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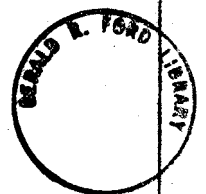
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[July 1976?]

1 **TITLE II—CONGRESSIONAL LEGAL COUNSEL**  
2 **ESTABLISHMENT OF OFFICE OF CONGRESSIONAL LEGAL**  
3 **COUNSEL**

4 *SEC. 201. (a) (1) There is established, as an office of*  
5 *the Congress, the Office of Congressional Legal Counsel*  
6 *(hereinafter referred to as the "Office"), which shall be*  
7 *headed by a Congressional Legal Counsel; and there shall*  
8 *be a Deputy Congressional Legal Counsel who shall perform*  
9 *such duties as may be assigned to him by the Congressional*  
10 *Legal Counsel and, during any absence, disability, or*  
11 *vacancy in the office of the Congressional Legal Counsel,*  
12 *the Deputy Congressional Legal Counsel shall serve as Act-*  
13 *ing Congressional Legal Counsel.*

14 *(2) The Congressional Legal Counsel and the Deputy*  
15 *Congressional Legal Counsel each shall be appointed by the*  
16 *President pro tempore of the Senate and the Speaker of the*  
17 *House of Representatives from among recommendations sub-*  
18 *mitted by the majority and minority leaders of the Senate*  
19 *and the House of Representatives. Any appointment made*  
20 *under this subsection shall be made without regard to political*  
21 *affiliation and solely on the basis of fitness to perform the*  
22 *duties of the Office. Any person appointed as Congressional*  
23 *Legal Counsel or Deputy Congressional Legal Counsel*  
24 *shall be learned in the law, a member of the bar of a State*  
25 *or the District of Columbia, and shall not engage in any*





1 other business, vocation, or employment during the term of  
2 such appointment.

3 (3)(A) Any appointment made under this subsection  
4 shall become effective upon approval, by concurrent resolu-  
5 tion, of the Senate and the House of Representatives. The  
6 Congressional Legal Counsel and the Deputy Congressional  
7 Legal Counsel shall each be appointed for a term which shall  
8 expire at the end of the Congress following the Congress  
9 during which the Congressional Legal Counsel is appointed  
10 except that the Congress may, by concurrent resolution, re-  
11 move either the Congressional Legal Counsel or the Deputy  
12 Congressional Legal Counsel prior to the termination of his  
13 term of office. The Congressional Legal Counsel and the  
14 Deputy Congressional Legal Counsel may be reappointed at  
15 the termination of any term of office.

16 (B) The first Congressional Legal Counsel and the first  
17 Deputy Congressional Legal Counsel shall be appointed and  
18 take office within ninety days after the enactment of this title,  
19 and thereafter the Counsel shall be appointed and take  
20 office within thirty days after the beginning of the session  
21 of Congress immediately following the termination of the  
22 Congressional Legal Counsel's term of office.

23 (4) The Congressional Legal Counsel shall receive com-  
24 pensation at a per annum gross rate equal to the rate of basic  
25 pay for level III of the Executive Schedule under section

1 5314 of title 5, United States Code. The Deputy Congres-  
2 sional Legal Counsel shall receive compensation at a per  
3 annum gross rate equal to the rate of basic pay for level V  
4 of the Executive Schedule under section 5316 of title 5,  
5 United States Code.

6 (b) (1) The Congressional Legal Counsel shall appoint  
7 and fix the compensation of such Assistant Congressional  
8 Legal Counsels and of such other personnel as may be neces-  
9 sary to carry out the provisions of this title and may prescribe  
10 the duties and responsibilities of such personnel. Any ap-  
11 pointment made under this subsection shall be made without  
12 regard to political affiliation and solely on the basis of fitness  
13 to perform the duties of the Office. Any person appointed as  
14 Assistant Congressional Legal Counsel shall be learned in  
15 the law, a member of the bar of a State or the District of  
16 Columbia, and shall not engage in any other business, voca-  
17 tion, or employment during the term of such appointment.  
18 All such employees shall serve at the pleasure of the Congres-  
19 sional Legal Counsel.

20 (2) For purpose of pay (other than pay of the Congres-  
21 sional Legal Counsel and Deputy Congressional Legal Coun-  
22 sel) and employment benefits, rights, and privileges, all per-  
23 sonnel of the Office shall be treated as if they were employees  
24 of the Senate.

25 (c) In carrying out the functions of the Office, the Con-

1 *gressional Legal Counsel may procure the temporary (not*  
2 *to exceed one year) or intermittent services of individual*  
3 *consultants (including outside counsel), or organizations*  
4 *thereof, in the same manner and under the same conditions*  
5 *as a standing committee of the Senate may procure such*  
6 *services under section 202(i) of the Legislative Reorganiza-*  
7 *tion Act of 1946 (2 U.S.C. 72(a)(i)).*

8 *(d) The Congressional Legal Counsel may establish*  
9 *such procedures as may be necessary to carry out the pro-*  
10 *visions of this title.*

11 *(e) The Congressional Legal Counsel may delegate au-*  
12 *thority for the performance of any function imposed by this*  
13 *Act except any function imposed upon the Congressional*  
14 *Legal Counsel under section 205(b) of this title.*

15 *DUTIES AND FUNCTIONS*

16 *SEC. 202. (a) Whenever the Joint Committee on Con-*  
17 *gressional Operations (hereinafter referred to in this title as*  
18 *the "Joint Committee") is performing any of the responsi-*  
19 *bilities set forth in subsection (b), the Speaker of the House*  
20 *of Representatives, the majority and minority leaders of the*  
21 *House of Representatives, the President pro tempore of the*  
22 *Senate, and the majority and minority leaders of the*  
23 *Senate shall be ex officio members of the Joint Committee.*

24 *(b) The Joint Committee shall—*

25 *(1) oversee the activities of the Office of Con-*



1       (a)(1) defend Congress, a House of Congress, an office  
2       or agency of Congress, a committee or subcommittee, or  
3       any Member, officer, or employee of a House of Congress  
4       in any civil action pending in any court of the United  
5       States or of a State or political subdivision thereof in  
6       which Congress, such House, committee, subcommittee,  
7       Member, officer, employee, office, or agency is made a  
8       party defendant and in which there is placed in issue the  
9       validity of any proceeding of, or action, including issu-  
10      ance of any subpoena or order, taken by Congress, such  
11      House, committee, subcommittee, Member, officer, em-  
12      ployee, office, or agency; or

13           (2) defend Congress, a House of Congress, an  
14      office or agency of Congress, a committee or subcommit-  
15      tee, or a Member, officer, or employee of a House of  
16      Congress in any civil action pending in any court of the  
17      United States or of a State or political subdivision  
18      thereof with respect to any subpoena or order directed to  
19      Congress, such House, committee, subcommittee, Mem-  
20      ber, officer, employee, office, or agency.

21      (b)(1) Representation of a Member, officer, or employee  
22      under section 203(a) shall be undertaken by the Congres-  
23      sional Legal Counsel only upon the consent of such Mem-  
24      ber, officer, or employee. The resolution directing the Con-  
25      gressional Legal Counsel to represent a Member, officer,

1 or employee may limit such representation to constitutional  
2 issues relating to the powers and responsibilities of Congress.

3 (2) The Congressional Legal Counsel may undertake  
4 its responsibilities under subsection (a) in the absence of an  
5 appropriate resolution by the Congress or by one House of  
6 the Congress if—

7 (A) Congress or the appropriate House of Congress  
8 is not in session;

9 (B) the interest to be represented would be prej-  
10 udiced by a delay in representation; and

11 (C) the Joint Committee authorizes the Congres-  
12 sional Legal Counsel to proceed in its representation as  
13 provided under section 202.

14 ~~INSTITUTING A CIVIL ACTION TO ENFORCE A SUBPENA~~  
15 ~~OR ORDER~~

16 <sup>(c)</sup> ~~SEC. 204.~~ (a) The Congressional Legal Counsel, at the  
17 direction of Congress or the appropriate House of Congress,  
18 shall bring a civil action under any statute conferring jur-  
19 isdiction on any court of the United States to enforce, or  
20 issue a declaratory judgment concerning the validity of any  
21 subpena or order issued by Congress, or a House of Con-  
22 gress, a committee, or a subcommittee of a committee au-  
23 thorized to issue a subpena or order.

24 <sup>2</sup> (b) Nothing in subsection (a) shall limit the discretion  
25 of—

<sup>A</sup>

1           (1) the President pro tempore of the Senate or the  
2           Speaker of the House of Representatives in certifying  
3           to the United States Attorney for the District of  
4           Columbia any matter pursuant to section 104 of the  
5           Revised Statutes (2 U.S.C. 194); or

<sup>B</sup>

6           (2) either House of Congress to hold any individual  
7           or entity in contempt of such House of Congress.

~~INTERVENTION OR APPEARANCE~~

(d)(1)

8           ~~SEC. 205. (a)~~ The Congressional Legal Counsel, at the  
9           direction of Congress, shall intervene or appear as amicus  
10          curiae in any legal action pending in any court of the United  
11          States or of a State or political subdivision thereof in which—

<sup>A</sup>

12          (1) the constitutionality of any law of the United  
13          States is challenged, the United States is a party, and the  
14          constitutionality of such law is not adequately defended  
15          by counsel for the United States; or

<sup>B</sup>

16          (2) the powers and responsibilities of Congress under  
17          article I of the Constitution of the United States are  
18          placed in issue.

<sup>2</sup>

19          (b) The Congressional Legal Counsel shall notify the  
20          Joint Committee of any legal action in which the Congres-  
21          sional Legal Counsel is of the opinion that intervention or  
22          appearance as amicus curiae by Congress is necessary to  
23          carry out the purposes of subsection (a). Such notification  
24          shall contain a description of the legal proceeding together  
25



1 with the reasons that the Congressional Legal Counsel is of  
 2 the opinion that Congress should intervene or appear as  
 3 *amicus curiae*. The Joint Committee shall cause said notifi-  
 4 cation to be published in the Congressional Record for the  
 5 Senate and House of Representatives.

6 (c) The Congressional Legal Counsel shall limit any  
 7 intervention or appearance ~~as *amicus curiae* in an action~~  
 8 involving a Member, officer, or employee of Congress to con-  
 9 stitutional issues relating to the powers and responsibilities of  
 10 Congress.

11 *Nm*  
 IMMUNITY PROCEEDINGS

12 ~~SEC. 206.~~ *SEC. 204* The Congressional Legal Counsel, at the di-  
 13 *plr* rection of the appropriate House of Congress or any com-  
 14 mittee of Congress, shall serve as the duly authorized repre-  
 15 sentative of such House or committee in requesting a United  
 16 States district court to issue an order granting immunity  
 17 pursuant to section 201(a) of the Organized Crime Control  
 18 Act of 1970 (18 U.S.C. 6005).

19 ADVISORY AND OTHER FUNCTIONS

20 *205*  
 SEC. 207. (a) The Congressional Legal Counsel shall  
 21 advise, consult, and cooperate—

22 (1) with the United States Attorney for the Dis-  
 23 trict of Columbia with respect to any criminal proceed-  
 24 ing for contempt of Congress certified pursuant to section  
 25 104 of the Revised Statutes (2 U.S.C. 194);



1           (2) with the Joint Committee on Congressional Op-  
2           erations in identifying any court proceeding or action  
3           which is of vital interest to Congress or to either House  
4           of Congress under section 402(a)(2) of the Legisla-  
5           tive Reorganization Act of 1970 (2 U.S.C. 412(a)(2));

6           (3) with the Comptroller General, General Account-  
7           ing Office, the Office of Legislative Counsel of the Sen-  
8           ate, the Office of the Legislative Counsel of the House of  
9           Representatives, and the Congressional Research Serv-  
10          ice, except that none of the responsibilities and authority  
11          granted by this title to the Congressional Legal Counsel  
12          shall be construed to affect or infringe upon any func-  
13          tions, powers, or duties of the Comptroller General of  
14          the United States;

15          (4) with any Member, officer, or employee of Con-  
16          gress not represented under section 203 with regard to  
17          obtaining private legal counsel for such Member, officer,  
18          or employee;

19          (5) with the President pro tempore of the Senate,  
20          the Speaker of the House of Representatives, and the  
21          Parliamentarians of the Senate and House of Repre-  
22          sentatives regarding any subpoena, order, or request for  
23          withdrawal of papers presented to the Senate and House  
24          of Representatives or which raises a question of the priv-  
25          ileges of the Senate or House of Representatives; and

1           (6) with any committee or subcommittee in promul-  
2           gating and revising their rules and procedures for the  
3           use of congressional investigative powers and questions  
4           which may arise in the course of any investigation.

5           (b) The Congressional Legal Counsel shall compile  
6           and maintain legal research files of materials from court  
7           proceedings which have involved Congress, a House of Con-  
8           gress, an office or agency of Congress, or any committee,  
9           subcommittee, Member, officer, or employee of Congress. Pub-  
10          lic court papers and other research memoranda which do  
11          not contain information of a confidential or privileged na-  
12          ture shall be made available to the public consistent with any  
13          applicable procedures set forth in such rules of the Senate  
14          and House of Representatives as may apply and the inter-  
15          ests of Congress.

16          (c) The Congressional Legal Counsel shall perform  
17          such other duties consistent with the purposes and limitations  
18          of this title as the Congress may direct.

19           DEFENSE OF CERTAIN CONSTITUTIONAL POWERS

20          SEC. 208. In performing any function under section  
21          203, 204, or 205, the Congressional Legal Counsel shall de-  
22          fend vigorously when placed in issue—

23           (1) the constitutional privilege from arrest or from  
24          being questioned in any other place for any speech or  
25          debate under section 6 of article I of the Constitution of  
26          the United States;



1 of any conflict or inconsistency between the representation of  
2 such party and the carrying out of any other provisions of  
3 this title, or compliance with professional standards and  
4 responsibilities.

5 (b) Upon receipt of such notification, the Joint Committee  
6 shall recommend the action to be taken to avoid or resolve the  
7 conflict or inconsistency. The Joint Committee shall cause the  
8 notification of conflict or inconsistency and the Joint Com-  
9 mittee's recommendation with respect to resolution thereof to  
10 be published in the Congressional Record of the appropriate  
11 House or Houses of Congress. If Congress or the appropriate  
12 House of Congress does not direct the Joint Committee within  
13 fifteen days from the date of publication in the Record to re-  
14 solve the conflict in another manner, the Congressional Legal  
15 Counsel shall take such action as may be necessary to resolve  
16 the conflict or inconsistency as recommended by the Joint  
17 Committee. Any instruction or determination made pursuant  
18 to this subsection shall not be reviewable in any court of law.

19 (c) The appropriate House of Congress may by resolu-  
20 tion authorize the reimbursement of any Member, officer, or  
21 employee who is not represented by the Congressional Legal  
22 Counsel as a result of the operation of subsection (b) or who  
23 declines to be represented pursuant to section 203(b) for  
24 costs reasonably incurred in obtaining representation. Such



1 disagreed to) to move to proceed to the consideration of such  
2 resolution or concurrent resolution. A motion to proceed to  
3 the consideration of a resolution or concurrent resolution shall  
4 be highly privileged and not debatable. An amendment to such  
5 motion shall not be in order, and it shall not be in order to  
6 move to reconsider the vote by which such motion is agreed  
7 to or disagreed to.

8 (2) If the motion to proceed to the consideration of the  
9 resolution or concurrent resolution is agreed to, debate  
10 thereon shall be limited to not more than five hours, which  
11 shall be divided equally between, and controlled by, those  
12 favoring and those opposing the resolution or concurrent reso-  
13 lution. A motion further to limit debate shall not be debat-  
14 able. No amendment to, or motion to recommit, the resolution  
15 or concurrent resolution shall be in order, except an amend-  
16 ment pursuant to section 203(b) to limit representation by  
17 the Congressional Legal Counsel to constitutional issues relat-  
18 ing to the powers and responsibilities of Congress. No motion  
19 to recommit the resolution or concurrent resolution shall be in  
20 order, and it shall not be in order to reconsider the vote by  
21 which the resolution or concurrent resolution is agreed to  
22 or disagreed to.

23 (3) Motions to postpone, made with respect to the consid-  
24 eration of the resolution or concurrent resolution, and motions

1 to proceed to the consideration of other business, shall be  
2 decided without debate.

3 (4) All appeals from the decisions of the Chair relating  
4 to the application of the rules of the Senate or the House of  
5 Representatives, as the case may be, to the procedure relating  
6 to the resolution or concurrent resolution shall be decided  
7 without debate.

8 (c) It shall not be in order in the Senate or House of  
9 Representatives to consider a resolution to direct the Con-  
10 gressional Legal Counsel to bring a civil action pursuant to  
11 section 204<sup>(2)(1)</sup>(a) to enforce or secure a declaratory judgment  
12 concerning the validity of a subpoena or order issued by a  
13 committee or subcommittee unless (1) such resolution is  
14 reported by a majority vote of the members of such committee  
15 or committee of which such subcommittee is a subcommittee,  
16 and (2) the report filed by such committee or committee of  
17 which such subcommittee is a subcommittee contains a state-  
18 ment of—

19 (A) the procedure followed in issuing such subpoena;

20 (B) the extent to which the party subpoenaed has com-  
21 plied with such subpoena;

22 (C) any objections or privileges raised by the sub-  
23 penaed party; and

24 (D) the comparative effectiveness of bringing a civil



1        *action to enforce the subpoena, certification of a criminal*  
2        *action for contempt of Congress, and initiating a con-*  
3        *tempt proceeding before a House of Congress.*

4        *(d) The extent to which a report filed pursuant to sub-*  
5        *section (c) (2) is in compliance with such subsection shall not*  
6        *be reviewable in any court of law.*

7        *(e) For purposes of the computation of time in sections*  
8        *202(c) (1) and 20<sup>7</sup>9(b)—*

9            *(1) continuity of session is broken only by an ad-*  
10        *jourment of Congress sine die; and*

11            *(2) the days on which either House is not in session*  
12        *because of an adjournment of more than three days to a*  
13        *day certain are excluded in the computation of the period.*

14        *(f) For purposes of this title, when referred to herein,*  
15        *the term "committee" shall include standing, select, special,*  
16        *or joint committees established by law or resolution and the*  
17        *Technology Assessment Board.*

18        *(g) The provisions of this section are enacted by*  
19        *Congress—*

20            *(1) as an exercise of the rulemaking power of the*  
21        *Senate and the House of Representatives, respectively,*  
22        *and, as such, they shall be considered as part of the*  
23        *rules of each House, respectively, and such rules shall*  
24        *supersede any other rule of each House only to the extent*  
25        *that rule is inconsistent therewith; and*



1           (2) with full recognition of the constitutional right  
 2 of either House to change such rules (so far as relating  
 3 to the procedure in such House) at any time, in the same  
 4 manner, and to the same extent as in the case of any  
 5 other rule of such House.

6           (h) Any directive to the Congressional Legal Counsel  
 7 to bring a civil action pursuant to section 204<sup>3(c)(1)</sup>(a) of this title  
 8 in the name of a committee, or subcommittee of Congress shall  
 9 constitute authorization for such committee, or subcommit-  
 10 tee to bring such action within the meaning of any statute  
 11 conferring jurisdiction on any court of the United States.

12           ATTORNEY GENERAL RELIEVED OF RESPONSIBILITY

13           <sup>209</sup>SEC. 211. (a) Upon receipt of written notice that the  
 14 Congressional Legal Counsel has undertaken, pursuant to  
 15 section 203(a) of this title, to perform any representational  
 16 service with respect to any designated action or proceeding  
 17 pending or to be instituted, the Attorney General shall—

18           <sup>c</sup>(1) be relieved of any responsibility with respect to  
 19 such representational service;

20           <sup>c</sup>(2) have no authority to perform such service in  
 21 such action or proceeding except at the request or with  
 22 the approval of the Congressional Legal Counsel or  
 23 either House of Congress; and

24           <sup>c</sup>(3) transfer all materials relevant to the representa-



1 with respect to the admission of any person to practice before  
2 the United States Supreme Court.

3 (c) Nothing in this title shall be construed to confer  
4 standing on any party seeking to bring, or jurisdiction on any  
5 court with respect to, any civil or criminal action against  
6 Congress, either House of Congress, a Member of Congress,  
7 a committee or subcommittee of Congress, or any officer, em-  
8 ployee, office, or agency of Congress.

9 (d) In any civil action brought pursuant to section ~~204~~<sup>203(c)</sup>  
10 of this title, the court shall assign the case for hearing at the  
11 earliest practicable date and cause the case in every way to  
12 be expedited. Any appeal or petition for review from any  
13 order or judgment in such action shall be expedited in the  
14 same manner.

15 ~~JURISDICTION OF CONGRESSIONAL ACTIONS~~

16 ~~SEC. 213. (a) Chapter 85 of title 28, United States Code,~~  
17 ~~is amended by adding at the end thereof the following new~~  
18 ~~section:~~

19 ~~“§ 1364. Congressional actions~~

20 ~~“(a) The District Court for the District of Columbia~~  
21 ~~shall have original jurisdiction, without regard to the sum~~  
22 ~~or value of the matter in controversy, over any civil action~~  
23 ~~brought by Congress, a House of Congress, or any au-~~  
24 ~~thorized committee or joint committee of Congress, or~~



1 any subcommittee thereof, to enforce, or secure a decla-  
2 ration concerning the validity of, any subpoena or order  
3 issued by Congress, or such House, committee, subcom-  
4 mittee, or joint committee to any entity acting or purport-  
5 ing to act under color or authority of State law or to any  
6 natural person to secure the production of documents or  
7 other materials of any kind or the answering of any depo-  
8 sition or interrogatory or to secure testimony or any com-  
9 bination thereof. This section shall not apply to an action to  
10 enforce, or secure a declaration concerning the validity of,  
11 any subpoena or order issued to an officer or employee of the  
12 Federal Government acting within his official capacity.

13       “(b) The Congress, or either House of Congress, any  
14 committee, subcommittee, or joint committee of Congress  
15 commencing and prosecuting a civil action under this section  
16 may be represented in such action by such attorneys as it  
17 may designate.

18       “(c) A civil action commenced or prosecuted under this  
19 section may not be authorized pursuant to the Standing Order  
20 of the Senate ‘authorizing suits by Senate Committees’ (S.  
21 Jour. 572, 70-1, May 28, 1928).”.

22       (b) The analysis of such chapter 85 is amended by add-  
23 ing at the end thereof the following new item:

“1364. Congressional actions.”.

## 1 TECHNICAL AND CONFORMING AMENDMENTS

2 SEC. ~~314~~<sup>211</sup> (a) Section 3210 of title 39, United States  
3 Code, is amended—

4 (1) by striking out “and the Legislative Counsels of  
5 the House of Representatives and the Senate” in sub-  
6 section (b)(1) and inserting in lieu thereof “the Legis-  
7 lative Counsels of the House of Representatives and the  
8 Senate, and the Congressional Legal Counsel”; and

9 (2) by striking out “or the Legislative Counsel of  
10 the House of Representatives or the Senate” in subsec-  
11 tion (b)(2) and inserting in lieu thereof “the Legislative  
12 Counsel of the House of Representatives of the Senate, or  
13 the Congressional Legal Counsel”.

14 (b) Section 3216(a)(1)(A) of such title is amended  
15 by striking out “and the Legislative Counsels of the House  
16 of Representatives and the Senate” and inserting in lieu  
17 thereof “the Legislative Counsels of the House of Represen-  
18 tatives and the Senate, and the Congressional Legal Coun-  
19 sel”.

20 (c) Section 3219 of such title is amended by striking out  
21 “or the Legislative Counsel of the House of Representatives  
22 or the Senate” and inserting in lieu thereof “the Legislative  
23 Counsel of the House of Representatives or the Senate, or the  
24 Congressional Legal Counsel”.





[July 1976?]

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States. However, in at least one instance the Attorney General has chosen to intervene in an action where the United States was not a party to challenge the constitutionality of an act of Congress. Such an interpretation of the statute is clearly contrary to the congressional intent at the time of the enactment of that statute and is contrary to the intent of Congress at this time. Therefore, subsection (f) of this title amends section 2403 of Title 38, United States Code to make it clear that if the Attorney General chooses to intervene in an action under that Section, the Attorney General must argue in favor of the constitutionality of the Act of Congress being challenged.

SECTION 215—SEPARABILITY

Section 215 contains the provision separability clause which states that if any part or application of this title is held invalid, the remaining parts, provisions or applications of the title shall not be affected thereby.

SECTION 216—AUTHORIZATION OF APPROPRIATIONS

Section 216 authorizes appropriations for each fiscal year through October 30, 1981, in such sums as are necessary to carryout the provisions of this title. A limited authorization period was chosen so that Congress can review the operations of the Office of Congressional Legal Counsel after an approximately four-year period and make a determination whether such an office has been effective in accomplishing the purposes for which it was established.

C. TITLE III—FINANCIAL DISCLOSURE

SECTION 301—DEFINITIONS

Section 301 defines the key terms used in this title.

Section 301(1) defines "agency" as any authority of the United States Government.

Section 301(2) defines "commodity future" as defined in Sections 2 and 5 of the Commodity Exchange Act, as amended (7 U.S.C. 2 and 5).

Section 301(3) defines "Comptroller General" as the Comptroller General of the United States.

Section 301(4) defines "dependent" as defined in Section 152 of the Internal Revenue Code.

Section 301(5) defines "employee" as any employee designated under section 2105 of title 5, United States Code or any employee of the United States Postal Service or the United States Postal Rate Commission.

Section 301(6) defines "immediate family" as the individual's spouse, the child, parent, grandparent, grandchild, brother or sister of an individual or the spouse of such individual and the spouses of these individuals. This definition is used in exempting gifts and items received in kind from immediate family members from being reported under this title (see sections 303(a) (1) and (2)). However, the more limited term "dependent" is used when defining what information must be reported under section 303(c).

Section 301(7) defines "income" as defined in Section 61 of the Internal Revenue Code.



Section 301(8) defines "Member of Congress" as a Senator, Representative, Resident Commissioner, or Delegate of the United States Congress.

Section 301(9) defines "officer" as any officer designated under section 2104 of title 5, United States Code, and any officer of the United States Postal Service or the United States Postal Rate Commission.

Section 301(10) defines "security" as defined in Section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b).

Section 301(11) defines "transactions in securities and commodities" as any acquisition, transfer or other disposition involving any security or commodity.

Section 301(12) defines "uniformed services" as any of the armed forces, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration.

Section 301(13) defines "political contribution" as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).

Section 301(14) defines "expenditure" as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).

#### SECTION 302—INDIVIDUALS REQUIRED TO FILE REPORT

Section 302 defines those individuals who are required to file a public financial disclosure report. Subsection (a) requires any individual who is or was an officer or employee of the Federal Government designated under subsection (b) below to file a full and complete financial disclosure statement each year for the preceding calendar year if that individual has occupied the office or position for a period in excess of 90 days in that calendar year. The 90-day period refers to 90 calendar days and not 90 working days.

Subsection (b) states that the officers and employees referred to in subsection (a) who must file a financial statement are (1) the President, (2) the Vice President, (3) each Member of Congress, (4) each justice or judge of the United States, (5) each officer or employee of the United States who is compensated at a rate equal to or in excess of the minimum rate prescribed for employees holding the grade of GS-16 under section 5332(a) of title 5, United States Code, and (6) each member of the uniformed service who is compensated at a rate equal to or in excess of the monthly rate of pay prescribed for grade 6, as adjusted under section 1009, title 37, United States Code.

Section 302(c) requires any individual who seeks nomination for election, or election, to the office of President, Vice President, or Member of Congress to file a financial disclosure statement in any year in which that individual has taken the actions necessary to be considered a candidate for elective office under the Federal Election Campaign Act of 1971. These standards are that the individual has taken the action necessary under the law of a State to qualify for nomination for election or that he has received political contributions or made expenditures, or has given the consent for any other person to receive political contributions or make expenditures with a view to bringing about the individual's nomination for election or election to such office. If an individual meets these requirements in any year, the



individual is required to file a full and complete financial statement for the preceding calendar year.

#### SECTION 303—CONTENTS OF REPORTS

Section 303 sets forth the information which must be contained in the financial disclosure report filed by each individual identified in Section 302. The Comptroller General is given the responsibility to prescribe the manner and form of the report and is directed to draw up a standard form, as well as a set of instructions with illustrative examples to assist individuals required to file these reports.

Paragraph (1) of section 303(a) requires that the report contain the amount and source of each item of income, each item of reimbursement for any expenditure, and each gift or aggregate of gifts from one source (other than gifts from any member of his immediate family) received during the preceding calendar year which exceeds \$100 in amount or value. Because the term "income" is defined broadly in the same manner that it is defined with respect to Internal Revenue laws, this section is all-inclusive. Anything received by an individual which has a value in excess of \$100, other than a gift received from the individual's immediate family, must be reported. Paragraph (2) below includes one exception to this general reporting requirement. Paragraph 1 also explicitly states that a fee or honorarium received for or in connection with the preparation or delivery of any speech, attendance at any convention, or other assembly of individuals or the preparation of any article or composition for publication must be reported. This specific language simply mentions items which would have to be reported under the definition of income.

Paragraph (2) of subsection (a) states that if an item is received in kind, even though that item would be an item of income as described in paragraph 1, the item only has to be listed on the financial disclosure form if the fair market value of that item is in excess of \$500. An item received in kind refers to any thing of value which is received in a form other than money or currency. Thus, a gift of property, a rendering of services, and other such benefits would be considered items received in kind. Paragraph (2) explicitly states that transportation or entertainment received is included as an item received in kind. There is an exception from this reporting requirement, as there is to the reporting requirement in paragraph (1) above, for items received in kind from any member of the individual's immediate family.

The higher reporting level for items received in kind was chosen because of the difficulty of placing a fair market value on many services received and because the requirement is not intended to require the reporting of services and benefits an individual or his family might receive in the normal course of being entertained by or socializing with friends. Items received in kind from an individual's immediate family, regardless of their value, are exempted from the reporting requirements of this statute.

An individual working for the government continually receives items in kind in the form of services and benefits from his employer; for example, all employees receive office space and some employees

receive chauffeur service or other special transportation provided by the government. Any services in kind provided by the government need not be reported if the individual utilized those services in the performance of his official duties.

Likewise, the provisions of this section would not include benefits which may accrue to an individual by virtue of his office or position with the federal government. For instance, foreign service officers and their families who are stationed abroad are entitled to travel and other benefits for home leave and rest and recuperation under provisions of the Foreign Service Act of 1946 as amended. While the purpose of these benefits is to provide leave from duty, the benefits accrue by virtue of their official responsibilities and are based in law and agency regulations.

Thus, almost all services received from the Federal Government do not have to be reported. However, in the event that the Department of Transportation provided a special plane to take an employee to Colorado for a ski vacation, the fair market value of that service would have to be reported because it was not provided to the reporting individual for the performance of his official duties.

However, any item received in kind from an individual or entity other than the Federal Government must be reported if its fair market value exceeds \$500, regardless of whether the item received in kind was provided to permit the reporting individual to perform his official duties. Thus, if a large corporation or a foreign government paid for the airplane flight of a Cabinet Secretary to a trade exposition or conference in South America, the fact that the Secretary of Commerce was performing official duties would not affect his obligation to report the fair market value and source of the item received in kind from this source.

Another more frequent situation will occur when a government employee receives in kind items or services in the course of travel paid for, at least in part, by the Federal Government. If the primary purpose of the trip is the performance of the individual's government duties, the fair market value of the services received, such as the airplane transportation, need not be reported. In such a case, the items received in kind, such as services, which are attributable to non-governmental functions should be reported if those services or items received in kind exceed \$500 in value. For example, if an individual attends a conference in Egypt as a representative of the United States and the primary purpose of the individual's trip overseas is to attend that convention, the cost of the plane flight paid for by the United States Government need not be reported. If the individual spent one day sightseeing or took a side excursion to Israel for one day sightseeing or took a side excursion to Israel for one day on personal business and that side trip was paid for by someone other than a member of the individual's immediate family, the fair market value of that side trip and the identity of the individual who paid for that side trip must be reported only if the cost of the side trip exceeds \$500.

Paragraph (3) of subsection (a) requires the reporting of the identity and category of value of each asset held during the preceding calendar year which has a value in excess of \$1,000 as of the close of the preceding calendar year. Excepted from this general reporting

requirement are household furnishings or goods, jewelry, clothing and any vehicle owned solely for the personal use of individual, his spouse, or any of his dependents. Thus, assets of a business nature are required to be reported, while assets of a personal nature which are very unlikely to present any conflict of interest are not required to be reported. It is not necessary for an individual to catalogue furniture and possessions in his home for the purpose of filing his financial disclosure statement. This provision does require reporting with respect to an asset of any kind which is not consistent with the specific exemptions provided.

If an asset exceeds \$1,000 in value as of the close of the preceding calendar year, it must be reported. However, if the individual owned an asset and sold that asset before the end of the preceding calendar year, the identity and category of value of that asset must still be reported if the value of that asset exceeded \$1,000 at the close of the preceding calendar year. It is not necessary for the asset to be owned by the reporting individual at the close of the calendar year for that asset to be reported.

As described more fully under the discussion of subsection (b) of section 303 below, the exact fair market value of an asset need not be reported. Subsection (b) requires the reporting simply of the category of value of an asset. Subsection (b) creates four categories and it is only necessary to identify which category the value of the asset falls within.

Paragraph (4) of subsection (a) requires the reporting of the identity and category of amount of each liability owed which is in excess of \$1,000 at the close of the preceding calendar year. Unlike the reporting requirement under paragraph (3), the individual must only report liabilities outstanding at the close of the preceding calendar year which are in excess of \$1,000. Thus, if a loan is taken out and paid off before the close of the preceding calendar year it need not be reported. For example, if a \$1,200 loan is taken out during the preceding calendar year and it is repaid in part so that the outstanding amount of the loan is less than \$1,000 at the close of the preceding calendar year, the liability need not be listed. This reporting requirement covers all liabilities whether they are secured or unsecured.

With respect to liabilities, all that must be reported is the category of amount of the liability and the identity of the liability. The identity of the liability refers to the identity of the individual or entity to whom the liability is owed.

Paragraph (5) of subsection (a) requires the reporting of the identity, the category of amount, and the date of any transaction in securities of any business entity or any transactions in commodities futures during the preceding calendar year which exceeds \$1,000 in value. The \$1,000 triggering level refers to transactions in the same security or commodity future. Thus, if a \$500 transaction in IBM stock is conducted on one day and a \$700 transaction in IBM stock is conducted on the next day each of those transactions must be identified since the value of these transactions in the same security is in excess of \$1,000 for the preceding calendar year. When reporting a security transaction, the name of the security and a description of the type of transaction, such as sale, purchase, or transfer, should be provided. As in



paragraphs 3 and 4 above, the exact value of the transaction need not be given—just the category of amount involved. Thus, if a purchase of 50 shares of a stock for \$100,000 takes place, the identity of that stock must be given, the date on which the transaction takes place must be reported, the transaction must be identified as a purchase of stock, and it must be shown that the amount involved in the transaction exceeded \$50,000.

Paragraph (6) of subsection (a) requires the reporting of the identity and category of amount of any purchase or sale of real property or any interest in any real property during the preceding calendar year if the value of the property involved in such purchase or sale exceeds \$1,000. The identity of the property usually can be given by an address, or in the case of large pieces of property, a location and amount of acreage involved. Again, only the category of amount must be reported. Thus, the sale of a personal residence would require the reporting of the sale of property at 11 Jones Road in Bethesda, Maryland, the identity of the purchaser, and the fact that the category of amount of the sale exceeded \$50,000.

Paragraph (7) of subsection (a) requires the reporting of any patent right or any interest in any patent right and the nature of such patent right held during the preceding calendar year. There is no requirement that any value or category of value be placed on the patent right. The patent right must be described in sufficient detail so that the subject of the patent is evident. If the patent is held jointly with other individuals, the other individuals must be identified.

Paragraph (8) of subsection (a) requires the reporting of information with respect to a contract promise or other agreement between a reporting individual and any other person with respect to the reporting individual's employment after he ceases to occupy his office or position with the government. This reporting requirement would also cover an agreement under which an individual takes a leave of absence from a position outside the government in order to occupy an office or position with the government if such agreement provides for the individual's return to his nongovernmental position. This would also include unfunded pension agreement between an individual and a nongovernmental employer.

In reporting such a contract or agreement, a description of the contract or agreement must be given which includes the major terms of the contract or agreement and the parties to the contract or agreement. For example, the contract of future employment might require reporting that the Jones Oil Company and the reporting individual entered into an agreement in 1973 guaranteeing the reporting individual a salary of \$100,000 a year and 3 percent of Jones Oil Company's profits upon the individual's return to work for Jones Oil Company after terminating his government employment any time within the next 10 years. This reporting requirement will reveal agreements which a Federal Government employee has with a nongovernmental entity which may not be resulting in income to the employee at the present time but which directly affect the employee's financial future.

In addition to the items to be included in the report described above, there is one additional reporting requirement for those government

employees who are not elected and who are not a judge or justice of the United States. These employees must include in their report the identity of any person other than the Federal Government who paid them compensation in excess of \$5,000 in any of the five years prior to the preceding calendar year. This provision essentially requires the individual to identify his prior employers. The report must contain the name of the employer and the type of services performed for that employer. Thus, if an individual has been working for the government for two years but for the ten preceding years had worked for the Jones Oil Company, the individual must report that he worked from 1964 to 1974 for the Jones Oil Company as an accountant.

An individual is not required to report any information which is considered confidential as a result of a privileged relationship established by law between such individual and any person. Thus, if the reporting individual is a psychiatrist who was paid more than \$5,000 in one of the five years prior to the preceding calendar year by one patient and if existing law protects the right of a psychiatrist not to reveal the identity of his clients, the identity of that client need not be reported. However, if an individual wants to keep the identity of his clients confidential but the law does not recognize the relationship between that individual and the client as a privileged one where the identity of the client is not legally protected from disclosure then the identity of the client must be reported. Also, the fact that communications between the individual and his client are confidential and privileged, and therefore protected by law from disclosure, does not mean that the identity of the client does not have to be revealed if the identity of the client itself is not privileged. For example, it is often the case with lawyers that the communications between a lawyer and his client are privileged but the identity of a lawyer's client is not privileged.

This reporting requirement does not require the amount of compensation received from the prior employer to be listed; only the identity of the prior employer must be reported. There is one further exception to this reporting requirement. An individual is not required to report any information with respect to a person for whom services were provided by a firm or association of which the reporting individual was a member, partner, or employee unless the reporting individual was directly involved in the providing of such services. Thus, a law firm may have many clients which pay that law firm more than \$5,000 in fees in any one year. A partner in that law firm indirectly benefits financially from the fees collected by any client of the firm. However, under this provision a partner in a law firm must report the identity of those clients who paid the firm more than \$5,000 in a year only if that partner actually performed legal services for that client. This section only requires reporting of compensation for services which an individual performed for an employer other than the Federal Government.

Subsection (b) of section 303 provides a procedure for reporting the general category of amount of an asset, liability, transaction in securities of any business entity or in commodities futures, or the purchase or sale of real property. With respect to any of these items which have to be reported under paragraphs (3) through (6) of subsection (a),

the individual must indicate which of the following categories the actual amount or value of the item being reported is within:

- (A) not more than \$5,000,
- (B) greater than \$5,000 but not more than \$15,000,
- (C) greater than \$15,000 but not more than \$50,000, or
- (D) greater than \$50,000.

The purpose of using this procedure is that many items do not have a readily ascertainable fair market value. The general category of the value of an item will give the public sufficient information about the financial interest involved without placing on the reporting individual the burden of determining the exact value of each item.

Paragraph 2 of subsection (b) makes it clear that with respect to the value of items other than those required to be reported under paragraphs (3) through (6) of subsection (a), the actual or fair market value of these items must be reported. This provision specifically refers to items which have to be reported under paragraphs (1) and (2) of subsection (a)—items of income and items received in kind. For example, if an individual receives \$364.78 in dividends from a corporation, the individual must report the exact amount of dividends received. With respect to items received in kind, it is more difficult to assign an exact value to the item; however, the individual must report his best estimate of the actual fair market value of the item.

Subsection (c) states that a reporting individual must report the financial information required by paragraphs (1) through (7) in subsection (a) not only with respect to the reporting individual but also with respect to the individual's spouse, any of the individual's dependents, or any item received or held by the individual and his spouse jointly, the individual and dependents jointly, or the spouse and any of the dependents jointly, or by any person acting on the individual's behalf. Thus, the spouse and dependents of a government employee required to file a financial statement must report their incomes, the assets they hold, their liabilities and other financial interests required of the government employee. The requirement that any of the financial interests required to be reported which are held or received by a person acting on behalf of the government employee must also be reported requires, for example, the reporting of interest held by a bank assigned to receive income for an employee or a trust created for the benefit of the employee.

#### SECTION 304—FILING OF REPORTS

Section 304 describes the procedures to be used in the filing of public financial statements.

Section 304(a)(1) requires all persons holding public office who are required to file a financial statement to do so by May 15 of each year with the Comptroller General. This provision centralizes in one place the financial statements of the 15,000 individuals covered by this Act.

In addition, this section requires most individuals to file a duplicate copy of their financial statement with their agency head simultaneously with their reporting to the Comptroller General. The following are exempt from the filing of a duplicate statement with an agency

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head: the President, Vice President, Members of Congress, justices and judges of the U.S., officers and employees of the Senate, House of Representatives and all courts of the U.S., heads of agencies, Presidential appointees in the Executive Office of the President who are not subordinate to the head of an agency in the Executive Office, and full-time members of a committee, board or commission appointed by the President. Duplicate copies of the financial statements are filed with the agency heads so that the agencies will have the primary duty to review the financial statements and to enforce compliance with reporting and divestiture statutes.

Sections 304(a)(2) and 304(a)(3) require certain officials to file duplicate financial reports with persons or offices other than an agency head. Section 304(a)(2) requires each Member, officer and employee of the Senate to file a duplicate copy with the Secretary of the Senate; each Member, officer and employee of the House of Representatives to file a duplicate copy with the Clerk of the House; and each justice, judge, officer and employee of any court of the United States to file a duplicate copy with the Director of the Administrative Office of the United States Courts.

Section 304(a)(3) requires the head of each agency, each Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in the Executive Office, and each full-time member of a committee, board or commission appointed by the President to file a duplicate copy with the Chairman of the Civil Service Commission. All such duplicate reports must be filed at the same time that the original report is filed with the Comptroller General.

Section 304(a)(4) permits the President to exempt certain individuals involved in intelligence activities from the requirement of filing a report with the Comptroller General. Any individual in the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency or otherwise engaged exclusively in intelligence activities in any agency of the United States may be exempted if the President finds that, due to the nature of the individual's position, public disclosure of a financial report would reveal the reporting individual's identity as an undercover agent of the Federal government. Each individual exempted from this requirement must still file a financial statement with his agency head or with the Chairman of the Civil Service Commission, depending on the requirements of sections 304(a)(1) and (3). The President is not given authority to exempt employees of entire intelligence agencies *en masse*, but only individuals for whom public disclosure might reveal identity as an undercover agent.

Section 304(b) requires each candidate required to file a financial statement to do so with the Comptroller General within one month after the earliest action which officially makes him a candidate. In other words, the candidate has 30 days to file his financial statement, beginning on the day he first accepts a campaign contribution or on the day he takes action to qualify officially for nomination, whichever comes first.

Section 304(c) sets the date of filing a financial report for individuals who cease to occupy a position requiring the filing of a financial

statement. An individual who leaves government service prior to May 15 of any year must file a financial report by May 15, for the preceding calendar year and for that part of the present calendar year during which he held the same position. An individual who leaves government service after May 15 of any year must file a financial statement on the last day he occupies his position. The statement must cover that part of the present calendar year during which he held the government position. Thus, an individual employed in the Department of Agriculture at level GS-19 who leaves government service on January 30, 1977, must file a financial statement by May 15, 1977, to cover the period January 1, 1976 through January 30, 1977. If the same individual did not leave government service until June 30, 1977, his statement submitted by May 15, 1977, would cover the period January 1, 1976 through December 31, 1976 and his statement submitted on June 30, 1977, would cover the period January 1, 1977 through June 30, 1977.

Section 304(d) authorizes the Comptroller General to grant extensions of time for filing reports. This provision does not establish any specific length of time for any extension which may be authorized, but leaves it to the discretion of the Comptroller General to grant "reasonable" extensions. This provision specifically states, however, that in no case may the total of all extensions granted to any individual exceed 90 days.

The Comptroller General's authority to grant extensions also applies to employees who leave government service after May 15 and are unable to file their financial reports on the last day they hold office.

#### SECTION 305—FAILURE TO FILE OR FALSIFYING REPORTS; PROCEDURE

Section 305 describes the procedures to be followed when an individual files false information on his financial report or fails to file a financial report as required by this act.

Section 305(a) (1) establishes a penalty of a fine of any amount up to \$10,000 or imprisonment for up to a year, or both, for any individual who willfully fails to file a financial report or who willfully files false information on a financial report as required by this act.

Section 305(a) (2) authorizes the Attorney General to bring a civil court action against any individual who fails to file a required financial report or who fails to file any required information on a financial report he does file. The Attorney General may bring such an action in any district court of the United States. The court then has the authority to assess a penalty against the individual in any amount not to exceed \$5,000.

Section 305(b) requires all agency heads and other persons who are designated to receive duplicate copies of financial reports to submit to the Comptroller General an annual list of those individuals required to file financial statements with them. The agency heads and all other persons designated to receive duplicate copies of financial reports are also required by this section to submit quarterly to the Comptroller General a list of individuals covered by this title who have begun or terminated employment with their agency. The quarterly report should also include the names of employees who, as a result of promo-



tions, are for the first time required to file public financial disclosure reports under this title. The persons required to submit these lists to the Comptroller General are the head of each agency, with respect to the employees under him; the Clerk of the House of Representatives, with respect to any Member, officer or employee of the House of Representatives; the Secretary of the Senate, with respect to any Member, officer or employee of the Senate; and the Director of the Administrative Office of the United States Courts, with respect to any justice, judge, officer or employee of any court of the United States.

Section 305(c) directs the Comptroller General to refer to the Attorney General the name of any individual he believes has filed a false report or has filed no report at all. The Comptroller General must refer to the Attorney General the name of any individual he "has reasonable cause to believe" has violated the reporting requirements of this act. The Comptroller General is not given the responsibility to conduct investigations of possible violations of the reporting requirements of this act except to the extent that he must conduct audits pursuant to section 306(f)(2).

This section further provides that if the individual whose name is referred to the Attorney General is suspected of violating the reporting provisions of this act is a Member, officer, or employee of the Senate or House of Representatives, then the Comptroller General must, at the same time he refers the matter to the Attorney General, also refer the matter to the Senate Select Committee on Standards and Conduct or the House Committee on Standards of Official Conduct, whichever is appropriate.

Section 305(d) authorizes the President, Vice President, either House of Congress, the Director of the Administrative Office of the United States Courts, the head of an agency of the Civil Service Commission to take appropriate personnel or other action against any individual who fails to comply with the reporting requirements of this act. This section is in addition to the criminal and civil penalties provided in section 305.

#### SECTION 306—CUSTODY AUDIT OF AND PUBLIC ACCESS TO REPORTS

Section 306 describes procedures for the custody and auditing of and public access to the financial reports required by this act.

Section 306(a) directs the Comptroller General to make each report he receives available to the public within 15 days of the day he receives the report. He is further directed to provide a copy of any report to any person who requests one orally or in writing.

Section 306(b) authorizes the Comptroller General to require any person receiving a copy of a financial report to supply his name and address and the name of the organization, if any, on whose behalf he is requesting the report. The Comptroller General is also authorized to assess a fee to cover the cost of copying and mailing the report. The fee should not be set to include costs such as the salaries of employees involved in the copying or mailing. The Comptroller General may waive or reduce this copying fee if he determines that such an action would be in the public interest because furnishing the information could be considered as primarily benefiting the public. This

waiver or reduction provision is modeled after a similar provision in the Freedom of Information Act.

Section 306(c) makes it unlawful for any person to inspect or obtain a copy of a financial report from the Comptroller General for any unlawful or commercial purpose, for the purpose of determining or establishing an individual's credit rating, or for use directly or indirectly in the solicitation of money for any political, charitable or other purpose.

Paragraph (2) of this subsection authorizes the Attorney General to bring a civil action against any person who inspects or obtains a copy of any financial disclosure report for any purpose prohibited in paragraph (1). The Attorney General is authorized to bring such an action in any district court of the United States. The court may assess the person a penalty in any amount up to \$1,000.

Section 306(d) directs the Comptroller General to maintain each financial disclosure report he receives under this title on file for 5 years during which time the report must be available for public inspection. The Comptroller General is directed to destroy a report five years after it was filed with the Comptroller General.

Section 306(e) (1) directs the House of Representatives, the Senate, the Director of the Administrative Office of the United States Courts, the Chairman of the Civil Service Commission, and the head of each agency to establish mechanisms for the review of the financial reports submitted by their officers and employees. Existing laws or regulations with respect to conflicts of interest or confidential information of officers or employees of the House of Representatives, the Senate, the United States Courts or each agency should be applied when the financial disclosure statements are reviewed. Thus, if an agency regulation requires divestiture of a conflicting financial interest and a financial disclosure report reveals such a conflict, the agency regulation should be enforced. Rules or regulations relating to financial conflicts of interest which may be enacted in the future should also be applied during this review.

This section makes it clear that the filing of public financial disclosure reports is not a substitute for, but is in addition to and an aid to existing conflict of interest rules and regulations.

Section 306(e) (2) requires the Comptroller General to comply with any subpoena for financial disclosure information filed with the Comptroller General pursuant to any law or resolution served in connection with a pending criminal case in any competent court in which a Member, officer, or employee of the Senate is a defendant or in any proceeding before a grand jury of any competent court in which alleged criminal conduct by a Member, officer, or employee of the Senate is being investigated. Under this provision confidential financial disclosure forms required of all Members, officers, and employees compensated at a rate of \$15,000 or more will be available to a court in certain circumstances. While much of the information available on the confidential financial disclosure forms will be publicly available under this title, these forms will still be the chief source of information on income, assets, liabilities, business connections, and gifts of any Senate employee earning more than \$15,000 annually but less than the rate of pay for GS-16 grade employees. This information

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should be automatically available to any court or grand jury investigating alleged criminal conduct of such an individual and no "legislative privilege" should apply to these documents.

Section 306(f) (1) requires the Comptroller General to conduct random audits of not more than 5 per cent of the financial reports submitted to him in any given year under this act. The audit is to determine whether the information included on the financial report is complete and accurate.

Sections 306(f) (2) and (3) specifically require audits of the financial statements of the President, Vice President and Members of Congress. The Comptroller General is directed to audit the reports of the President and Vice President at least once during each term (Section 306(f) (2)). The Comptroller General is directed to audit the financial reports of each Member of Congress at least once during each six-year period beginning after the date of enactment of this act.

Section 306(f) (4) gives the Comptroller General the power to require by subpoena whatever books, papers, or other documents he may need to conduct an audit. It also permits the Comptroller General to invoke the aid of any district court of the United States in enforcing the subpoena and allows the district court having jurisdiction over the person to whom the subpoena is directed at to issue an order requiring the production of any documents subpoenaed and to punish by contempt of court any person failing to obey such an order of the court. Any subpoena issued under this provision must be issued and signed by the Comptroller General. This subsection gives the Comptroller General the authority necessary to conduct a full and complete audit of the financial disclosure reports.

#### SECTION 307—SEPARABILITY

Section 307 is a separability clause which provides that if any part or application of this title is found to be invalid, then the remainder of the title or the application of the title in other circumstances will not be affected.

#### SECTION 308—AUTHORIZATION

Section 308 authorizes such funds to be appropriated for each fiscal year through October 30, 1981 as may be necessary to carry out the provisions of this act.

### VI. CHANGES IN EXISTING LAW

In compliance with subsection 4 of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italics*, and existing law in which no change is proposed is shown in Roman):

#### CHAPTER 4 OF TITLE 2, UNITED STATES CODE

##### § 118 Actions against officers for official acts.

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



[July 1976?]  
w/ changes

TITLE III - GOVERNMENT PERSONNEL;  
FINANCIAL DISCLOSURE REQUIREMENTS

Definitions

Sec. 301. As used in this title --

- (1) the term "agency" means each authority of the Government of the United States;
- (2) the term "commodity future" means commodity future as defined in sections 2 and 5 of the Commodity Exchange Act, as amended (7 U.S.C. 2 and 5);
- (3) the term "Comptroller General" means the Comptroller General of the United States;
- (4) the term "dependent" means dependent as defined in section 152 of the Internal Revenue Code of 1954;
- (5) the term "employee" includes any employee designated under section 2105 of title 5, United States Code, and any employee of the United States Postal Service or of the Postal Rate Commission;
- (6) the term "immediate family" means -- (A) the spouse of an individual, (B) the child, parent, grandparent, grandchild, brother, or sister of an individual or of the spouse of such individual, and (C) the spouse of any individual designated in clause (B);
- (7) the term "income" means gross income as defined in section 61 of the Internal Revenue Code of 1954;
- (8) the term "Member of Congress" means a Senator, a Representative, a Resident Commissioner, or a Delegate;
- (9) the term "officer" includes any officer designated under section 2104 of title 5, United States Code, any elected or appointed officer of the Congress or of either House of Congress, and any officer of the United States Postal Service or of the Postal Rate Commission;
- (10) the term "security" means security as defined in section 2 of the Securities Act of 1933, as amended (15 U.S.C. 77b);



(11) the term "transactions in securities and commodities" means any acquisition, transfer, or other disposition involving any security or commodity;

(12) the term "uniformed services" means any of the armed forces, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration;

(13) the term "political contribution" means a contribution as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431); and

(14) the term "expenditure" means an expenditure as defined in section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).

#### Individuals Required to File Report

Sec. 302. (a) Any individual who is or was an officer or employee designated under subsection (b) shall file each calendar year a report containing a full and complete financial statement for the preceding calendar year if such individual has occupied the office or position for a period in excess of ninety days in such calendar year.

(b) The officers and employees referred to in subsection (a) are --

- (1) the President;
- (2) the Vice President;
- (3) each Member of Congress;
- (4) each justice or judge of the United States;
- (5) each officer or employee of the United States who is compensated at a rate equal to or in excess of the minimum rate prescribed for employees holding the grade of GS-16 under section 5332(a) of title 5, United States Code; and
- (6) each member of a uniformed service who is compensated at a rate equal to or in excess of the monthly rate of pay prescribed for grade O-6, as adjusted under section 1009 of title 37, United States Code.

(c) Any individual who seeks nomination for election, or election, to the Office of President, Vice President, or Member of Congress shall file in any year in which such individual has --

(1) taken the action necessary under the law of a State to qualify for nomination for election, or election, or

(2) received political contributions or made expenditures, or has given consent for any other person to receive political contributions or make expenditures, with a view to bringing about such individual's nomination for election or election, to such office,

a report containing a full and complete financial statement for the preceding calendar year.

#### Contents of Reports

Sec. 303. (a) Each individual shall include in each report required to be filed by him under section 302 a full and complete statement, in such manner and form as the Comptroller General may prescribe, with respect to --

(1) the amount and source of each item of income, each item of reimbursement for any expenditure, and each gift or aggregate of gifts from one source (other than gifts received from any member of his immediate family) received during the preceding calendar year which exceeds \$100 in amount or value, including any fee or other honorarium received for or in connection with the preparation or delivery of any speech, attendance at any convention or other assembly of individuals, or the preparation of any article or other composition for publication;

(2) the fair market value and source of any item received in kind or aggregate of such items received from one source (other than items received in kind from any member of his immediate family), including, but not limited to, any transportation or entertainment received, during the preceding calendar year if such fair market value for such item exceeds \$500;

(3) the identity and the category of value, as designated under subsection (b), of each asset known to him, held during the preceding calendar year for business or investment purposes and which has a value in excess of \$1,000 as of the close of the preceding calendar year;

(4) the identity and the category of amount, as designated under subsection (b), of each liability owed which is in excess of \$1,000 as of the close of the preceding calendar year;

(5) the identity, the category of amount, as designated under subsection (b), and date of any transaction in securities of any business entity or any transaction in commodities futures during the preceding calendar year which is in excess of \$1,000;

(6) the identity and the category of value, as designated under subsection (b), of any purchase or sale of real property or any interest in any real property which was held for business or investment purposes during the preceding calendar year if the value of property involved in such purchase or sale exceeds \$1,000;

(7) any patent right or any interest in any patent right, and the nature of such patent right, held during the preceding calendar year; and

(8) a description of, the parties to, and the terms of any contract, promise, or other agreement between such individual and any person with respect to his employment after such individual ceases to occupy his office or position with the Government, including any agreement under which such individual is taking a leave of absence from an office or position outside of the Government in order to occupy an office or position of the Government, and a description of and the parties with any unfunded pension agreement between such individual and any employer other than the Government.



Each individual designated under paragraphs (5) and (6) of section 302(b) shall also include in such report the identity of any person, other than the Government, who paid such individual compensation in excess of \$5,000 in any of the five years prior to the preceding calendar year and the nature and term of the services such individual performed for such person. 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.

(b) (1) For purposes of paragraphs (3) through (6) of subsection (a), an individual need not specify the actual amount or value of each asset, each liability, each transaction in securities of any business entity or in commodities futures, or each purchase or sale required to be reported under such paragraphs, but such individual shall indicate which of the following categories such amount or value is within --

- (A) not more than \$5,000,
- (B) greater than \$5,000 but not more than \$15,000,
- (C) greater than \$15,000 but not more than \$50,000, or
- (D) greater than \$50,000.

(2) Each individual shall report the actual amount or value of any other item required to be reported under this section.

(c) For purposes of paragraphs (1) through (7) of subsection (a), an individual shall include each item of income or reimbursement and each gift received, each item received in kind, each asset held, each liability owed, each transaction in commodities futures and in securities, each purchase or sale of real property or interest in any real property, and each patent right or interest in any real property, and each patent right or interest in any patent right held by him, his spouse, or any of his dependents, or by him and his spouse jointly, him and any of his dependents jointly, or his spouse and any of his dependents jointly, or by any person acting on his behalf.

Filing of Reports

Sec. 304. (a) (1) Not later than May 15 of each year, reports will be filed as follows: officers and employees of the Executive Branch, other than an individual excepted under paragraph (3) of this subsection, shall file their reports with the Chairman of the Civil Service Commission; Justices, judges, officers and employees of any Court of the United States shall file their reports with the Director of the Administrative Office of the United States Courts; members, officers and employees of the Legislative Branch shall file their reports with the Secretary of the Senate or the Clerk of the House of Representatives, respectively. The Comptroller General shall have access to such reports for the purpose of carrying out this title.

(2) Each such individual, other than the President, Vice President, a Member of Congress, a justice or judge of the United States, any officer or employee of the Senate or the House of Representatives or any court of the United States, the head of each agency, each Presidential appointee in the Executive Office of the President who is not subordinate to the head of an agency in the Executive Office, or each full-time member of a committee, board, or commission appointed by the President, shall file a copy of such report with the head of the agency in which such individual occupies any office or position at the same time as such report is filed pursuant to paragraph (1).

(3) The President may exempt any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States from the requirement to file a report with the Civil Service Commission if the President finds that, due to the nature of the office or position occupied by such individual, public disclosure of such report would reveal the identity of an undercover agent of the Federal Government. Each individual exempted by the President from such requirements shall file such report with the head of the agency in which he occupies an office or position.

(b) (1) Each individual who seeks nomination for election, or election, to the office of President or Vice President and is required to file a report under section 302(c) shall file such report with the Chairman of the <sup>FEDERAL ELECTION</sup> ~~Civil Service~~ Commission within one month after the earliest of either action which such individual takes under section 302(c) (1) or (2).

(2) Each individual who seeks nomination for election, or election, to the Office of Member of Congress and is required to file a report under section 302(c) shall file such report with the Clerk of the House or the Secretary of the Senate within one month after the earliest of either action which such individual takes under section 302(c) (1) or (2).

(c) (1) Any individual who ceases prior to May 15 of any calendar year to occupy the office or position the occupancy of which imposes upon him the reporting requirement contained in section 302(a) shall file such report for the preceding calendar year and the period of such calendar year for which he occupies such office or position on or before May 15 of such calendar year.

(2) Any individual who ceases to occupy such office or position after May 15 of any calendar year shall file such report for the period of such calendar year which he occupies such office or position on the last day he occupies such office or position.

(d) Persons with whom reports are to be filed may grant one or more reasonable extensions of time for filing any report but the total of such extensions in any case shall not exceed ninety days.

Failure to File or Falsifying Reports;Procedure

Sec. 305. (a) (1) Any individual who willfully fails to file a report as required under section 302, or who knowingly and willfully falsifies or fails to report any information such individual is required to report under section 303, shall be fined in any amount not exceeding \$10,000, or imprisoned for not more than one year, or both.

(2) The Attorney General may bring a civil action in any district court of the United States against any individual who fails to file a report which such individual is required to file under section 302 or who fails to report any information which such individual is required to report under section 303. The court in which such action is brought may assess against such individual a penalty in any amount not to exceed \$5,000.

(b) The head of each agency, the Clerk of the House of Representatives with respect to any Member, officer, or employee of the House of Representatives, the Secretary of the Senate with respect to any Member, officer or employee of the Senate, and the Director of the Administrative Office of the United States Courts with respect to any justice, judge, officer, or employee of any court of the United States shall submit annually to the Comptroller General a complete list of individuals who are required to file a report under section 302 and shall submit at the close of each calendar quarter a list of individuals who have begun or have terminated employment with such agency, the House of Representatives, the Senate, or any court in such calendar quarter.

(c) The Comptroller General or the person with whom a report is required to be filed pursuant to this title shall refer to the Attorney General the name of any individual which

he has reasonable cause to believe has failed to file a report or has falsified or failed to file information required to be reported. In addition, if such individual is a Member, officer, or employee of the Senate or the House of Representatives, the Comptroller General shall refer the name of such individual to the Senate Select Committee on Standards and Conduct or the Committee on Standards of Official Conduct of the House of Representatives, whichever is appropriate.

(d) The President, the Vice President, either House of Congress, the Director of the Administrative Office of the United States Courts, the head of each agency or the Civil Service Commission may take any appropriate personnel or other action against any individual failing to file a report or information or falsifying information.

Custody and Audit of, and Public Access to, Reports

Sec. 306. (a) (1) Except as provided in (2), the person with whom a report is required to be filed shall make such report available for public inspection within fifteen days after the receipt thereof and shall provide a copy of such report to any person upon a written request.

(2) The foregoing paragraph shall not apply to individuals in the competitive service, individuals in Schedules A and B of the excepted service, or other individuals who are determined by the Civil Service Commission to be in career positions.

(b) Any person requesting a copy of a report under subsection (a) (1) shall supply his name and address and the name of the person or organization, if any, on whose behalf he is requesting such copy and may be required to pay a reasonable fee in an amount necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing.

(c) (1) It shall be unlawful for any person to inspect or obtain a copy of any report --

- (A) for any unlawful purpose;
- (B) for any commercial purpose;
- (C) to determine or establish the credit rating of any individual;
- (D) to compile any mailing list, or
- (E) 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 in any district court of the United States against any person who inspects or obtains such report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such individual a penalty in any amount not to exceed \$1,000.

(d) Reports shall be held and made available to the public for a period of five years after receipt. After such five-year period, the reports shall be destroyed.

(e) (1) The House of Representatives, the Senate, the Director of the Administrative Office of the United States Courts, the Chairman of the Civil Service Commission, and the head of each agency shall make provisions to assure that each report shall be reviewed in accordance with any law or regulation with respect to conflicts of interest or confidential financial information of officers or employees of the House of Representatives, the Senate, the United States courts or each such agency or in accordance with rules and regulations as may be prescribed.

(2) Notwithstanding any law or resolution, whenever in any criminal case pending in any competent court in which a Member, officer, or employee of the Senate is a defendant, or

in any proceeding before a grand jury of any competent court in which alleged criminal conduct of a Member, officer, or employee of the Senate is under investigation, a subpoena is served upon the Secretary of the Senate directing him to appear and produce any reports filed pursuant to any financial disclosure requirement, then he shall --

(i) if such report is in a sealed envelope, unseal the envelope containing such report and have an authenticated copy made of such report, replace such report in such envelope and reseal it, and note on such envelope that it was opened pursuant to this paragraph in response to a subpoena, a copy of which shall be attached to such envelope, and

(ii) appear in response to such subpoena and produce the authenticated copy so made.

For purposes of this paragraph, the term "competent court" means a court of the United States, a State, or the District of Columbia which has general jurisdiction to hear cases involving criminal offenses against the United States, such State, or the District of Columbia, as the case may be.

(f) (1) The Comptroller General shall, under such regulations as he may prescribe, conduct on a random basis audits of not more than 5 per centum of the reports filed under section 304 (a) (1).

(2) The Comptroller General shall audit during each term of an individual holding the office of President or Vice President at least one report filed by such individual under section 304 (a) (1) during such term.

(3) The Comptroller General shall, during each six-year period beginning after the date of enactment of this Act, audit at least one report filed by each Member of the Senate and the House of Representatives during such six-year period.



(4) (A) In conducting an audit under paragraph (1), (2), or (3), the Comptroller General is authorized to require by subpoena the production of books, papers, and other documents. All such subpoenas shall be issued and signed by the Comptroller General.

(B) In case of a refusal to comply with a subpoena issued under subparagraph (A) --

(i) the Comptroller General is authorized to seek an order by any district court of the United States having jurisdiction of the defendant to require the production of the documents involved; and

(ii) such district court may issue such order and enforce it by contempt proceedings.

(5) Whenever the Comptroller General finds that a report filed under Section 304(a) (1) discloses the existence of a conflict of interest or a potential conflict of interest, he shall report his finding to the person with whom such report has been filed with a copy to the individual who filed such report. In the event an issue raised by such a report is not resolved to the satisfaction of the Comptroller General, he may, after the lapse of 90 days from the date of his report, make public the report filed under Section 304(a) (1), together with his finding and all comments made or actions taken in respect of his finding.

#### Separability

Sec. 307. If any part of this title is held invalid, the remainder of the title shall not be affected thereby. If any provision of any part of this title, or the application thereof to any person or circumstance, is held invalid, the provisions of other parts and their application to other persons or circumstances shall not be affected thereby.

Authorization of Appropriations

Sec. 308. There are authorized to be appropriated for each fiscal year through October 30, 1981, such sums as may be necessary to carry out the provisions of this title.

July 1976?

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1 TITLE III—GOVERNMENT PERSONNEL;  
2 FINANCIAL DISCLOSURE REQUIREMENTS

3 DEFINITIONS

4 SEC. 301. As used in this title—

5 (1) the term "agency" means each authority of the  
6 Government of the United States;

7 (2) the term "commodity future" means commodity  
8 future as defined in sections 2 and 5 of the Commodity  
9 Exchange Act, as amended (7 U.S.C. 2 and 5);

10 (3) the term "Comptroller General" means the  
11 Comptroller General of the United States;

12 (4) the term "dependent" means dependent as de-  
13 fined in section 152 of the Internal Revenue Code of  
14 1954;

15 (5) the term "employee" includes any employee  
16 designated under section 2105 of title 5, United States  
17 Code, and any employee of the United States Postal  
18 Service or of the Postal Rate Commission;

19 (6) the term "immediate family" means—(A) the  
20 spouse of an individual, (B) the child, parent, grand-  
21 parent, grandchild, brother, or sister of an individual  
22 or of the spouse of such individual, and (C) the spouse  
23 of any individual designated in clause (B);

24 (7) the term "income" means gross income as de-



1     *defined in section 61 of the Internal Revenue Code of*  
2     *1954;*

3             *(8) the term "Member of Congress" means a Sena-*  
4     *tor, a Representative, a Resident Commissioner, or a*  
5     *Delegate;*

6             *(9) the term "officer" includes any officer desig-*  
7     *nated under section 2104 of title 5, United States Code,*

any elected or appointed officer of the  
Congress or of either House of Congress,

8             *and any officer of the United States Postal Service or*  
9     *of the Postal Rate Commission;*

10            *(10) the term "security" means security as defined*  
11     *in section 2 of the Securities Act of 1933, as amended*  
12     *(15 U.S.C. 77b);*

13            *(11) the term "transactions in securities and com-*  
14     *modities" means any acquisition, transfer, or other dis-*  
15     *position involving any security or commodity;*

16            *(12) the term "uniformed services" means any of*  
17     *the armed forces, the commissioned corps of the Public*  
18     *Health Service, or the commissioned corps of the Na-*  
19     *tional Oceanic and Atmospheric Administration;*

20            *(13) the term "political contribution" means a con-*  
21     *tribution as defined in section 301 of the Federal Elec-*  
22     *tion Campaign Act of 1971 (2 U.S.C. 431); and*

23            *(14) the term "expenditure" means an expenditure*  
24     *as defined in section 301 of the Federal Election Cam-*  
25     *paign Act of 1971 (2 U.S.C. 431).*



1                    *INDIVIDUALS REQUIRED TO FILE REPORT*

2            *SEC. 302. (a) Any individual who is or was an officer*  
3 *or employee designated under subsection (b) shall file each*  
4 *calendar year a report containing a full and complete fi-*  
5 *nancial statement for the preceding calendar year if such*  
6 *individual has occupied the office or position for a period in*  
7 *excess of ninety days in such calendar year.*

8            *(b) The officers and employees referred to in subsec-*  
9 *tion (a) are—*

10            *(1) the President;*

11            *(2) the Vice President;*

12            *(3) each Member of Congress;*

13            *(4) each justice or judge of the United States;*

14            *(5) each officer or employee of the United States*  
15 *who is compensated at a rate equal to or in excess of the*  
16 *minimum rate prescribed for employees holding the grade*  
17 *of GS-16 under section 5332(a) of title 5, United States*  
18 *Code; and*

19            *(6) each member of a uniformed service who is com-*  
20 *pensated at a rate equal to or in excess of the monthly*  
21 *rate of pay prescribed for grade O-6, as adjusted under*  
22 *section 1009 of title 37, United States Code.*

23            *(c) Any individual who seeks nomination for election, or*  
24 *election, to the office of President, Vice President, or Member*



1 of Congress shall file in any year in which such individual  
2 has—

3 (1) taken the action necessary under the law of a  
4 State to qualify for nomination for election, or election,  
5 or

6 (2) received political contributions or made expendi-  
7 tures, or has given consent for any other person to receive  
8 political contributions or make expenditures, with a view  
9 to bringing about such individual's nomination for elec-  
10 tion or election, to such office,

11 a report containing a full and complete financial statement for  
12 the preceding calendar year.

13 CONTENTS OF REPORTS

14 SEC. 303. (a) Each individual shall include in each re-  
15 port required to be filed by him under section 302 a full and  
16 complete statement, in such manner and form as the Comp-  
17 troller General may prescribe, with respect to—

18 (1) the amount and source of each item of income,  
19 each item of reimbursement for any expenditure, and  
20 each gift or aggregate of gifts from one source (other  
21 than gifts received from any member of his immediate  
22 family) received during the preceding calendar year  
23 which exceeds \$100 in amount or value, including any  
24 fee or other honorarium received for or in connection  
25 with the preparation or delivery of any speech, attend-

1        *ance at any convention or other assembly of individuals,*  
 2        *or the preparation of any article or other composition for*  
 3        *publication;*

4        (2) *the fair market value and source of any item*  
 5        *received in kind*

or aggregate of such items received  
 from one source

(*other than items received in kind from*  
 6        *any member of his immediate family*), including, but not  
 7        *limited to, any transportation or entertainment received,*  
 8        *during the preceding calendar year if such fair market*  
 9        *value for such item exceeds \$500;*

10        (3) *the identity and the category of value, as design-*  
 11        *nated under subsection (b), of each asset, <sup>known to him</sup> other than*  
 12        *household furnishings or goods, jewelry, clothing, or any*  
 13        *vehicle owned solely for the personal use of the individual,*  
 14        *his spouse, or any of his dependents, held during the pre-*  
 15        *ceding calendar year, <sup>for business or investment purposes and</sup> which has a value in excess of*  
 16        *\$1,000 as of the close of the preceding calendar year;*

17        (4) *the identity and the category of amount, as*  
 18        *designated under subsection (b), of each liability owed*  
 19        *which is in excess of \$1,000 as of the close of the*  
 20        *preceding calendar year <sup>other than</sup>*

*and which was held for business or investment*  
*purposes;*

21        (5) *the identity, the category of amount, as design-*  
 22        *nated under subsection (b), and date of any transaction*  
 23        *in securities of any business entity or any transaction in*  
 24        *commodities futures during the preceding calendar year*  
 25        *which is in excess of \$1,000;*

1 (6) the identity and the category of value, as  
2 designated under subsection (b), of any purchase or  
3 sale of real property or any interest in any real property  
4 during the preceding calendar year if the value of  
5 property involved in such purchase or sale exceeds  
6 \$1,000  
and which was held for business or  
investment purposes;

7 (7) any patent right or any interest in any patent  
8 right, and the nature of such patent right, held during  
9 the preceding calendar year; and

10 (8) a description of, the parties to, and the terms  
11 of any contract, promise, or other agreement between  
12 such individual and any person with respect to his em-  
13 ployment after such individual ceases to occupy his of-  
14 fice or position with the Government, including any  
15 agreement under which such individual is taking a leave  
16 of absence from an office or position outside of the Gov-  
17 ernment in order to occupy an office or position of the  
18 Government, and a description of and the parties with  
19 any unfunded pension agreement between such individual  
20 and any employer other than the Government.

21 Each individual designated under paragraphs (5) and (6)  
22 of section 302(b) shall also include in such report the identity  
23 of any person, other than the Government, who paid such  
24 individual compensation in excess of \$5,000 in any of the



1 five years prior to the preceding calendar year and the na-  
2 ture and term of the services such individual performed for  
3 such person. The preceding sentence shall not require any  
4 individual to include in such report any information which is  
5 considered confidential as a result of a privileged relationship,  
6 established by law, between such individual and any person  
7 nor shall it require an individual to report any information  
8 with respect to any person for whom services were provided  
9 by any firm or association of which such individual was a  
10 member, partner, or employee unless such individual was  
11 directly involved in the provision of such services.

12 (b)(1) For purposes of paragraphs (3) through (6)  
13 of subsection (a), an individual need not specify the actual  
14 amount or value of each asset, each liability, each transaction  
15 in securities of any business entity or in commodities futures,  
16 or each purchase or sale required to be reported under such  
17 paragraphs, but such individual shall indicate which of the  
18 following categories such amount or value is within—

19 (A) not more than \$5,000,

20 (B) greater than \$5,000 but not more than  
21 \$15,000,

22 (C) greater than \$15,000 but not more than  
23 \$50,000, or

24 (D) greater than \$50,000.





~~(2)~~ (2) Each such individual, other than the President, Vice President, a Member of Congress, a justice or judge of the United States, any officer or employee of the Senate or the House of Representatives or any court of the United States, the head of each agency, each Presidential appointee in the Executive Office of the President who is not subordinate

to the head of an agency in the Executive Office, or each full-time member of a committee, board, or commission appointed by the President, shall file a copy of such report with the head of the agency in which such individual occupies any office or position at the same time as such report is filed pursuant to paragraph (1).

(3) The President may exempt any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged

~~exclusively~~ in intelligence activities in any agency of the United States from the requirement to file a report with the Civil Service Commission if the President finds that, due to the

4 *nature of the office or position occupied by such individual,*  
5 *public disclosure of such report would reveal the identity of*  
6 *an undercover agent of the Federal Government. Each indi-*  
7 *vidual exempted by the President from such requirements shall*  
8 *file such report with the head of the agency in which he*  
9 *occupies an office or position.*

(b) (1) Each individual who seeks nomination for election, or election, to the office/<sup>of</sup> President or Vice President and is required to file a report under section 302(c) shall file such report with the Chairman of the Civil Service Commission within one month after the earliest of either action which such individual takes under section 302(c) (1) or (2).

(2) Each individual who seeks nomination for election, or election, to the office of Member of Congress and is required to file a report under section 302(c) shall file such report with the Clerk of the House or the Secretary of the Senate within one month after the earliest of either action which such individual takes under section 302(c) (1) or (2).

16 (c)(1) Any individual who ceases prior to May 15 of  
17 any calendar year to occupy the office or position the occu-  
18 pancy of which imposes upon him the reporting requirement  
19 contained in section 302(a) shall file such report for the  
20 preceding calendar year and the period of such calendar year  
21 for which he occupies such office or position on or before  
22 May 15 of such calendar year.

23 (2) Any individual who ceases to occupy such office or  
24 position after May 15 of any calendar year shall file such  
25 report for the period of such calendar year which he occupies





1 such office or position on the last day he occupies such office or  
2 position.

*Persons with whom reports are to be filed*  
(d) Custodians may grant one or more reasonable

extensions of time for filing any report but the  
total of such extensions in any case shall not exceed  
ninety days.

6 FAILURE TO FILE OR FALSIFYING REPORTS;

7 PROCEDURE

8 SEC. 305. (a) (1) Any individual who willfully fails to  
9 file a report as required under section 302, or who knowingly  
10 and willfully falsifies or fails to report any information such  
11 individual is required to report under section 303, shall be  
12 fined in any amount not exceeding \$10,000, or imprisoned  
13 for not more than one year, or both.

14 (2) The Attorney General may bring a civil action in  
15 any district court of the United States against any individual  
16 who fails to file a report which such individual is required to  
17 file under section 302 or who fails to report any information  
18 which such individual is required to report under section 303.  
19 The court in which such action is brought may assess against  
20 such individual a penalty in any amount not to exceed  
21 \$5,000.

22 (b) The head of each agency, the Clerk of the House of  
23 Representatives with respect to any Member, officer, or em-  
24 ployee of the House of Representatives, the Secretary of the  
25 Senate with respect to any Member, officer or employee of the

1 Senate, and the Director of the Administrative Office of the  
 2 United States Courts with respect to any justice, judge, officer,  
 3 or employee of any court of the United States shall submit  
 4 annually to the Comptroller General a complete list of in-  
 5 dividuals who are required to file a report under section 302  
 6 and shall submit at the close of each calendar quarter a list  
 7 of individuals who have begun or have terminated employment  
 8 with such agency, the House of Representatives, the Senate,  
 9 or any court in such calendar quarter.

(c) The Comptroller General <sup>or</sup> and the <sup>person with whom</sup> ~~custodians~~  
<sup>is required to be</sup>  
 of reports, filed pursuant to this title shall  
 refer to the Attorney General the name of any  
 individual <sup>which he has</sup> ~~they have~~ reasonable cause to believe

<sup>has failed to file a report or has</sup>  
 13 falsified or failed to file information required to be reported.  
 14 In addition, if such individual is a Member, officer, or em-  
 15 ployee of the Senate or the House of Representatives, the  
 16 Comptroller General shall refer the name of such individual  
 17 to the Senate Select Committee on Standards and Conduct or  
 18 the Committee on Standards of Official Conduct of the House  
 19 of Representatives, whichever is appropriate.

20 (d) The President, the Vice President, either House of  
 21 Congress, the Director of the Administrative Office of the  
 22 United States Courts, the head of each agency or the Civil  
 23 Service Commission may take any appropriate personnel  
 24 or other action against any individual failing to file a re-  
 25 ~~port or information or falsifying information~~  
 PORT OR INFORMATION OR falsifying information.



## CUSTODY AND AUDIT OF, AND PUBLIC ACCESS TO, REPORTS

SEC. 306. (a)(1) Except as provided in (2), the ~~person with whom a report is required to be filed shall make such report~~ <sup>person with whom a report is required to be filed shall make such report</sup> ~~custodians shall make each report filed with them under~~ <sup>section 304</sup> available to the public <sup>for inspection</sup> within fifteen days after the receipt of ~~such report from any individual~~ <sup>thereof</sup> and <sup>shall</sup> provide a copy of such report to any person upon ~~a~~ written or oral request.

(2) The foregoing <sup>paragraph</sup> ~~subsection~~ shall not apply to individuals in the competitive service, individuals in Schedules A and B of the excepted service, or other individuals who are determined by the Civil Service Commission to be in career positions.

(b) ~~The custodians may require~~ <sup>person with whom</sup> any person <sup>requesting</sup> receiving a copy of ~~such~~ <sup>a</sup> report under subsection (a)(1) <sup>shall</sup> to supply his name and address and the name of the person or organization, if any, on whose behalf he is requesting such copy and <sup>may be required</sup> to pay a reasonable fee in <sup>an</sup> any amount <sup>which</sup> the ~~custodian finds~~ <sup>finds</sup> necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. ~~The custodians may furnish any copy of such~~

~~16 report without charge or at a reduced charge if he determines  
17 that waiver or reduction of the fee is in the public interest  
18 because furnishing the information can be considered as  
19 primarily benefiting the public.~~

20 (c)(1) It shall be unlawful for any person to inspect or  
21 obtain a copy of any report—

22 (A) for any unlawful purpose;

23 (B) for any commercial purpose;

24 (C) to determine or establish the credit rating of  
25 any individual; ~~or~~

(D) to compile any mailing list, or

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

3       (2) *The Attorney General may bring a civil action*  
4 *in any district court of the United States against any per-*  
5 *son who inspects or obtains such report for any purpose*  
6 *prohibited in paragraph (1). The court in which such ac-*  
7 *tion is brought may assess against such individual a penalty*  
8 *in any amount not to exceed \$1,000.*

(d) Reports shall be held ~~by the custodians~~  
and made available to the public for a period of  
five years after receipt. After such five-year  
period, the <sup>reports shall be destroyed,</sup> ~~custodians shall destroy the reports.~~

14       (e)(1) *The House of Representatives, the Senate, the*  
15 *Director of the Administrative Office of the United States*  
16 *Courts, the Chairman of the Civil Service Commission, and*  
17 *the head of each agency shall make provisions to assure that*  
18 *each report shall be reviewed in accordance with any law or*  
19 *regulation with respect to conflicts of interest or confidential*  
20 *financial information of officers or employees of the House of*  
21 *Representatives, the Senate, the United States courts or each*  
22 *such agency or in accordance with rules and regulations as*  
23 *may be prescribed.*

24       (2) *Notwithstanding any law or resolution, when-*

1 ever in any criminal case pending in any competent  
 2 court in which a Member, officer, or employee of the Senate is  
 3 a defendant, or in any proceeding before a grand jury of  
 4 any competent court in which alleged criminal conduct of a  
 5 Member, officer, or employee of the Senate is under investiga-  
 6 tion, a subpoena is served upon  
 the Secretary of the Senate  
 a custodian directing him to appear and produce  
 any reports filed pursuant to any financial  
 disclosure requirement, then <sup>he</sup> ~~the custodian~~ shall--

10 (i) if such report is in a sealed envelope, unseal  
 11 the envelope containing such report and have an authen-  
 12 ticated copy made of such report, replace such report  
 13 in such envelope and reseal it, and note on such envelope  
 14 that it was opened pursuant to this paragraph in re-  
 15 sponse to a subpoena, a copy of which shall be attached  
 16 to such envelope, and

17 (ii) appear in response to such subpoena and pro-  
 18 duce the authenticated copy so made.

19 For purposes of this paragraph, the term "competent court"  
 20 means a court of the United States, a State, or the District  
 21 of Columbia which has general jurisdiction to hear cases  
 22 involving criminal offenses against the United States, such  
 23 State, or the District of Columbia, as the case may be.

24 (f)(1) The Comptroller General shall, under such





1 regulations as he may prescribe, conduct on a random basis  
2 audits of not more than 5 per centum of the reports filed  
3 ~~with him~~ under section 304(a) (1).

4 (2) The Comptroller General shall audit during each  
5 term of an individual holding the office of President or Vice  
6 President at least one report filed by such individual under  
7 section 304(a) (1) during such term.

8 (3) The Comptroller General shall, during each six-  
9 year period beginning after the date of enactment of this  
10 Act, audit at least one report filed by each Member of the  
11 Senate and the House of Representatives during such six-  
12 year period.

13 (4) (A) In conducting an audit under paragraph (1),  
14 (2), or (3), the Comptroller General is authorized to re-  
15 quire by subpena the production of books, papers, and other  
16 documents. All such subpoenas shall be issued and signed by  
17 the Comptroller General.

18 (B) In case of a refusal to comply with a subpoena  
19 issued under subparagraph (A)—

20 (i) the Comptroller General is authorized to seek  
21 an order by any district court of the United States hav-  
22 ing jurisdiction of the defendant to require the produc-  
23 tion of the documents involved; and

24 (ii) such district court may issue such order and  
25 enforce it by contempt proceedings.

*Indent*

(5) Whenever the Comptroller General finds that a report filed under Section 304(a) (1) discloses the existence of a conflict of interest or a potential conflict of interest, he shall report his finding to the person with whom such report has been filed with a copy to the individual who filed such report. In the event an issue raised by such a report is not resolved to the satisfaction of the Comptroller General, he may, after the lapse of 90 days from the date of his report, make public the report filed under Section 304(a) (1), together with his finding and all comments made or actions taken in respect of his finding.



1

*SEPARABILITY*

2       *SEC. 307. If any part of this title is held invalid, the re-*  
3 *mainder of the title shall not be affected thereby. If any pro-*  
4 *vision of any part of this title, or the application thereof to*  
5 *any person or circumstance, is held invalid, the provisions of*  
6 *other parts and their application to other persons or circum-*  
7 *stances shall not be affected thereby.*

8

*AUTHORIZATION OF APPROPRIATIONS*

9       *SEC. 308. There are authorized to be appropriated for*  
10 *each fiscal year through October 30, 1981, such sums as may*  
11 *be necessary to carry out the provisions of this title.*

