the original order, except orders for subsequent editions, approved by the Joint Committee on Printing, in which case the whole number may not exceed that originally authorized by law. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1250.)

1168 § 719. Classification and numbering of publications ordered printed by Congress; designation of publications of departments; printing of committee hearings.

Publications ordered printed by Congress, or either House, shall be in four series, namely:

one series of reports made by the committees of the Senate, to be known as Senate reports;

one series of reports made by the committees of the House of Representatives, to be known as House reports;

one series of documents other than reports of committees, the orders for printing which originate in the Senate, to be known as Senate documents, and

one series of documents other than committee reports, the orders for printing which originate in the House of Representatives, to be known as House documents.

The publications in each series shall be consecutively numbered, the numbers in each series continuing in unbroken sequence throughout the entire term of a Congress, but these provisions do not apply to the documents printed for the use of the Senate in executive session. Of the "usual number", the copies which are intended for distribution to State libraries and other designated depositories of annual or serial publications originating in or prepared by an executive department, bureau, office, commission, or board may not be numbered in the document or report series of either House of Congress, but shall be designated by title and bound as provided by section 738 of this title; and the departmental edition, if any, shall be printed concurrently with the "usual number". Hearings of committees may be printed as congressional documents only when specifically ordered by Congress or either House. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1250.)

1169 § 720. Senate and House Manuals.

Each House may order printed as many copies as it desires, of the Senate Manual and of the Rules and Manual of the House of Representatives, even though the cost exceed $500. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1251.)

1170 § 721. Congressional Directory.[1]

(a) There shall be prepared under the direction of the Joint Committee on Printing (1) a Congressional Directory, which shall be printed and distributed as early as practicable during the first session of each Congress and (2) a supplement to each Congressional Directory, which shall be printed and distributed as early as practicable during the second regular session of each Congress. The Joint Committee shall control the number and distribution of the Congressional Directory and each supplement.

(b) One copy of the Congressional Directory delivered to Members of the Senate and the House of Representatives (including Delegates and the Resident Commissioner) shall be bound in cloth and imprinted on the cover with the name of the Member. Copies of the Congressional Directory delivered to depository libraries may be bound in cloth. All other copies of the Congressional Directory shall be bound in paper and names shall not be imprinted thereon, except that copies printed

[1] See footnote to Senate Manual section **1152.**

for sale under section 722 may be bound in cloth. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1251; Aug. 5, 1977, Pub. L. 95–94, § 404, 91 Stat. 682.)

§ 722. Congressional Directory: sale. **1171**

The Public Printer, under the direction of the Joint Committee on Printing, may print the current Congressional Directory for sale at a price sufficient to reimburse the expense of printing. The money derived from sales shall be paid into the Treasury and accounted for in his annual report to Congress, and sales may not be made on credit. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1251.)

§ 723. Memorial addresses; preparation; distribution.[1] **1172**

After the final adjournment of each session of Congress, there shall be compiled, prepared, printed with illustrations, and bound in cloth in one volume, in the style, form, and manner directed by the Joint Committee on Printing, without extra compensation to any employee, the legislative proceedings of Congress and the exercises at the general memorial services held in the House of Representatives during each session relative to the death of a Member of Congress or a former Member of Congress who served as speaker, together with all relevant memorial addresses and eulogies published in the Congressional Record during the same session of Congress, and any other matter the Joint Committee considers relevant; and there shall be printed as many copies as needed to supply the total quantity provided for by this section, of which fifty copies, bound in full morocco, with gilt edges, suitably lettered as may be requested, shall be delivered to the family of the deceased, and the remaining copies shall be distributed as follows:

of all eulogies on deceased Members of Congress to the Vice President and each Senator, Representative, and Resident Commissioner in Congress, one copy;

of the eulogies on deceased Senators there shall be furnished two hundred and fifty copies for each Senator of the State represented by the deceased and twenty copies for each Representative from that State;

of the eulogies on a deceased Representative and Resident Commissioner two hundred and fifty copies for his successor in office; twenty copies for each of the other Representatives, or Resident Commissioner of the State, or insular possession represented by the deceased; and twenty copies for each Senator from that State.

The "usual number" of memorial addresses may not be printed. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1251; Oct. 1, 1981, Pub. L. 97–51, § 101(c), 95 Stat. 959.)

[1] See footnote to Senate Manual section **1152.** Title VIII of Public Law 94–59, § 801 July 25, 1975, 89 Stat. 296, provides in part as follows: "Hereafter, appropriations for authorized printing and binding for Congress shall not be available under the authority of section 723 of title 44 of the United States Code for the printing, publication, and distribution of more than fifty bound eulogies to be delivered to the family of the deceased, and in the case of a deceased Senator or deceased Representative (including Delegates to Congress and the Resident Commissioner from Puerto Rico), there shall be furnished to his successor in office two hundred and fifty copies.".

1173 § 724. Memorial addresses: illustrations.

The illustrations to accompany bound copies of memorial addresses delivered in Congress shall be made at the Bureau of Engraving and Printing and paid for out of the appropriation for that bureau, or, in the discretion of the Joint Committee on Printing, shall be obtained elsewhere by the Public Printer and charged to the allotment for printing and binding for Congress. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1252.)

1174 § 725. Statement of appropriations; "usual number".

Of the statements of appropriations required to be prepared by section 105 of Title 2, there shall be printed, after the close of each regular session of Congress, the usual number of copies. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1252.)

1175 § 726. Printing for committees for Congress.[1]

A Committee of Congress may not procure the printing of more than one thousand copies of a hearing, or other document germane thereto, for its use except by simple, concurrent, or joint resolution, as provided by section 703 of this title. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1252.)

1176 § 727. Committee reports: indexing and binding.

The Secretary of the Senate and the Clerk of the House of Representatives shall procure and file for the use of their respective House copies of all reports made by committees, and at the close of each session of Congress shall have the reports indexed and bound, one copy to be deposited in the library of each House and one copy in the committee from which the report emanates. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1252.)

1177 § 728. United States Statutes at Large: distribution.[2]

The Public Printer, after the final adjournment of each regular session of Congress, shall print and bind copies of the United States Statutes at Large, to be charged to the congressional allotment for printing and binding. The Joint Committee on Printing shall control the number and distribution of the copies.

The Public Printer shall print and, after the end of each calendar year, bind and deliver to the Superintendent of Documents a number of copies of the United States Treaties and Other International Agreements not exceeding the number of copies of the United States Statutes at Large required for distribution in the manner provided by law. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1252.)

1178 § 730. Distribution of documents to Members of Congress.

When, in the division among Senators, and Representatives, of documents printed for the use of Congress there is an apportionment to each or either House in round numbers, the Public Printer may not

[1] See footnote to Senate Manual section **1152**.

[2] Title X of Pub. L. 94–440, § 1000, Oct. 1, 1976, 90 Stat. 1459, provides in part as follows: "Hereafter, notwithstanding any other provisions of law, appropriations for the automatic distribution to Senators and Representatives (including Delegates to Congress and the Resident Commissioner from Puerto Rico) of copies of the United States Statutes at Large shall not be available with respect to any Senator or Representative unless such Senator or Representative specifically, in writing, requests that he receive copies of such document.".

deliver the full number so accredited at the Senate Service Department and House of Representatives Publications Distribution Service, but only the largest multiple of the number constituting the full membership of that House, including the Secretary and Sergeant at Arms of the Senate and Clerk and Sergeant at Arms of the House, which is contained in the round numbers thus accredited to that House, so that the number delivered divides evenly and without remainder among the Members of the House to which they are delivered; and the remainder of the documents thus resulting shall be turned over to the Superintendent of Documents, to be distributed by him, first, to public and school libraries for the purpose of completing broken sets; second, to public and school libraries that have not been supplied with any portions of the sets, and, lastly, by sale to other persons; the libraries to be named to him by Senators and Representatives; and in this distribution the Superintendent of Documents, as far as practicable, shall make an equal allowance to each Senator and Representative. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1253; Pub. L. 104–186, Title II, § 223(3), Aug. 20, 1996, 110 Stat. 1751.)

§ 731. Allotments of public documents printed after expiration of terms of Members of Congress; rights of retiring Members to documents. 1179

The Congressional allotment of public documents, other than the Congressional Record, printed after the expiration of the term of office of the Vice President of the United States, or Senator, Representative, or Resident Commissioner, shall be delivered to his successor in office.

Unless the Vice President of the United States, a Senator, Representative, or Resident Commissioner, having public documents to his credit at the expiration of his term of office takes them prior to the 30th day of June next following the date of expiration, he shall forfeit them to his successor in office. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1253.)

§ 732. Time for distribution of documents by Members of Congress extended. 1180

Reelected Members may distribute public documents to their credit, or the credit of their respective districts in the Interior or other Departments and bureaus, and in the Government Printing Office, during their successive terms and until their right to frank documents ends. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1253.)

§ 733. Documents and reports ordered by Members of Congress; franks and envelopes for Members of Congress. 1181

The Public Printer on order of a Member of Congress, on prepayment of the cost, may reprint documents and reports of committees together with the evidence papers submitted, or any part ordered printed by the Congress.

He may also furnish without cost to Members and the Resident Commissioner from Puerto Rico, blank franks printed on sheets and perforated, or singly at their option, for public documents. Franks shall contain in the upper left-hand corner the following words: "Public document. United States Senate" or "House of Representatives U.S." and in upper right-hand corner the letters "U.S.S." or "M.C." Franks may also contain information relating to missing children as provided in section 3220 of title 39. But he may not print any other words except

where it is desirable to affix the official title of a document. Other words printed on franks shall be at the personal expense of the Member or Resident Commissioner ordering them.

At the request of a Member of Congress or Resident Commissioner the Public Printer may print upon franks or envelopes used for mailing public documents the facsimile signature of the Member or Resident Commissioner and a special request for return if not called for, and the name of the State or Commonwealth and county and city. The Member or Resident Commissioner shall deposit with his order the extra expense involved in printing these additional words.

The Public Printer may also, at the request of a Member or Resident Commissioner, print on envelopes authorized to be furnished, the name of the Member or Resident Commissioner, and State or Commonwealth, the date, and the topic or subject matter, not exceeding twelve words.

The Public Printer shall deposit moneys accruing under this section in the Treasury of the United States to the credit of the appropriation made for the working capital of the Government Printing Office for the year in which the work is done. He shall account for them in his annual report to Congress. (As amended Pub. L. 93–191, § 8(a), Dec. 18, 1973, 87 Stat. 745; Pub. L. 93–255, § 2(b), Mar. 27, 1974, 88 Stat. 52; Pub. L. 99–87, § 1(c)(2), Aug. 9, 1958, 99 Stat. 291.)

1182 § 734. Stationery and blank books for Congress.

Upon requisition of the Secretary of the Senate and the Clerk of the House of Representatives, respectively, the Public Printer shall furnish stationery, blank books, tables, forms, and other necessary papers preparatory to congressional legislation, required for the official use of the Senate and the House of Representatives, or their committees and officers. This does not prevent the purchase by the officers of the Senate and House of Representatives of stationery and blank books necessary for sales to Senators and Members in the stationery rooms of the two Houses as provided by law. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1254.)

1183 § 735. Binding for Senators.[1]

Each Senator is entitled to the binding in half morocco, or material not more expensive, of one copy of each public document to which he is entitled, an account of which shall be kept by the Secretary of the Senate. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1254; Pub. L. 104–186, Title II, § 223(4)(A), Aug. 20, 1996, 110 Stat. 1751.)

1184 § 736. Binding at expense of Members of Congress.

The Public Printer may bind at the Government Printing Office books, maps, charts, or documents published by authority of Congress, upon

[1] The rebinding of clothbound books has been prohibited by the Joint Committee on Printing under authority of section 103 of title 44, United States Code (Senate Manual section **1141**).

Title VIII of Pub. L. 94–59, § 801, July 25, 1975, 89 Stat. 296, provides in part as follows: "Hereafter, notwithstanding any other provisions of law, appropriations for the binding of copies of public documents by Committees for distribution to Senators and Representatives (including Delegates to Congress and the Resident Commissioner from Puerto Rico) shall not be available for a Senator or Representative unless such Senator or Representative specifically, in writing, requests that he receive bound copies of any such documents.".

application of a Member of Congress, and payment of the actual cost of binding. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1254.)

§ 737. Binding for Senate library.[1] **1185**

The Secretary of the Senate may make requisition upon the Public Printer for the binding for the Senate library of books he considers necessary, at a cost not to exceed $200 per year. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1254.)

§ 738. Binding of publications for distribution to libraries. **1186**

The Public Printer shall supply the Superintendent of Documents with sufficient copies of publications distributed in unbound form, to be bound and distributed to the State libraries and other designated depositories for their permanent files. Every publication of sufficient size on any one subject shall be bound separately and receive the title suggested by the subject of the volume, and the others shall be distributed in unbound form as soon as printed. The library edition, as well as all other bound sets of congressional numbered documents and reports, shall be arranged in volumes and bound in the manner directed by the Joint Committee on Printing. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1254.)

§ 739. Senate and House document rooms; superintendents. **1187**

There shall be one document room of the Senate and one of the House of Representatives, to be designated, respectively, the "Senate and House document room." Each shall be in charge of a superintendent, who shall be appointed by the Secretary of the Senate and the Clerk of the House, respectively, together with the necessary assistants. The Senate document room shall be under the jurisdiction of the Secretary of the Senate. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1254; Pub. L. 104–186, Title II, § 223(5), Aug. 20, 1996, 110 Stat. 1751.)

§ 740. Senate Service Department and House Publications Distribution Service; superintendents. **1188**

There shall be a Senate Service Department and a House of Representatives Publications Distribution Service in the charge of superintendents, appointed respectively by the Sergeant at Arms of the Senate and Chief Administrative Officer of the House of Representatives, together with the necessary assistants. Reports or documents to be distributed for the Senators and Representatives shall be folded and distributed from the Senate Service Department and House of Representatives Publications Distribution Service, unless otherwise ordered, and the respective superintendent shall notify each Senator and Representative in writing once every sixty days of the number and character of publications on hand and assigned to him for use and distribution. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1255; Pub. L. 104–186, Title II, § 223(6), Aug. 20, 1996, 110 Stat. 1751.)

§ 741. Disposition of documents stored at Capitol. **1189**

The Secretary and Sergeant at Arms of the Senate and the Clerk and Doorkeeper of the House of Representatives, at the convening in regular session of each successive Congress shall cause an invoice to be made of public documents stored in and about the Capitol, other

[1] The ceiling of $200 per year for binding for the Senate library has been removed by the Joint Committee on Printing under authority of section 103 of title 44, United States Code (Senate Manual section **1141**).

than those belonging to the quota of Members of Congress, to the Library of Congress and the Senate and House libraries and document rooms. The superintendents of the Senate Service Department and House of Representatives Publications Distribution Service shall put the documents to the credit of Senators and Representatives in quantities equal in the number of volumes and as nearly as possible in value, to each Member of Congress, and the documents shall be distributed upon the orders of Senators and Representatives, each of whom shall be supplied by the superintendents of the Senate Service Department and House of Representatives Publications Distribution Service with a list of the number and character of the publications thus put to his credit, but before apportionment is made copies of any of these documents desired for the use of a committee of either House shall be delivered to the chairman of the committee.

Four copies of leather-bound documents shall be reserved and carefully stored, to be used in supplying deficiencies in the Senate and House libraries caused by wear or loss. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1255.)

Chapter 9.—CONGRESSIONAL RECORD

1190 § 901. Congressional Record: arrangement, style, contents, and indexes.

The Joint Committee on Printing shall control the arrangement and style of the Congressional Record, and while providing that it shall be substantially a verbatim report of proceedings, shall take all needed action for the reduction of unnecessary bulk. It shall provide for the publication of an index of the Congressional Record semimonthly during and at the close of sessions of Congress. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1255.)

1191 § 902. Congressional Record: indexes.

The Joint Committee on Printing shall designate to the Public Printer competent persons to prepare the semimonthly and the session index to the Congressional Record and shall fix the compensation to be paid by the Public Printer for that work, and direct the form and manner of its publication and distribution. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1256.)

1192 § 903. Congressional Record: daily and permanent forms.

The public proceedings of each House of Congress as reported by the Official Reporters, shall be printed in the Congressional Record, which shall be issued in daily form during each session and shall be revised, printed, and bound promptly, as directed by the Joint Committee on Printing, in permanent form, for distribution during and after the close of each session of Congress. The daily and the permanent Record shall bear the same date, which shall be that of the actual day's proceedings reported. The "usual number" of the Congressional Record may not be printed. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1256.)

1193 § 904. Congressional Record: maps; diagrams; illustrations.

Maps, diagrams, or illustrations may not be inserted in the Record without the approval of the Joint Committee on Printing. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1256.)

§ 905. Congressional Record: additional insertions. **1194**

The Joint Committee on Printing shall provide for printing in the daily Record the legislative program for the day together with a list of congressional committee meetings and hearings, and the place of meeting and subject matter. It shall cause a brief résumé of congressional activities for the previous day to be incorporated in the Record, together with an index of its contents prepared under the supervision of the Secretary of the Senate and the Clerk of the House of Representatives, respectively. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1256.)

§ 906. Congressional Record: gratuitous copies; delivery.[1] **1195**

The Public Printer shall furnish the Congressional Record only as follows:

of the bound edition—

to the Senate Service Department five copies for the Vice President and each Senator;

to the Secretary and Sergeant at Arms of the Senate, each, two copies;

to the Joint Committee on Printing not to exceed one hundred copies;

to the House of Representatives Publications Distribution Service, three copies for each Representative and Resident Commissioner in Congress; and

to the Clerk and Sergeant at Arms of the House of Representatives, each, two copies;

of the daily edition—

to the Vice President, one hundred copies;

to each Senator, fifty copies (which may be transferred only to public agencies and institutions);

to the Secretary and Sergeant at Arms of the Senate, each, twenty-five copies;

to the Secretary, for official use, not to exceed thirty-five copies; and

to the Sergeant at Arms for use on the floor of the Senate, not to exceed fifty copies;

to each Member of the House of Representatives, the Resident Commissioner from Puerto Rico, the Delegate from the District of Columbia, the Delegate from Guam, and the Delegate from the Virgin Islands, thirty-four copies (which may be transferred only to public agencies and institutions);

to the Clerk and Sergeant at Arms of the House of Representatives, each, twenty-five copies;

to the Clerk, for official use, not to exceed fifty copies, and to the Clerk for use on the floor of the House of Representatives, not to exceed seventy-five copies;

to the Vice President and each Senator, Representative, and Resident Commissioner in Congress (and not transferable) three copies

[1] Pub. L. 93–145, Nov. 1, 1973, 87 Stat. 546, provides in part as follows: "Hereafter, appropriations for authorized printing and binding for Congress shall not be available under the authority of the Act of October 22, 1968 (44 U.S.C. 906) for the printing, publication, and distribution of more than one copy of the bound permanent editions of the Congressional Record for the Vice President and each Member of the Senate and House of Representatives.".

of which one shall be delivered at his residence, one at his office and one at the Capitol.

In addition to the foregoing the Congressional Record shall also be furnished as follows:

In unstitched form, and held in reserve by the Public Printer, as many copies of the daily Record as may be required to supply a semimonthly edition, bound in paper cover together with each semimonthly index when it is issued, and then be delivered promptly as follows:

to each committee and commission of Congress, one daily and one semimonthly copy;

to each joint committee and joint commission in Congress, as may be designated by the Joint Committee on Printing, two copies of the daily, one semimonthly copy, and one bound copy;

to the Secretary and the Sergeant at Arms of the Senate, for office use, each, six semimonthly copies;

to the Clerk and Sergeant at Arms of the House, for office use, each, six semimonthly copies;

to the Joint Committee on Printing, ten semimonthly copies;

to the Vice President and each Senator, Representative, and Resident Commissioner in Congress, one semimonthly copy;

to the President of the United States, for the use of the Executive Office, ten copies of the daily, two semimonthly copies, and one bound copy;

to the Chief Justice of the United States and each of the Associate Justices of the Supreme Court of the United States, one copy of the daily;

to the offices of the marshal and clerk of the Supreme Court of the United States, each, two copies of the daily and one semimonthly copy;

to each United States circuit and district judge, and to the chief judge and each associate judge of the United States Court of Federal Claims, the United States Court of International Trade, the Tax Court of the United States, the United States Court of Appeals for Veterans Claims, and the United States Court of Appeals for the Armed Forces, upon request to a Member of Congress and notification by the Member to the Public Printer, one copy of the daily, in addition to those authorized to be furnished to Members of Congress under the preceding provisions of this section;

to the offices of the Vice President and the Speaker of the House of Representatives, each, six copies of the daily and one semimonthly copy;

to the Sergeant at Arms, the Chaplain, the Postmaster, the superintendent and the foreman of the Senate Service Department and of the House of Representatives Publications Distribution Service, respectively; and to the Secretaries to the Majority and the Minority of the Senate, each, one copy of the daily;

to the office of the Parliamentarian of the House of Representatives, six copies of the daily, one semimonthly copy, and two bound copies;

to the offices of the Official Reporters of Debates of the Senate and House of Representatives, respectively, each, fifteen copies of the daily, one semimonthly copy, and three bound copies;

to the office of the stenographers to committees of the House of Representatives, four copies of the daily and one semimonthly copy;

to the office of the Congressional Record Index, ten copies of the daily and two semimonthly copies;

to the offices of the superintendent of the Senate and House document rooms, each, three copies of the daily, one semimonthly copy, and one bound copy;

to the offices of the superintendents of the Senate and House press galleries, each, two copies of the daily, one semimonthly copy, and one bound copy;

to the offices of the Legislative Counsel of the Senate and House of Representatives, respectively, and the Architect of the Capitol, each, three copies of the daily, one semimonthly copy, and one bound copy;

to the Library of Congress for official use in Washington, District of Columbia, and for international exchange, as provided by sections 1718 and 1719 of this title, not to exceed one hundred and forty-five copies of the daily, five semimonthly copies, and one hundred and fifty bound copies;

to the library of the Senate, three copies of the daily, two semimonthly copies, and not to exceed fifteen bound copies;

to the library of the House of Representatives, five copies of the daily, two semimonthly copies, and not to exceed twenty-eight bound copies, of which eight copies may be bound in the style and manner approved by the Joint Committee on Printing;

to the library of the Supreme Court of the United States, two copies of the daily, two semimonthly copies, and not to exceed five bound copies;

to the library of each United States Court of Appeals, each United States District Court, the United States Court of Federal Claims, the United States Court of International Trade, the Tax Court of the United States, the United States Court of Appeals for Veterans Claims, and the United States Court of Appeals for the Armed Forces, upon request to the Public Printer, one copy of the daily, one semimonthly copy, and one bound copy;

to the Public Printer for official use, not to exceed seventy-five copies of the daily, ten semimonthly copies, and two bound copies;

to the Director of the Botanic Garden, two copies of the daily and one semimonthly copy:

to the Archivist of the United States, five copies of the daily, two semimonthly copies, and two bound copies;

to the library of each executive department, independent office, and establishment of the Government in the District of Columbia, except those designated as depository libraries, and to the libraries of the municipal government of the District of Columbia, the Naval Observatory, and the Smithsonian Institution, each, two copies of the daily, one semimonthly copy, and one bound copy;

to the offices of the Governors of Puerto Rico, Guam and the Virgin Islands, each, five copies in both daily and bound form;

to the office of the Governor of the Canal Zone, five copies in both daily and bound form;

to each ex-President and ex-Vice President of the United States, one copy of the daily;

to each former Senator, Representative, and Commissioner from Puerto Rico, upon request to the Public Printer, one copy of the daily;

to the governor of each State, one copy in both daily and bound form;

to each separate establishment of the Armed Forces Retirement Home, to each of the National Homes for Disabled Volunteer Soldiers, and to each of the State soldiers' homes, one copy of the daily;

to the Superintendent of Documents, as many daily and bound copies as may be required for distribution to depository libraries;

to the Department of State, not to exceed one hundred and fifty copies of the daily, for distribution to each United States embassy and legation abroad, and to the principal consular offices in the discretion of the Secretary of State;

to each foreign legation in Washington whose government extends a like courtesy to our embassies and legations abroad, one copy of the daily, to be furnished upon requisition of and sent through the Secretary of State;

to each newspaper correspondent whose name appears in the Congressional Directory, and who makes application, for his personal use and that of the papers he represents, one copy of the daily and one copy of the bound, the same to be sent to the office address of the member of the press or elsewhere as he directs; not to exceed four copies in all may be furnished to members of the same press bureau.

Copies of the daily edition, unless otherwise directed by the Joint Committee on Printing, shall be supplied and delivered promptly on the day after the actual day's proceedings as originally published. Each order for the daily Record shall begin with the current issue, if previous issues of the same session are not available. The apportionment specified for daily copies may not be transferred for the bound form and an allotment of daily copies not used by a Member during a session shall lapse when the session ends. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1256; June 12, 1970, Pub. L. 91–276, 84 Stat. 303; Aug. 10, 1972, Pub. L. 92–373, 86 Stat. 528; June 8, 1974, Pub. L. 93–314, § 1(b), 88 Stat. 239; Aug. 5, 1977, Pub. L. 95–94, § 407(a), 91 Stat. 683; Oct. 10, 1980, Pub. L. 96–417, Title VI, § 601(11), 94 Stat. 1744; Apr. 2, 1982, Pub. L. 97–164, § 164(2), 96 Stat. 50; Pub. L. 101–510, Title XV, §§ 1533(c)(3), 1541(a), Nov. 5, 1990, 104 Stat. 1736; Pub. L. 102–82, § 6, Aug. 6, 1991, 105 Stat. 337; Pub. L. 103–337, § 924(d)(1)(D), Oct. 5, 1994, 108 Stat. 2832; Pub. L. 104–186, Title II, § 223(7), Aug. 20, 1996, 110 Stat. 1751; Pub. L. 105–368, § 512(b)(1)(C), 112 Stat. 3342.)

1196 § 907. Congressional Record: extracts for Members of Congress; mailing envelopes.

The Public Printer may print and deliver, upon the order of a Member of Congress and payment of the cost, extracts from the Congressional Record. The Public Printer may furnish without cost to Members and the Resident Commissioner, envelopes, ready for mailing the Congressional Record or any part of it, or speeches, or reports in it, if such part, speeches, or reports are mailable as franked mail under section

3210 of title 39. Envelopes so furnished shall contain in the upper left-hand corner the following words: "United States Senate" or "House of Representatives, U.S. Part of Congressional Record", and in the upper right-hand corner the letters "U.S.S." or "M.C.", and the Public Printer may, at the request of a Member or Resident Commissioner, print in addition to the foregoing, his name and State or Commonwealth, the date, and the topic or subject matter, not exceeding twelve words. He may not print any other words on envelopes, except at the personal expense of the Member or Resident Commissioner ordering the envelopes, except to affix the official title of a document. The Public Printer shall deposit moneys accruing under this section in the Treasury of the United States to the credit of the appropriation made for the working capital of the Government Printing Office for the year in which the work is done, and accounted for in his annual report to Congress. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1259; Dec. 18, 1973, Pub. L. 93–191, § 8(b), 87 Stat. 745; Mar. 27, 1974, Pub. L. 93–255, § 2(c), 88 Stat. 52.)

§ 908. Congressional Record: payment for printing extracts or other documents. 1197

If a Member or Resident Commissioner fails to pay the cost of printing extracts from the Congressional Record or other documents ordered by him to be printed, the Public Printer shall certify the amount due to the Chief Administrative Officer of the House of Representatives or the financial clerk of the Senate, as the case may be, who shall deduct from any salary due the delinquent the amount, or as much of it as the salary due may cover, and pay the amount so obtained to the Public Printer, to be applied by him to the satisfaction of the indebtedness. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1260; Pub. L. 104–186, Title II, § 223(8), Aug. 20, 1996, 110 Stat. 1752.)

§ 910. Congressional Record: subscriptions; sale of current, individual numbers, and bound sets; postage rate. 1198

(a) Under the direction of the Joint Committee, the Public Printer may sell—

(1) subscriptions to the daily Record; and

(2) current, individual numbers, and bound sets of the Congressional Record.

(b) The price of a subscription to the daily Record and of current, individual numbers, and bound sets shall be determined by the Public Printer based upon the cost of printing and distribution. Any such price shall be paid in advance. The money from any such sale shall be paid into the Treasury and accounted for in the Public Printer's annual report to Congress.

(c) The Congressional Record shall be entitled to be mailed at the same rates of postage at which any newspaper or other periodical publication, with a legitimate list of paid subscribers, is entitled to be mailed. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1260; June 8, 1974, Pub. L. 93–314, § 1(a), 88 Stat. 239.)

Chapter 11.—EXECUTIVE AND JUDICIARY PRINTING AND BINDING

1199 § 1104. Restrictions on use of illustrations.

Appropriations made for printing and binding may not be used for an illustration, engraving, or photograph in a document or report ordered printed by Congress unless the order to print expressly authorizes it, nor in a document or report of an executive department, independent office or establishment of the Government until the head of the executive department or Government establishment certifies in a letter transmitting the report that the illustration, engraving, or photograph is necessary and relates entirely to the transaction of public business. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1261.)

Chapter 13.—PARTICULAR REPORTS AND DOCUMENTS

1200 § 1301. Agriculture, Department of: report of Secretary.

The annual report of the Secretary of Agriculture shall be submitted and printed in two parts, as follows:

part 1, containing purely business and executive matter necessary for the Secretary to submit to the President and Congress;

part 2, reports from the different bureaus and divisions, and papers prepared by their special agents, accompanied by suitable illustrations as are, in the opinion of the Secretary, specially suited to interest and instruct the farmers of the country, and to include a general report of the operations of the department for their information.

In addition to the usual number, there shall be printed of part 1, one thousand copies for the Senate, two thousand copies for the House of Representatives, and three thousand copies for the Department of Agriculture; and of part 2, one hundred and ten thousand copies for the use of the Senate, three hundred and sixty thousand copies for the use of the House of Representatives, and thirty thousand copies for the use of the Department of Agriculture, the illustrations for part 2 to be subject to the approval of the Secretary of Agriculture, and executed under the supervision of the Public Printer, in accordance with directions of the Joint Committee on Printing, and the title of each of the parts shall show that each part is complete in itself. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1265.)

1201 § 1326. Librarian of Congress: reports.

Five thousand copies of the annual and special reports of the Librarian of Congress submitted to Congress, shall be printed and bound in cloth for the Library of Congress. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1270.)

1202 § 1339. Printing of the President's Message.[1]

The message of the President without the accompanying documents and reports shall be printed in pamphlet form, immediately upon its receipt by Congress. In addition to the usual number, fifteen thousand

[1] See footnote to Senate Manual section **1152.**

copies shall be printed, of which five thousand shall be for the Senate, and ten thousand for the House of Representatives.

In addition to the usual number of the President's message and accompanying documents, there shall be printed one thousand copies for the Senate and two thousand for the House of Representatives. The President's message shall be delivered by the printer to the appropriate officers of each House of Congress on or before the third Wednesday next after the meeting of Congress, or as soon after as may be practicable. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1272.)

Chapter 17.—DISTRIBUTION AND SALE OF PUBLIC DOCUMENTS

§ 1705. Printing additional copies for sale to public; regulations. 1203

The Public Printer shall print additional copies of a Government publication, not confidential in character, required for sale to the public by the Superintendent of Documents, subject to regulation by the Joint Committee on Printing and without interference with the prompt execution of printing for the Government. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1279.)

§ 1706. Printing and sale of extra copies of documents. 1204

The Public Printer shall furnish to applicants giving notice before the matter is put to press, not exceeding two hundred and fifty to any one applicant, copies of bills, reports, and documents. The applicants shall pay in advance the price of the printing. The printing of these copies for private parties may not interfere with the printing for the Government. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1279.)

§ 1710. Index of documents: number and distribution. 1205

The Superintendent of Documents, at the close of each regular session of Congress, shall prepare and publish a comprehensive index of public documents, upon a plan approved by the Joint Committee on Printing. The Public Printer shall, immediately upon its publication, deliver to him a copy of every document printed by the Government Printing Office. The head of each executive department, independent agency and establishment of the Government shall deliver to him a copy of every document issued or published by the department, bureau, or office not confidential in character. He shall also prepare and print in one volume a consolidated index of Congressional documents, and shall index single volumes of documents as the Joint Committee on Printing directs. Two thousand copies each of the comprehensive index and of the consolidated index shall be printed and bound in addition to the usual number, two hundred for the Senate, eight hundred for the House of Representatives and one thousand for distribution by the Superintendent of Documents. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1280.)

§ 1715. Publications for department or officer or for congressional committees. 1206

When printing not bearing a congressional number, except confidential matter, blank forms, and circular letters not of a public character, is done for a department or officer of the Government, or not of a confidential character, is done for use of congressional committees, two copies shall be sent, unless withheld by order of the committee, by the Public Printer to the Senate and House of Representatives libraries, respec-

tively, and one copy each to the document rooms of the Senate and House of Representatives, for reference; and these copies may not be removed. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1281.)

1207 § 1718. Distribution of Government publications to the Library of Congress.[1]

There shall be printed and furnished to the Library of Congress for official use in the District of Columbia not to exceed twenty-five copies of:

House documents and reports, bound;

Senate documents and reports, bound;

Senate and House journals, bound;

public bills and resolutions;

the United States Code and supplements, bound; and

all other publications and maps which are printed, or otherwise reproduced, under authority of law, upon the requisition of a Congressional committee, executive department, bureau, independent office, establishment, commission, or officer of the Government.

Confidential matter, blank forms, and circular letters not of a public character shall be excepted.

In addition, there shall be delivered as printed to the Library of Congress:

ten copies of each House document and report, unbound;

ten copies of each Senate document and report, unbound; and

ten copies of each private bill and resolution and fifty copies of the laws in slip form. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1282; Oct. 2, 1982, Pub. L. 97–276, § 101(e), 96 Stat. 1189.)

1208 § 1719. International exchange of Government publications.

For the purpose of more fully carrying into effect the convention concluded at Brussels on March 15, 1886, and proclaimed by the President of the United States on January 15, 1889, there shall be supplied to the Superintendent of Documents not to exceed one hundred and twenty-five copies each of all Government publications, including the daily and bound copies of the Congressional Record, for distribution to those foreign governments which agree, as indicated by the Library of Congress, to send to the United States similar publications of their governments for delivery to the Library of Congress. Confidential matter, blank forms, circular letters not of a public character, publications determined by their issuing department, office, or establishment to be required for official use only or for strictly administrative or operational purposes which have no public interest or educational value, and publications classified for reasons of national security shall be exempted from this requirement. The printing, binding, and distribution costs of any publication distributed in accordance with this section shall be charged to appropriations provided to the Superintendent of Documents for that purpose. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1282; Oct. 2, 1982, Pub. L. 97–276, § 101(e), 96 Stat. 1189; Pub. L. 99–500, § 101(j), Oct. 18, 1986, 100 Stat. 1783–287, and Pub. L. 99–591, § 101(j), Oct. 30, 1986, 100 Stat. 3341–287, as amended July 1987, Pub. L. 100–71, Title I, 101 Stat. 425.)

[1] See footnote to Senate Manual section **1152.**

Chapter 19.—DEPOSITORY LIBRARY PROGRAM

§ 1901. Definition of Government publication. 1209

"Government publication" as used in this chapter, means informational matter which is published as an individual document at Government expense, or as required by law. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1283.)

§ 1902. Availability of Government publications through Superintendent of Documents; lists of publications not ordered from Government Printing Office. 1210

Government publications, except those determined by their issuing components to be required for official use only or for strictly administrative or operational purposes which have no public interest or educational value and publications classified for reasons of national security, shall be made available to depository libraries through the facilities of the Superintendent of Documents for public information. Each component of the Government shall furnish the Superintendent of Documents a list of such publications it issued during the previous month, that were obtained from sources other than the Government Printing Office. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1283.)

§ 1903. Distribution of publications to depositories; notice to Government components; cost of printing and binding. 1211

Upon request of the Superintendent of Documents, components of the Government ordering the printing of publications shall either increase or decrease the number of copies of publications furnished for distribution to designated depository libraries and State libraries so that the number of copies delivered to the Superintendent of Documents is equal to the number of libraries on the list. The number thus delivered may not be restricted by any statutory limitation in force on August 9, 1962. Copies of publications furnished the Superintendent of Documents for distribution to designated depository libraries shall include—

the journals of the Senate and House of Representatives;

all publications, not confidential in character, printed upon the requisition of a congressional committee;

Senate and House public bills and resolutions; and

reports on private bills, concurrent or simple resolutions;

but not so-called cooperative publications which must necessarily be sold in order to be self-sustaining.

The Superintendent of Documents shall currently inform the components of the Government ordering printing of publications as to the number copies of their publications required for distribution to depository libraries. The cost of printing and binding those publications distributed to depository libraries obtained elsewhere than from the Government Printing Office, shall be borne by components of the Government responsible for their issuance; those requisitioned from the Government Printing Office shall be charged to appropriations provided the Superintendent of Documents for that purpose. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1283.)

1212 § 1904. Classified list of Government publications for selection by depositories.

The Superintendent of Documents shall currently issue a classified list of Government publications in suitable form, containing annotations of contents and listed by item identification numbers to facilitate the selection of only those publications needed by depository libraries. The selected publications shall be distributed to depository libraries in accordance with regulations of the Superintendent of Documents, as long as they fulfill the conditions provided by law. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1284.)

1213 § 1905. Distribution to depositories; designation of additional libraries; justification; authorization for certain designations.

The Government publications selected from lists prepared by the Superintendent of Documents, and when requested from him, shall be distributed to depository libraries specifically designated by law and to libraries designated by Senators, Representatives, and the Resident Commissioner from Puerto Rico, by the Commissioner of the District of Columbia, and by the Governors of Guam, American Samoa, and the Virgin Islands, respectively. Additional libraries within areas served by Representatives or the Resident Commissioner from Puerto Rico may be designated by them to receive Government publications to the extent that the total number of libraries designated by them does not exceed two within each area. Not more than two additional libraries within a State may be designated by each Senator from the State. Before an additional library within a State, congressional district or the Commonwealth of Puerto Rico is designated as a depository for Government publications, the head of that library shall furnish his Senator, Representative, or the Resident Commissioner from Puerto Rico, as the case may be, with justification of the necessity for the additional designation. The justification, which shall also include a certification as to the need for the additional depository library designation, shall be signed by the head of every existing depository library within the congressional district or the Commonwealth of Puerto Rico or by the head of the library authority of the State or the Commonwealth of Puerto Rico, within which the additional depository library is to be located. The justification for additional depository library designations shall be transmitted to the Superintendent of Documents by the Senator, Representative, or the Resident Commissioner from Puerto Rico, as the case may be. The Commissioner of the District of Columbia may designate two depository libraries in the District of Columbia, the Governor of Guam and the Governor of American Samoa may each designate one depository library in Guam and American Samoa, respectively, and the Governor of the Virgin Islands may designate one depository library on the island of Saint Thomas and one on the island of Saint Croix. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1284.)

1214 § 1906. Land-grant colleges constituted depositories.

Land-grant colleges are constituted depositories to receive Government publications subject to the depository laws. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1284.)

§ 1909. Requirements of depository libraries; reports on conditions; investigations; termination; replacement. 1215

Only a library able to provide custody and service for depository materials and located in an area where it can best serve the public need, and within an area not already adequately served by existing depository libraries may be designated by Senators, Representatives, the Resident Commissioner from Puerto Rico, the Commissioner of the District of Columbia, or the Governors of Guam, American Samoa, or the Virgin Islands as a depository of Government publications. The designated depository libraries shall report to the Superintendent of Documents at least every two years concerning their condition.

The Superintendent of Documents shall make firsthand investigation of conditions for which need is indicated and include the results of investigations in his annual report. When he ascertains that the number of books in a depository library is below ten thousand, other than Government publications, or it has ceased to be maintained so as to be accessible to the public, or that the Government publications which have been furnished the library have not been properly maintained, he shall delete the library from the list of depository libraries if the library fails to correct the unsatisfactory conditions within six months. The Representative or the Resident Commissioner from Puerto Rico in whose area the library is located or the Senator who made the designation, or a successor of the Senator, and, in the case of a library in the District of Columbia, the Commissioner of the District of Columbia, and in the case of a library in Guam, American Samoa, or the Virgin Islands, the Governor, shall be notified and shall then be authorized to designate another library within the area served by him, which shall meet the conditions herein required, but which may not be in excess of the number of depository libraries authorized by law within the State, district, territory, or the Commonwealth of Puerto Rico, as the case may be. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1285.)

§ 1910. Designations of replacement depositories; limitations on numbers; conditions. 1216

The designation of a library to replace a depository library, other than a depository library specifically designated by law, may be made only within the limitations on total numbers specified by section 1905 of this title, and only when the library to be replaced ceases to exist, or when the library voluntarily relinquishes its depository status, or when the Superintendent of Documents determines that it no longer fulfills the conditions provided by law for depository libraries. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1286.)

§ 1912. Regional depositories; designation; functions; disposal of publications. 1217

Not more than two depository libraries in each State and the Commonwealth of Puerto Rico may be designated as regional depositories, and shall receive from the Superintendent of Documents copies of all new and revised Government publications authorized for distribution to depository libraries. Designation of regional depository libraries may be made by a Senator or the Resident Commissioner from Puerto Rico within the areas served by them, after approval by the head of the library authority of the State or the Commonwealth of Puerto Rico, as the case may be, who shall first ascertain from the head of the

library to be so designated that the library will, in addition to fulfilling the requirements for depository libraries, retain at least one copy of all Government publications either in printed or microfacsimile form (except those authorized to be discarded by the Superintendent of Documents); and within the region served will provide interlibrary loan, reference service, and assistance for depository libraries in the disposal of unwanted Government publications. The agreement to function as a regional depository library shall be transmitted to the Superintendent of Documents by the Senator or the Resident Commissioner from Puerto Rico when the designation is made.

The libraries designated as regional depositories may permit depository libraries, within the areas served by them, to dispose of Government publications which they have retained for five years after first offering them to other depository libraries within their area, then to other libraries. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1286.)

1218 § 1914. Implementation of depository library program by Public Printer.

The Public Printer, with the approval of the Joint Committee on Printing, as provided by section 103 of this title, may use any measures he considers necessary for the economical and practical implementation of this chapter. (Oct. 22, 1968, Pub. L. 90–620, 82 Stat. 1287.)

1219 § 1915. Highest State appellate court libraries as depository libraries.

Upon the request of the highest appellate court of a State, the Public Printer is authorized to designate the library of that court as a depository library. The provisions of section 1911 of this title shall not apply to any library so designated. (Aug. 10, 1972, Pub. L. 92–368, § 1(a), 86 Stat. 507.)

1220 § 1916. Designation of libraries of accredited law schools as depository libraries.

(a) Upon the request of any accredited law school, the Public Printer shall designate the library of such law school as a depository library. The Public Printer may not make such designation unless he determines that the library involved meets the requirements of this chapter, other than those requirements of the first undesignated paragraph of section 1909 of this title which relate to the location of such library.

(b) For purposes of this section, the term "accredited law school" means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Commissioner of Education for such purpose or accredited by the highest appellate court of the State in which the law school is located. (April 17, 1978, Pub. L. 95–261, § 1, 92 Stat. 199.)

Chapter 21.—NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

1221 § 2112. Presidential archival depository.

(a)(1) When the Archivist considers it to be in the public interest, the Archivist may—

(A)(i) accept, for and in the name of the United States, land, a facility, and equipment offered as a gift to the United States for the purpose of creating a Presidential archival depository;

(ii) take title to the land, facility, and equipment on behalf of the United States; and

(iii) maintain, operate, and protect the land, facility, and equipment as a Presidential archival depository and as part of the national archives system; * * *

(3) Prior to accepting and taking title to any land, facility, or equipment under subparagraph (A) of paragraph (1), or prior to entering into any agreement under subparagraph (B) of such paragraph or any other agreement to accept or establish a Presidential archival depository, the Archivist shall submit a written report on the proposed Presidential archival depository to the President of the Senate and the Speaker of the House of Representatives. The report shall include—

(A) a description of the land, facility, and equipment offered as a gift or to be made available without transfer of title;

(B) a statement specifying the estimated total cost of the proposed depository and the amount of the endowment for the depository required pursuant to subsection (g) of this section;

(C) a statement of the terms of the proposed agreement, if any;

(D) a general description of the types of papers, documents, or other historical materials proposed to be deposited in the depository to be created, and of the terms of the proposed deposit;

(E) a statement of any additional improvements and equipment associated with the development and operation of the depository, an estimate of the costs of such improvements and equipment, and a statement as to the extent to which such costs will be incurred by any Federal or State government agency;

(F) an estimate of the total annual cost to the United States of maintaining, operating, and protecting the depository; and

(G) a certification that such facility and equipment (whether offered as a gift or made available without transfer of title) comply with standards promulgated by the Archivist pursuant to paragraph (2) of this subsection.

(Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1289, § 2108; Pub. L. 94–575, § 4(a), Oct. 21, 1976, 90 Stat. 2727; Pub. L. 95–591, § 2(b)(3), Nov. 4, 1978, 92 Stat. 2528; renumbered § 2112 and amended Pub. L. 98–497, Title I, §§ 102(a)(1), 107(a)(6), Oct. 19, 1984, 98 Stat. 2280, 2286; Pub. L. 99–323, § 3, May 27, 1986, 100 Stat. 495.)

§ 2118. Records of Congress. **1222**

The Secretary of the Senate and the Clerk of the House of Representatives, acting jointly, shall obtain at the close of each Congress all the noncurrent records of the Congress and of each congressional committee and transfer them to the National Archives and Records Administration for preservation, subject to the orders of the Senate or the House of Representatives, respectively. (Pub. L. 90–620, Oct. 22, 1968, 82 Stat. 1291, § 2114; renumbered and amended Pub. L. 98–497, Title I, §§ 102(a)(1), 107(a)(10), Oct. 19, 1984, 98 Stat. 2280, 2286.)

CROSS REFERENCE

The Senate provided public access to its records pursuant to S. Res. 474, Dec. 1, 1980. *See* Senate Manual section **60**.

Chapter 33.—DISPOSAL OF RECORDS

1223 § 3303a. Examination by Archivist of lists and schedules of records lacking preservation value; disposal of records.

(a) The Archivist shall examine the lists and schedules submitted to him under section 3303 of this title. If the Archivist determines that any of the records listed in a list or schedule submitted to him do not, or will not after the lapse of the period specified, have sufficient administrative, legal, research, or other value to warrant their continued preservation by the Government, he may, after publication of notice in the Federal Register and an opportunity for interested persons to submit comment thereon—

(1) notify the agency to that effect; and

(2) empower the agency to dispose of those records in accordance with regulations promulgated under section 3302 of this title.

(b) Authorizations granted under lists and schedules submitted to the Archivist under section 3303 of this title, and schedules promulgated by the Archivist under subsection (d) of this section, shall be mandatory, subject to section 2909 of this title. As between an authorization granted under lists and schedules submitted to the Archivist under section 3303 of this title and an authorization contained in a schedule promulgated under subsection (d) of this section, application of the authorization providing for the shorter retention period shall be required, subject to section 2909 of this title.

(c) The Archivist may request advice and counsel from the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives with respect to the disposal of any particular records under this chapter whenever he considers that—

(1) those particular records may be of special interest to the Congress; or

(2) consultation with the Congress regarding the disposal of those particular records is in the public interest.

However, this subsection does not require the Archivist to request such advice and counsel as a regular procedure in the general disposal of records under this chapter.

(d) The Archivist shall promulgate schedules authorizing the disposal, after the lapse of specified periods of time, of records of a specified form or character common to several or all agencies if such records will not, at the end of the periods specified, have sufficient administrative, legal, research, or other value to warrant their further preservation by the United States Government. A Federal agency may request changes in such schedules for its records pursuant to section 2009 of this title.

(e) The Archivist may approve and effect the disposal of records that are in his legal custody, provided that records that had been in the custody of another existing agency may not be disposed of without the written consent of the head of the agency.

(f) The Archivist shall make an annual report to the Congress concerning the disposal of records under this chapter, including general descriptions of the types of records disposed of and such other information as he considers appropriate to keep the Congress fully informed regarding the disposal of records under this chapter. (Added Pub. L.

91–287, § 1, June 23, 1970, 84 Stat. 320, and amended Pub. L. 95–440, § 1, Oct. 10, 1978, 92 Stat. 1063; Pub. L. 98–497, Title I, § 107(b)(24), (25)(B), Title II, § 204, Oct. 19, 1984, 98 Stat. 2290, 2294; Pub. L. 104–186, Title II, § 223(10), Aug. 20, 1996, 110 Stat. 1752.)

Chapter 35.—COORDINATION OF FEDERAL INFORMATION POLICY

Subchapter I—Federal Information Policy

§ 3501. Purposes. **1224**

The purposes of this subchapter are to—

(1) minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government;

(2) ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government;

(3) coordinate, integrate, and to the extent practicable and appropriate, make uniform Federal information resources management policies and practices as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public and the improvement of service delivery to the public;

(4) improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society;

(5) minimize the cost to the Federal Government of the creation, collection, maintenance, use, dissemination, and disposition of information;

(6) strengthen the partnership between the Federal Government and State, local, and tribal governments by minimizing the burden and maximizing the utility of information created, collected, maintained, used, disseminated, and retained by or for the Federal Government;

(7) provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology;

(8) ensure that the creation, collection, maintenance, use, dissemination, and disposition of information by or for the Federal Government is consistent with applicable laws, including laws relating to—

(A) privacy and confidentiality, including section 552a of title 5;

(B) security of information, including the Computer Security Act of 1987 (Public Law 100–235); and

(C) access to information, including section 552 of title 5;

(9) ensure the integrity, quality, and utility of the Federal statistical system;

(10) ensure that information technology is acquired, used, and managed to improve performance of agency missions, including the reduction of information collection burdens on the public; and

(11) improve the responsibility and accountability of the Office of Management and Budget and all other Federal agencies to Congress and to the public for implementing the information collection review process, information resources management, and related policies and guidelines established under this subchapter.

(Pub. L. 96–511, § 2(a), Dec. 11, 1980, 94 Stat. 2812; amended Pub. L. 99–591, Title VIII, § 811, Oct. 30, 1986, 100 Stat. 3341–335; Pub. L. 104–13; May 22, 1995, 109 Stat. 163; Pub. L. 106–398, Oct. 30, 2000, 114 Stat. 1654A–275.)

1225 § 3503. Office of Information and Regulatory Affairs.

(a) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this subchapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information resources management policy. (Added Pub. L. 96–511, § 2(a), Dec. 11, 1980, 94 Stat. 2814, and amended Pub. L. 99–500, Title I, § 101(m), [Title VIII, § 813(a)], Oct. 18, 1986, 100 Stat. 1783–336; Pub. L. 99—591, Title I, § 101(m), [Title VIII, § 813(a)], Oct. 30, 1986, 100 Stat. 3341–336; Pub. L. 104–13; May 22, 1995, 109 Stat. 166; Pub. L. 106–398, Oct. 30, 2000, 114 Stat. 1654A–275.)

1226 § 3505. Assignment of tasks and deadlines.

(a) In carrying out the functions under this subchapter, the Director shall—

(1) in consultation with agency heads, set an annual Government-wide goal for the reduction of information collection burdens by at least 10 percent during each of fiscal years 1996 and 1997 and 5 percent during each of fiscal years 1998, 1999, 2000, and 2001, and set annual agency goals to—

(A) reduce information collection burdens imposed on the public that—

(i) represent the maximum practicable opportunity in each agency; and

(ii) are consistent with improving agency management of the process for the review of collections of information established under section 3506(c); and

(B) improve information resources management in ways that increase the productivity, efficiency and effectiveness of Federal programs, including service delivery to the public;

(2) with selected agencies and non-Federal entities on a voluntary basis, conduct pilot projects to test alternative policies, practices, regulations, and procedures to fulfill the purposes of this subchapter, particularly with regard to minimizing the Federal information collection burden; and

(3) in consultation with the Administrator of General Services, the Director of the National Institute of Standards and Technology, the Archivist of the United States, and the Director of the Office of Personnel Management, develop and maintain a Governmentwide

strategic plan for information resources management, that shall include—

(A) a description of the objectives and the means by which the Federal Government shall apply information resources to improve agency and program performance;

(B) plans for—

(i) reducing information burdens on the public, including reducing such burdens through the elimination of duplication and meeting shared data needs with shared resources;

(ii) enhancing public access to and dissemination of, information, using electronic and other formats; and

(iii) meeting the information technology needs of the Federal Government in accordance with the purposes of this subchapter; and

(C) a description of progress in applying information resources management to improve agency performance and the accomplishment of missions.

(b) For purposes of any pilot project conducted under subsection (a)(2), the Director may, after consultation with the agency head, waive the application of any administrative directive issued by an agency with which the project is conducted, including any directive requiring a collection of information, after giving timely notice to the public and the Congress regarding the need for such waiver.

(Added Pub. L. 96–511, § 2(a), Dec. 11, 1980, 94 Stat. 2818; and amended Pub. L. 99–500, Title I, § 101(m), [Title VIII, § 815], Oct. 18, 1986, 100 Stat. 1783–337; Pub. L. 99–591, Title I, § 101(m), [Title VIII, § 815], Oct. 30, 1986, 100 Stat. 3341–337; Pub. L. 104–13, May 22, 1995, 109 Stat. 170; Pub. L. 106–398, Oct. 30, 2000, 114 Stat. 1654A–275.)

§ 3514. Responsiveness to Congress. **1227**

(a)(1) The Director shall—

(A) keep the Congress and congressional committees fully and currently informed of the major activities under this subchapter; and

(B) submit a report on such activities to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as the Director determines necessary.

(2) The Director shall include in any such report a description of the extent to which agencies have—

(A) reduced information collection burdens on the public, including—

(i) a summary of accomplishments and planned initiatives to reduce collection of information burdens;

(ii) a list of all violations of this subchapter and of any rules, guidelines, policies, and procedures issued pursuant to this subchapter;

(iii) a list of any increase in the collection of information burden, including the authority for each such collection; and

(iv) a list of agencies that in the preceding year did not reduce information collection burdens in accordance with section 3505(a)(1), a list of the programs and statutory responsibilities of those agencies that precluded that reduction, and recommendations to assist those agencies to reduce information collection burdens in accordance with that section;

(B) improved the quality and utility of statistical information;

(C) improved public access to Government information; and

(D) improved program performance and the accomplishment of agency missions through information resources management.

(b) The preparation of any report required by this section shall be based on performance results reported by the agencies and shall not increase the collection of information burden on persons outside the Federal Government.

(Added Pub. L. 96–511, § 2(a), Dec. 11, 1980, 94 Stat. 2823, and amended Pub. L. 99–500, Title I, § 101(m), [Title VIII, § 819], Oct. 18, 1986, 100 Stat. 1783–339; Pub. L. 99–591, Title I, § 101(m), [Title VIII, § 819], Oct. 30, 1986, 100 Stat. 3341–339; Pub. L. 104–13, May 22, 1995, 109 Stat. 181; Pub. L. 106–398, Oct. 30, 2000, 114 Stat. 1654A–275.)