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Calendar No. 897

94TH CONGRESS  
2D SESSION**S. 495**

[Report No. 94-823]



## IN THE SENATE OF THE UNITED STATES

JANUARY 30, 1975

Mr. RIBICOFF (for himself, Mr. PERCY, Mr. ABOUREZK, Mr. BAKER, Mr. CASE, Mr. INOUE, Mr. METCALF, Mr. MONTOYA, Mr. JAVITS, Mr. WEICKER, and Mr. MONDALE) introduced the following bill; which was read twice and referred to the Committee on Government Operations

MAY 12, 1976

Reported by Mr. RIBICOFF, with an amendment, referred to the Committee on the Judiciary with instructions to report not later than June 11, 1976.

[Strike out all after the enacting clause and insert the part printed in italic]

JUNE 15, 1976

The Committee on the Judiciary discharged, and ordered to be placed on the calendar

**A BILL**

To establish certain Federal agencies, effect certain reorganizations of the Federal Government, and to implement certain reforms in the operation of the Federal Government recommended by the Senate Select Committee on Presidential Campaign Activities, and for other purposes.

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

3 ~~That this Act may be cited as the "Watergate Reorganiza-~~  
4 ~~tion and Reform Act of 1975".~~

5 ~~TITLE I ESTABLISHMENT OF GOVERNMENT~~

6 ~~OFFICES~~

7 ~~OFFICE OF PUBLIC ATTORNEY~~

8 ~~Sec. 101. (a) Title 28, United States Code, is amended~~

9 ~~by adding after chapter 37 the following new chapter:~~



## ~~"Chapter 38. PUBLIC ATTORNEY"~~

~~"See—~~

~~"581. Establishment of Office of Public Attorney.~~

~~"582. Jurisdiction.~~

~~"583. Powers.~~

~~"584. Notification to Attorney General of initiation of prosecution.~~

~~"585. Administrative provisions.~~

### ~~"§ 581. Establishment of Office of Public Attorney—~~

~~"(a) (1) There is established as an independent establishment of the Government the Office of the Public Attorney (hereinafter referred to as the 'Office'). The Office shall be under the direction and supervision of the Public Attorney who shall be appointed in accordance with the provisions of paragraph (2).~~

~~"(2) The Chief Justice of the United States shall designate three retired courts of appeals judges to select and appoint the Public Attorney. The three retired courts of appeals judges so designated shall appoint, by and with the advice and consent of the Senate, the Public Attorney.~~

~~"(b) The Public Attorney shall serve for a term of five years and may be reappointed for one additional term. Any vacancy in the Office shall be filled in the same manner as the original appointment.~~

~~"(c) A retired judge designated by the Chief Justice to select and appoint the Public Attorney shall not, by reason of such service, receive any payment from the United States for such service. No retired judge who so participates~~

~~in the selection and appointment of the Public Attorney shall participate in any trial or appellate proceedings in which the Public Attorney or any employee of the Office is a party.~~

~~"(d) No individual may serve as Public Attorney unless such individual has agreed in writing not to occupy or assume or discharge the duties of any office under the United States, vacancies in which are filled by popular election, or to accept any other employment in the Government, for a period of five years after the date on which such individual's services as Public Attorney are terminated.~~

### ~~"§ 582. Jurisdiction—~~

~~"(a) The Public Attorney shall investigate and prosecute (1) allegations of corruption in the administration of the laws by the executive branch of the Government; (2) cases referred by the Attorney General because of actual or potential conflicts of interest; (3) criminal cases referred to him by the Federal Election Commission; and (4) allegations of violations of Federal laws relating to campaigns and elections for elective office.~~

~~"(b) The Public Attorney shall notify the Attorney General of the initiation or termination of an investigation or proceeding with respect to any matter within his jurisdiction under subsection (a) of this section. After the receipt of any such notification and while any investigation~~

~~1 or proceedings to which any such notification relates is~~  
~~2 pending, the Attorney General shall, and shall cause other~~  
~~3 divisions of the Department of Justice to, refrain from con-~~  
~~4 ducting any investigation or prosecution with respect to~~  
~~5 the subject matter of such notification or any related or~~  
~~6 overlapping matter, and to refrain from taking any re-~~  
~~7 lated action with respect thereto, except to the extent that~~  
~~8 the Public Attorney has given prior written approval~~  
~~9 thereof.~~

~~10 "(c) If at any time the Attorney General believes or~~  
~~11 has reason to believe that any investigation conducted under~~  
~~12 his supervision involves or is likely to involve any matter~~  
~~13 that would constitute a conflict of interest or that would~~  
~~14 otherwise fall within the jurisdiction of the Public Attorney~~  
~~15 under subsection (a) of this section, he shall promptly notify~~  
~~16 the Public Attorney thereof and of the reasons for such~~  
~~17 belief. Upon receipt of any such notification, the Public~~  
~~18 Attorney may in his discretion—~~

~~19 "(1) assume sole responsibility for any further con-~~  
~~20 duct of such investigation;~~

~~21 "(2) participate with the Attorney General in any~~  
~~22 further conduct of such investigation; or~~

~~23 "(3) defer to the ongoing investigation under the~~  
~~24 supervision of the Attorney General in which case the~~

~~1 Attorney General shall keep the Public Attorney fully~~  
~~2 informed as to the further progress of any such investi-~~  
~~3 gation.~~

#### ~~4 "§ 583. Powers~~

~~5 "The Public Attorney shall, with respect to any matter~~  
~~6 within his jurisdiction under section 582 of this title, have~~  
~~7 full power and authority, consistent with the Constitution of~~  
~~8 the United States—~~

~~9 "(1) to conduct such investigation thereof as he~~  
~~10 deems appropriate;~~

~~11 "(2) to obtain and review such documentary, tes-~~  
~~12 timonial, or other evidence or information as he deems~~  
~~13 material thereto as may be available from any source,~~  
~~14 and, if in the possession of an agency of the United~~  
~~15 States (as defined in section 6001 (1) of title 18), with-~~  
~~16 out regard to the provisions of section 552 (b) (with the~~  
~~17 exception of paragraph (6) thereof) of title 5;~~

~~18 "(3) to issue appropriate instructions to the Federal~~  
~~19 Bureau of Investigation and other domestic investigative~~  
~~20 agencies of the United States (which instructions shall~~  
~~21 be treated by the heads of such agencies as if received~~  
~~22 from the Attorney General) for the collection and deliv-~~  
~~23 ery solely to the office of the Public Attorney of infor-~~  
~~24 mation or evidence relating to such investigation, and~~



1 ~~for the safeguarding of the integrity and confidentiality~~  
 2 ~~of all files, records, documents, physical evidence, and~~  
 3 ~~other materials obtained or prepared by the Public~~  
 4 ~~Attorney;~~

5 ~~"(4) to receive appropriate national security clear-~~  
 6 ~~ances;~~

7 ~~"(5) to issue subpoenas to such persons as he may~~  
 8 ~~deem necessary to obtain and review and initiate or de-~~  
 9 ~~fend appropriate proceedings in any court of the United~~  
 10 ~~States of competent jurisdiction relating to compliance~~  
 11 ~~with any such subpoena;~~

12 ~~"(6) to conduct proceedings before grand juries;~~

13 ~~"(7) to make application to any court of the United~~  
 14 ~~States of competent jurisdiction in a manner consistent~~  
 15 ~~with part V of title 18 for a grant of immunity to any~~  
 16 ~~witness;~~

17 ~~"(8) to frame, sign, and file criminal indictments~~  
 18 ~~and informations, and prosecute criminal proceedings~~  
 19 ~~in the name of the United States, which proceedings~~  
 20 ~~shall, except as otherwise provided for in this chapter,~~  
 21 ~~comply with the requirements of law governing the con-~~  
 22 ~~duct of such proceedings;~~

23 ~~"(9) to conduct such civil proceedings as he may~~  
 24 ~~deem appropriate to enforce any provision or obtain any~~

1 ~~remedy for violation of any law he is charged with en-~~  
 2 ~~forcing; and~~

3 ~~"(10) notwithstanding any other provision of law,~~  
 4 ~~to exercise all other powers as to the conduct of criminal~~  
 5 ~~investigations, prosecutions (including prosecutions for~~  
 6 ~~perjury committed in the course of any investigation or~~  
 7 ~~judicial or legislative hearing with respect to any matter~~  
 8 ~~within his jurisdiction), civil proceedings, and appeals,~~  
 9 ~~within his jurisdiction, that would otherwise be vested~~  
 10 ~~exclusively in the Attorney General and the United~~  
 11 ~~States attorney under the provisions of chapters 31 and~~  
 12 ~~35 of this title and any regulation promulgated pursuant~~  
 13 ~~to either such chapter, and act as attorney for the Gov-~~  
 14 ~~ernment in such investigations, prosecutions, proceed-~~  
 15 ~~ings, and appeals.~~

16 ~~"§ 584. Notification to Attorney General of initiation of~~  
 17 ~~prosecution~~

18 ~~"(a) The Public Attorney may sign and file any indict-~~  
 19 ~~ment returned by a grand jury convened at his request or~~  
 20 ~~under his direction and may sign and file any criminal~~  
 21 ~~information, with respect to any matter within his jurisdic-~~  
 22 ~~tion under section 582 of this title, except that in each such~~  
 23 ~~instance the Public Attorney shall give the Attorney General~~  
 24 ~~five days' prior written notice thereof.~~

~~“(b) If the Attorney General of the United States dis-  
approves the filing of any indictment or information, or any  
subsequent action or position taken by the Public Attorney  
in the course of any judicial proceeding pursuant thereto, the  
Attorney General shall be entitled to appear and present  
his views amicus curiae to any court before which any such  
proceeding is pending.~~

~~“§ 585. Administrative provisions~~

~~“(a) The Public Attorney may appoint, fix the com-  
pensation, and assign the duties of such personnel as may  
be necessary to carry out his duties and functions under this  
chapter. The Public Attorney may obtain the services of  
experts and consultants in accordance with the provisions  
of section 3109 of title 5.~~

~~“(b) The Public Attorney may from time to time make  
such provisions as he considers appropriate authorizing the  
performance by any other officer or employee of the Office  
of any function of the Public Attorney.~~

~~“(c) The Public Attorney is authorized—~~

~~“(1) to adopt, amend, and repeal such rules and  
regulations as may be necessary to carry out his duties  
and functions under this chapter; and~~

~~“(2) to utilize, with their consent, the services,  
equipment, personnel, and facilities of any department  
or agency of the United States on a reimbursable basis.~~

~~“(d) The Public Attorney may, in his discretion, ap-  
point special assistants to discharge his responsibilities  
with respect to a particular matter or matters within his  
jurisdiction.~~

~~“(e) Upon request made by the Public Attorney each  
Federal department and agency is authorized and directed  
to make its services, equipment, personnel, facilities, infor-  
mation (including suggestions, estimates, and statistics)  
available to the greatest practicable extent consistent with  
the laws, to the Public Attorney in the performance of his  
duties and functions.”.~~

~~“(b) Section 202 of title 18, United States Code, is  
amended by redesignating subsection (b) as subsection (c)  
and adding after subsection (a) the following new sub-  
section:~~

~~“(b) As used in sections 205, 207, 208, and 209 of  
this title the term ‘officer or employee’ includes the Public  
Attorney and members of his staff; and as used in section  
201 of this title the term ‘public official’ includes the Public  
Attorney and professional members of his staff.”.~~

~~“(c) (1) Section 1905 of title 18, United States Code, is  
amended—~~

~~“(A) by inserting ‘(a)’ immediately before ‘Who-  
ever’; and~~



~~(B) by adding at the end thereof the following new subsection:~~

~~"(b) (1) It shall be unlawful for any officer or employee of the United States or of any department or agency thereof, or the member of any grand jury convened at the request or under the direction of the Public Attorney who, in the course or under color of his duties as such officer, employee, or member has had any direct contact with an employee or officer lawfully participating in an investigation being conducted by the Public Attorney pursuant to chapter 39 of title 28 by virtue of which such person has come into the possession of any evidence or information obtained by or in the possession of the Public Attorney or the product of an investigation conducted by the Public Attorney pursuant to such chapter, to disclose, or to cause the disclosure, or in any manner to further the disclosure, of such evidence, information, or product to any person other than an officer or employee of the Office of the Public Attorney or the Department of Justice, or of a court in which a grand jury convened at the request or under the direction of the Public Attorney is proceeding, or (to the extent otherwise provided for by law) to a person who is likely to or has become the subject of an investigation by the Public Attorney, except that the Public Attorney may make such public disclosure as is permitted by law of such information as he deems necessary, appropriate, or re-~~

~~quired by law in connection with a proceeding instituted by him.~~

~~"(2) Whoever violates any provision of paragraph (1) of this subsection shall be subject to a civil penalty of not less than \$1,000 or more than \$25,000 and, if the violation is willful, shall be fined not more than \$50,000 or imprisoned for one year, or both.~~

~~"(3) Nothing in this subsection shall be construed to prohibit the Public Attorney from taking any action he is authorized to take under chapter 39 of title 28, or to preclude any defendant in a criminal case from obtaining any information concerning grand jury proceedings or in the possession of a prosecuting official of the United States to which he would otherwise by law be entitled."~~

~~(2) (A) The caption of section 1905 of such title is amended to read as follows:~~

~~"§ 1905. Disclosure of confidential information generally and with respect to investigations or proceedings conducted by the Public Attorney"~~

~~(B) The analysis of chapter 93 of such title is amended by inserting immediately before the period at the end of item 1905 the following: "and with respect to investigations or proceedings conducted by the Public Attorney"~~

~~(d) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following:~~

~~"(22) Public Attorney."~~

~~(c) The Administrator of General Services shall provide the Office of the Public Attorney with such offices and support facilities as may be necessary, and such additional offices and support facilities as may from time to time be required to carry out the provisions of this Act, except that such offices and facilities shall be physically separate from the office of the Department of Justice or of any division thereof.~~

# ~~CONGRESSIONAL LEGAL SERVICE~~

~~SEC. 102. (a) For purposes of this section—~~

~~(1) "Member of Congress" means a Senator, Representative, Delegate, or Resident Commissioner;~~

~~(2) "Member of the House of Representatives" includes a Representative, Delegate, or Resident Commissioner;~~

~~(3) "State" includes any territory or possession of the United States; and~~

~~(4) "deferral of budget authority" shall have the same meaning as provided in the Congressional Budget and Impoundment Control Act of 1974 (88 Stat. 297).~~

~~(b) (1) There is established within the Congress a Congressional Legal Service, which shall be under the direction and control of the Congressional Legal Counsel. The Congressional Legal Counsel shall be appointed by the Speaker of the House of Representatives and the President pro tem~~

~~pore of the Senate from among recommendations submitted by the majority and minority leaders of the House of Representatives and the Senate. Such appointment shall be made without regard to political affiliation and solely on the basis of his fitness to perform the duties of his office. The Congressional Legal Counsel shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.~~

~~(2) The Congressional Legal Counsel may appoint and fix the compensation of such Assistant Legal Counsels and other personnel as may be necessary to carry on the work of his office. All such appointments shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of their offices.~~

~~(3) The Congressional Legal Counsel shall promulgate for his office such rules and regulations as may be necessary to carry out the duties imposed upon him by this Act. He may delegate authority for the performance of any such duty to an officer or employee of the Congressional Legal Service. No person serving as an officer or employee of such office may engage in any other business, vocation, or employment while so serving.~~

~~(4) The Congressional Legal Counsel shall cause a seal of office to be made for his office, of such design as the Speaker of the House of Representatives and the President~~



1 ~~pro tempore of the Senate shall approve, and judicial notice~~  
 2 ~~shall be taken thereof.~~

3 ~~(c) (1) It shall be the duty of the Congressional Legal~~  
 4 ~~Counsel—~~

5 ~~(A) to render, upon request of either House of~~  
 6 ~~Congress, a joint committee of Congress, any committee~~  
 7 ~~of either House of Congress, at least three Senators, or~~  
 8 ~~twelve Members of the House of Representatives, legal~~  
 9 ~~opinions upon questions arising under the Constitution~~  
 10 ~~and laws of the United States, including but not limited~~  
 11 ~~to, whether—~~

12 ~~(i) a request for information or inspection of~~  
 13 ~~a record or other matter under section 552 of title 5,~~  
 14 ~~United States Code, was properly denied by an~~  
 15 ~~agency of the United States Government;~~

16 ~~(ii) a nomination, or an agreement with a for-~~  
 17 ~~ign country or regional or international organiza-~~  
 18 ~~tion, should have been submitted to the Senate for~~  
 19 ~~its advice and consent;~~

20 ~~(iii) an activity has been undertaken or con-~~  
 21 ~~tinued, or not undertaken or continued, by the exec-~~  
 22 ~~utive branch of the United States Government in~~  
 23 ~~violation of the law or the Constitution or without~~  
 24 ~~any required authorization of law;~~

25 ~~(iv) executive privilege exists, and, if so,~~  
 26 ~~whether it has been properly asserted; and—~~

1 ~~(v) deferrals of budget authority have been~~  
 2 ~~made in accordance with law;~~

3 ~~(B) upon the request of either House of Congress,~~  
 4 ~~a joint committee of Congress, any committee of either~~  
 5 ~~House of Congress, at least three Senators, or at least~~  
 6 ~~twelve Members of the House of Representatives—~~

7 ~~(i) to advise and to consult and cooperate with~~  
 8 ~~parties bringing civil actions against officers and~~  
 9 ~~employees of the executive branch of the United~~  
 10 ~~States Government or any agency or department~~  
 11 ~~thereof, with respect to their execution of the laws,~~  
 12 ~~and the Constitution of the United States; and—~~

13 ~~(ii) to intervene or appear as amicus curiae on~~  
 14 ~~behalf of persons making such request in any action~~  
 15 ~~pending in any court of the United States or of a~~  
 16 ~~State or political subdivision thereof, in which there~~  
 17 ~~is placed in issue the constitutionality or interpreta-~~  
 18 ~~tion of any law of the United States, or the validity~~  
 19 ~~of any law of the United States, or the validity of~~  
 20 ~~any official proceeding of, or official action taken by,~~  
 21 ~~either House of Congress, a joint committee of Con-~~  
 22 ~~gress, any committee of either House of Congress,~~  
 23 ~~or a Member of Congress, or any officer, employee,~~  
 24 ~~office, or agency of the Congress;~~

25 ~~(C) to represent, upon request, either House of~~



~~1 Congress, a joint committee of Congress, any committee~~  
~~2 of either House of Congress, a Member of Congress, or~~  
~~3 any officer, employee, office, or agency of the Congress~~  
~~4 in any legal action pending in any court of the United~~  
~~5 States or of a State or political subdivision thereof to~~  
~~6 which such House, joint committee, committee member,~~  
~~7 officer, employee, office, or agency is a party and in~~  
~~8 which there is placed in issue the validity of any official~~  
~~9 proceeding of, or official action taken by, such House,~~  
~~10 joint committee, committee member, officer, employee,~~  
~~11 office, or agency; and~~

~~12 (D) if an opinion has been rendered in accordance~~  
~~13 with subparagraph (A) of this paragraph, and upon re-~~  
~~14 quest of either House of Congress, a joint committee of~~  
~~15 Congress, any committee of either House of Congress,~~  
~~16 at least six Senators, or at least twenty four Members~~  
~~17 of the House of Representatives, to bring civil actions,~~  
~~18 without regard to the sum or value of the matter in con-~~  
~~19 troversy, in a court of the United States to require an~~  
~~20 officer or employee of the executive branch of the United~~  
~~21 States Government, or any agency or department there-~~  
~~22 of, to act in accordance with the Constitution and laws of~~  
~~23 the United States as interpreted in such opinion.~~

~~24 (2) Upon receipt of written notice from the Congres-~~  
~~25 sional Legal Counsel to the effect that he has undertaken,~~

~~1 pursuant to paragraph (1) (C) of this subsection, to per-~~  
~~2 form any such specified representational service with respect~~  
~~3 to any designated action or proceeding pending or to be~~  
~~4 instituted, the Attorney General shall be relieved of respon-~~  
~~5 sibility and shall have no authority to perform such service~~  
~~6 in such action or proceeding except at the request or with~~  
~~7 the approval of the Congressional Legal Counsel.~~

~~8 (d) (1) Permission to intervene or to file a brief amicus~~  
~~9 curiae under subsection (c) (1) (B) (ii) of this section shall~~  
~~10 be of right, without regard to the requirements for standing~~  
~~11 as set forth in any statutes, rules, or other requirement of~~  
~~12 standing, and may be denied by a court only upon an ex-~~  
~~13 press finding that such intervention or filing is untimely and~~  
~~14 would significantly delay the pending action.~~

~~15 (2) Where an actual case or controversy exists, per-~~  
~~16 sons making requests under subsection (c) (1) (D) of this~~  
~~17 section shall have the right to obtain judicial review of the~~  
~~18 conduct in question without regard to the requirements for~~  
~~19 standing as set forth in any statutes, rules, or other require-~~  
~~20 ment of standing.~~

~~21 (3) For the purpose of all proceedings incident to the~~  
~~22 trial and review of any action described by paragraph (1)~~  
~~23 (C) of subsection (c) with respect to which the Congres-~~  
~~24 sional Legal Counsel has undertaken to provide representa-~~

~~tional service, and has so notified the Attorney General, the Congressional Legal Counsel shall have all powers conferred by law upon the Attorney General, any subordinate of the Attorney General, or any United States attorney.~~

~~(4) The Congressional Legal Counsel, or any attorney of his office designated by him for that purpose, shall be entitled for the purpose of performing duties imposed upon him pursuant to this section to enter an appearance in any such proceeding before any court of the United States without compliance with any requirement for admission to practice before such court, except that the authorization conferred by this subsection shall not apply with respect to the admission of any person to practice before the United States Supreme Court.~~

~~(c) All legal opinions rendered by the Congressional Legal Counsel under subsection (c) (1) (A) of this section shall be published and made available for public inspection under such rules and regulations as the Congressional Legal Counsel shall promulgate.~~

~~(f) (1) Section 3210 of title 39, United States Code, is amended—~~

~~(A) by inserting immediately after "respective terms of office" the following: "the Congressional Legal Counsel,"; and~~

~~(B) by inserting immediately before "or Legislative~~

~~Counsel" the following: "Congressional Legal Counsel,"~~  
~~(2) Section 3216 (a) of such title is amended by in-~~  
~~serting immediately before "and Legislative Counsel" the~~  
~~following: "Congressional Legal Counsel,".~~

#### ~~AUTHORIZATION OF APPROPRIATIONS~~

~~SEC. 103. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 101 of this title.~~

~~(b) There are authorized to be appropriated to the Office of the Congressional Legal Counsel such sums as may be necessary for the performance of the duties of the Congressional Legal Counsel under section 102 of this title. Amounts so appropriated shall be disbursed by the Secretary of the Senate on vouchers approved by the Congressional Legal Counsel.~~

#### ~~TITLE II GOVERNMENT PERSONNEL~~

##### ~~FINANCIAL DISCLOSURE REQUIREMENTS FOR PRESIDENT~~

##### ~~AND VICE PRESIDENT~~

~~SEC. 201. (a) An individual who holds the Office of President or Vice President at any time during the year shall file a report with the Comptroller General, not later than May 15 of the following year, containing a full and complete statement of—~~

~~(1) the amount of each tax paid by the individual, or by the individual and the individual's spouse filing~~



1 ~~jointly, for the preceding calendar year, and for pur-~~  
 2 ~~poses of this paragraph "tax" means any Federal, State,~~  
 3 ~~or local income tax and any Federal, State, or local~~  
 4 ~~property tax;~~

5 ~~(2) the amount and source of each item of income,~~  
 6 ~~each item of reimbursement for any expenditure, and~~  
 7 ~~each gift or aggregate of gifts from one source (other~~  
 8 ~~than gifts received from his spouse or any member of~~  
 9 ~~his immediate family) received by him or by him and~~  
 10 ~~his spouse jointly during the preceding calendar year~~  
 11 ~~which exceeds \$100 in amount or value, including any~~  
 12 ~~fee or other honorarium received by him for or in con-~~  
 13 ~~nection with the preparation or delivery of any speech~~  
 14 ~~or address, attendance at any convention or other as-~~  
 15 ~~sembly of individuals, or the preparation of any article~~  
 16 ~~or other composition for publication, and the monetary~~  
 17 ~~value of subsistence, entertainment, travel, and other~~  
 18 ~~facilities received by him in kind;~~

19 ~~(3) the identity of each asset held by him, or by~~  
 20 ~~him and his spouse jointly which has a value in excess~~  
 21 ~~of \$1,000, and the amount of each liability owed by him~~  
 22 ~~or by him and his spouse jointly, which is in excess of~~  
 23 ~~\$1,000 as of the close of the preceding calendar year;~~

24 ~~(4) any transaction in securities of any business~~  
 25 ~~entity by him or by him and his spouse jointly, or by~~

1 ~~any person acting on his behalf or pursuant to his direc-~~  
 2 ~~tion during the preceding calendar year if the aggregate~~  
 3 ~~amount involved in transactions in the securities of such~~  
 4 ~~business entity exceeds \$1,000 during such year;~~

5 ~~(5) all transactions in commodities by him, or by~~  
 6 ~~him and his spouse jointly, or by any person acting on~~  
 7 ~~his behalf or pursuant to his direction during the pre-~~  
 8 ~~ceding calendar year if the aggregate amount involved in~~  
 9 ~~such transactions exceeds \$1,000;~~

10 ~~(6) any purchase or sale, other than the purchase~~  
 11 ~~or sale of his personal residence, of real property or any~~  
 12 ~~interest therein by him, or by him and his spouse jointly,~~  
 13 ~~or by any person acting on his behalf or pursuant to his~~  
 14 ~~direction, during the preceding calendar year if the value~~  
 15 ~~of property involved in such purchase or sale exceeds~~  
 16 ~~\$1,000; and~~

17 ~~(7) any expenditure made by another individual~~  
 18 ~~for the personal benefit of him or his spouse.~~

19 ~~(b) Reports required by this section shall be in such~~  
 20 ~~form and detail as the Comptroller General may prescribe.~~

21 ~~(c) All reports filed under this section shall be main-~~  
 22 ~~tained by the Comptroller General as public records, which,~~  
 23 ~~under such reasonable rules as he shall prescribe, shall be~~  
 24 ~~available for inspection by members of the public.~~

25 ~~(d) As used in this section—~~

~~(1) The term "income" means gross income as defined in section 61 of the Internal Revenue Code of 1954.~~

~~(2) The term "security" means security as defined in section 2 of the Securities Act of 1933 (15 U.S.C. 77b).~~

~~(3) The term "commodity" means commodity as defined in section 2 of the Commodity Exchange Act (7 U.S.C. 2).~~

~~(4) The term "transactions in securities or commodities" means any acquisition, holding, withholding, use, transfer, or other disposition involving any security or commodity.~~

~~(5) The term "immediate family" means the child, parent, grandparent, brother, or sister of an individual, and the spouses of such persons.~~

~~(c) The first report required under this section shall be filed thirty days after the date of enactment of this Act if such date occurs after May 15 of any calendar year.~~

~~PROHIBITING CAMPAIGN SOLICITATIONS BY APPOINTMENT-CONFIRMED BY THE SENATE AND EXECUTIVE OFFICE PERSONNEL~~

~~SEC. 202. (a) Section 7323 of title 5, United States Code, is amended to read as follows:~~

~~§ 7323. Political contributions; prohibition~~

~~"(a) An employee in an executive agency (except an employee to whom subsection (b) of this section applies) may not request or receive from, or give to, an employee, a Member of Congress, or an officer of a uniformed service a thing of value for political purposes.~~

~~"(b) An employee in an executive agency who is appointed by the President, by and with the advice and consent of the Senate, or is paid from the appropriation for the Executive Office of the President may not request or receive from anyone a thing of value for political purposes at any time while he is such an employee and for a one year period occurring immediately after each time he is no longer so employed.~~

~~"(c) An employee who violates this section shall be removed from the service."~~

~~(b) Section 602 of title 18, United States Code, is amended—~~

~~(1) by inserting the subsection designation "(a)" immediately before "Whoever"; and~~

~~(2) by inserting at the end thereof the following:~~

~~"(b) Any officer or employee of the United States who requests or receives from anyone a thing of value for political purposes in violation of section 7323 (b) of title 5 shall~~



1 ~~be fined not more than \$5,000 or imprisoned not more than~~  
2 ~~three years or both."~~

3 ~~APPLICATION OF HATCH ACT TO DEPARTMENT OF~~

4 ~~JUSTICE~~

5 ~~Sec. 203. Section 7324 (d) of title 5, United States~~  
6 ~~Code, is amended—~~

7 ~~(1) by inserting in clause (2), immediately after~~  
8 ~~"Executive department", the following: "(other than~~  
9 ~~the Department of Justice)"; and~~

10 ~~(2) by inserting in clause (3), immediately after~~  
11 ~~"an employee", the following: "who is (A) not an~~  
12 ~~employee of the Department of Justice, and (B)";~~

13 ~~INTELLIGENCE ACTIVITIES BY PERSONNEL OF THE~~

14 ~~EXECUTIVE OFFICE OF THE PRESIDENT~~

15 ~~Sec. 204. (a) Chapter 2 of title 3, United States Code,~~  
16 ~~is amended by adding at the end thereof the following:~~

17 ~~"§ 112. Investigative and intelligence functions~~

18 ~~"Any individual who is employed by or detailed to any~~  
19 ~~agency of the Executive Office of the President, including the~~  
20 ~~White House Office, who is compensated from appropriated~~  
21 ~~funds, shall not, directly or indirectly, engage in any inves-~~  
22 ~~tigative or intelligence gathering activity concerning national~~  
23 ~~or domestic security unless specifically authorized to do so by~~  
24 ~~statute."~~

1 ~~(b) The analysis of such chapter is amended by adding~~  
2 ~~at the end thereof the following new item:~~

3 ~~"112. Investigative and intelligence functions."~~

4 ~~INTERFERENCE WITH ELECTIONS BY GOVERNMENT~~

5 ~~EMPLOYEES~~

6 ~~Sec. 205. (a) Section 595 of title 18, United States~~  
7 ~~Code is amended—~~

8 ~~(1) by striking out "loans or grants" in the first~~  
9 ~~paragraph and inserting in lieu thereof the following:~~  
10 ~~"loans, grants, subsidies, or any other payments, includ-~~  
11 ~~ing payments made under a contract,"; and~~

12 ~~(2) by striking out "\$1,000" and "one year" in~~  
13 ~~the first paragraph and inserting in lieu thereof~~  
14 ~~"\$25,000" and "five years", respectively.~~

15 ~~(b) Section 600 of such title is amended by striking out~~  
16 ~~"\$1,000" and "one year" and inserting in lieu thereof~~  
17 ~~"\$25,000" and "five years", respectively.~~

18 ~~DISCLOSURE OF REQUEST FOR TAX AUDIT~~

19 ~~Sec. 206. (a) Subchapter A of chapter 78 of the In-~~  
20 ~~ternal Revenue Code of 1954 (relating to examination and~~  
21 ~~inspection) is amended by redesignating section 7609 as~~  
22 ~~7610, and by inserting after 7608 the following new section:~~  
23 ~~"§ 7609. Disclosure of certain requests for investigations~~

24 ~~"(a) General rules.~~

~~"As soon as is practical after the beginning of each~~

~~1 calendar year, the Secretary or his delegate shall make a~~  
~~2 report to the Committee on Ways and Means of the House~~  
~~3 of Representatives, the Committee on Finance of the Senate,~~  
~~4 and the Joint Committee on Internal Revenue Taxation~~  
~~5 which describes each request, direct or indirect, received by~~  
~~6 the Secretary or his delegate during the preceding calendar~~  
~~7 year from an officer, including the President, or employee of~~  
~~8 the Executive Office of the President, including the White~~  
~~9 House Office, for information or an investigation with respect~~  
~~10 to the liability for tax of any taxpayer. Such report shall~~  
~~11 include—~~

~~12 “(1) the name and office of each officer or employee~~  
~~13 who makes such a request,~~

~~14 “(2) the name of the taxpayer who is the subject~~  
~~15 of each request, and~~

~~16 “(3) a description of any action which the Sec-~~  
~~17 retary or his delegate took with respect to such taxpayer~~  
~~18 as a result of such request.~~

~~19 “(b) Requests from Executive Office of the President.~~

~~20 “All such requests made by the President or an of-~~  
~~21 ficer or employee of the Executive Office of the President,~~  
~~22 including the White House Office, shall be in writing and~~  
~~23 shall be maintained on file by the Secretary.~~

~~24 “(c) Limitation of information disclosure.~~

~~25 “Pursuant to such requests, the Secretary shall dis-~~

~~1 close only the name of a person or group and the general~~  
~~2 nature of an investigation if he determines that further dis-~~  
~~3 closure will prejudice the rights of the person or group or the~~  
~~4 effective and impartial administration of this title.”~~

~~5 (b) The table of sections for such subchapter A is~~  
~~6 amended by striking out the item relating to section 7609~~  
~~7 and inserting in lieu thereof the following:~~

~~“Sec. 7600. Disclosure of certain requests for investigation.~~  
~~“Sec. 7610. Cross references.”~~

#### ~~8 ACCESS TO TAX RETURNS~~

~~9 SEC. 207. Section 6103 (a) of the Internal Revenue~~  
~~10 Code of 1954 (relating to publicity of returns and disclosure~~  
~~11 of information as to persons filing income tax returns) is~~  
~~12 amended by—~~

~~13 (1) striking out “upon order of the President and”~~  
~~14 and “approved by the President” in paragraph (1),~~

~~15 (2) striking out “the President” in paragraph (2)~~  
~~16 and inserting in lieu thereof “the Secretary or his dele-~~  
~~17 gate”, and~~

~~18 (3) adding at the end thereof the following new~~  
~~19 paragraph:~~

~~20 “(4) Except as provided in section 7609 (relating~~  
~~21 to disclosure of certain requests for investigations), re-~~  
~~22 turns referred to in paragraphs (1) and (2) shall not be~~  
~~23 open to inspection or examination by the President, the~~



~~Vice President, or any officer or employee of the Executive Office of the President."~~

### ~~TITLE III CONGRESSIONAL ACTIVITIES~~

#### ~~JURISDICTION TO HEAR CERTAIN CIVIL ACTIONS~~

##### ~~BROUGHT BY THE CONGRESS~~

~~SEC. 301. (a) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:~~

##### ~~"§ 1264. Congressional actions~~

~~"(a) The District Court for the District of Columbia shall have original jurisdiction, without regard to the sum or value of the matter in controversy, over any civil action brought by either House of Congress, any committee of such House, or any joint committee of Congress, to enforce or secure a declaration concerning the validity of any subpoena or order issued by such House or committee, or by any subcommittee of such committee, to any officer, including the President and Vice President, or any employee of the executive branch of the United States Government to secure the production of information, documents, or other materials.~~

~~"(b) Either House of Congress, any committee of such House authorized by such House to bring suit, or any joint committee of Congress authorized by Congress to bring suit, in addition to any other available remedies, may commence and prosecute a civil action under subsection (a) in its own~~

~~name or in the name of the United States in the District Court for the District of Columbia to enforce or secure a declaration concerning the validity of any subpoena or order issued by such House or committee, or by any subcommittee of such committee, against any officer, including the President and Vice President, or any employee of the executive branch of the United States Government to secure the production of information, documents, or other materials.~~

~~"(c) Any House or committee commencing or prosecuting an action pursuant to this section may be represented in such action by such attorneys as it may designate."~~

~~"(b) The analysis of such chapter 83 is amended by adding at the end thereof the following new item:~~

##### ~~"1264. Congressional actions."~~

#### ~~PERJURY BEFORE CONGRESSIONAL COMMITTEES~~

~~SEC. 302. (a) Section 1621 of title 18, United States Code, is amended by adding at the end thereof the following new sentence: "It is not a defense to an action brought under this section that the statement or declaration was made at a time when a quorum of the tribunal, where such tribunal is both Houses or either House of Congress, any committee or subcommittee of either House of Congress, or any joint committee, or subcommittee thereof, of Congress was not present if the oath was properly administered and taken."~~



~~(b) (1) Section 1623 of title 18, United States Code is amended—~~

~~(A) once in subsection (a), twice in subsection (e), and once in subsection (d) by inserting immediately after "ancillary to" the following: "the Congress or to"; and~~

~~(B) by adding at the end thereof the following new subsection:~~

~~"(f) As used in this section, 'proceeding before or ancillary to the Congress' includes a proceeding before both Houses or either House of Congress, any committee or subcommittee of either House of Congress, or any joint committee, or subcommittee thereof, of Congress."~~

~~(2) The caption of such section is amended by inserting "Congress or a," immediately after "before".~~

~~(3) The analysis of chapter 79 of such title is amended by inserting "Congress or a," immediately after "before" in item 1623.~~

#### ~~TESTIMONY BEFORE SENATE COMMITTEES~~

~~SEC. 303. Section 133A (b) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 190a-1 (b)), is amended to read as follows:~~

~~"(b) Each hearing conducted by each standing, select, or special committee of the Senate (except the Committee on Appropriations) shall be open to the public except (1)~~

~~1 when the committee determines that the testimony to be  
2 taken at that hearing may relate to a matter of national  
3 security, may tend to reflect adversely on the character or  
4 reputation of the witness or any other individual, or may  
5 divulge matters deemed confidential under other provisions  
6 of law or Government regulation, or (2) when the com-  
7 mittee determines that the requirements of efficient and  
8 productive investigation require that the meeting be closed  
9 and that the investigation would be materially harmed if  
10 a regimen of confidentiality were not imposed. Whenever  
11 any such hearing is open to the public, that hearing may  
12 be broadcast by radio or television, or both, under such  
13 rules as the committee may adopt."~~

#### ~~TITLE IV FEDERAL ELECTION CAMPAIGN AC- TIVITIES, CONTRIBUTIONS, AND CRIMINAL SANCTIONS~~

##### ~~FEDERAL TAX INCENTIVES FOR CAMPAIGN~~

##### ~~CONTRIBUTION~~

~~SEC. 401. (a) (1) Section 41 (a) of the Internal Revenue Code of 1954 (relating to contributions to candidates for public office) is amended by striking out "one-half" and inserting in lieu thereof "the sum".~~

~~(2) Section 41 (b) (1) of such Code (relating to maximum credit) is amended to read as follows:~~

~~"(1) MAXIMUM CREDIT. The credit allowed by~~

~~subsection (a) for a taxable year is limited to \$25 (\$50 in the case of a joint return under section 6013)."~~

~~(2) (A) Section 218 of such Code (relating to deduction for contributions to candidates for public office) is repealed.~~

~~(B) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 218 and inserting in lieu thereof the following:~~

~~"Sec. 218. Repealed."~~

~~(h) The amendments made by this section apply to contributions made after December 31, 1974.~~

#### ~~PENALTY FOR ILLEGAL CAMPAIGN CONTRIBUTIONS~~

~~SEC. 402. The second paragraph of section 610 of title 18, United States Code, is amended by striking out all after the first semicolon and inserting in lieu thereof the following:~~

~~"and every officer or director of any corporation, or officer of any labor organization, who consents to any contribution or expenditure by the corporation or labor organization as the case may be, and any person who accepts or receives any contribution, in violation of this section, shall be fined not more than \$50,000 or imprisoned not more than two years, or both."~~

#### ~~UNLAWFUL USE OF CAMPAIGN MATERIALS~~

~~SEC. 403. (a) Section 612 of title 18, United States Code, is amended~~

~~(1) by inserting "(a)" immediately before the text of such section; and~~

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

~~"(b) Whoever embezzles, steals, or by fraud or deception obtains from any individual who has publicly declared his intent to seek nomination for election, or election, to any Federal office in an election or has caused or permitted his intention to do so to be publicly declared, any campaign materials, documents, or papers which are not available for public dissemination and which belong to, or are in the custody of, any such person shall be fined not more than \$5,000, or imprisoned not more than five years, or both."~~

~~(b) (1) The caption of such section is amended by adding at the end thereof the following: "and theft of campaign materials"~~

~~(2) The analysis of chapter 29 of such title is amended by inserting immediately before the period in the item relating to section 612 a semicolon and the following: "an lawful use of campaign materials."~~

#### ~~CRIMINAL SANCTIONS GENERALLY~~

~~SEC. 404. (a) Chapter 29 of title 18, United States Code, is amended by adding at the end thereof the following new sections:~~



~~§ 618. Use of funds to finance violation of provisions of Federal election laws~~

~~"No person may make any expenditure, payment of money, or transfer of other property to compensate another person for violating any provision of this chapter or of any other law of the United States relating to elections, or to compensate any other person for engaging in any activity which the individual making the expenditure, payment, or transfer knows, or has reason to know, will probably result in a violation of any such provision. Violation of the provisions of this section is punishable by a fine of not to exceed \$25,000, imprisonment for not to exceed five years, or both."~~

~~§ 619. Contributions by certain other recipients of Federal funds~~

~~"(a) No person who receives one or more grants, loans, or subsidy payments in excess of \$5,000, singly or in the aggregate, in any calendar year from funds appropriated by the Congress may make a contribution during that year to any other person for any political purpose. No person may solicit a contribution from any person to whom the preceding sentence applies during any calendar year during which he is prohibited, on account of the application of such sentence, from making a contribution."~~

~~"(b) For purposes of this section, each officer or director~~

~~of a corporation which receives such grants, loans, or other subsidy payments is considered to have received the entire amount of grants, loans, or other subsidy payments received by the corporation during the calendar year.~~

~~"(c) Violation of the provisions of this section is punishable by a fine of not more than \$5,000, imprisonment for not more than five years, or both."~~

~~§ 620. Fraudulent infiltration of Federal election campaigns for espionage and sabotage purposes~~

~~"Whoever—"~~

~~"(1) obtains employment, voluntary or paid, in a campaign of any person who has publicly declared his intent to seek nomination for election, or election, to Federal office in any election by false pretenses, misrepresentation, or any other fraudulent means for the purpose of interfering with, spying on, or obstructing any campaign activity of such person; or~~

~~"(2) causes any person to obtain employment, voluntary or paid, in any such campaign for such purpose;~~

~~shall be fined not more than \$5,000, or imprisoned not more than five years, or both.~~

~~§ 621. Misrepresentation of a candidate for elective office~~

~~"Whoever willfully makes any false, fictitious, or fraudulent statements or representations that such person repre-~~

~~sents any person who has publicly declared his intention to seek nomination for election, or election, to Federal office in any election or has caused or permitted his intention to do so to be publicly declared, for the purpose of interfering with any such election, shall be fined not more than \$5,000, or imprisoned for not more than five years, or both.~~

~~“§ 622. Crimes affecting elections—~~

~~“(a) It constitutes a separate offense and a violation of this section for a person to commit a violation of any provision of State law or of any provision of this title, other than any other provision of this chapter, if the violation~~

~~“(1) was committed for the purpose of interfering with, or affecting the outcome of, an election, and~~

~~“(2) is punishable by imprisonment for more than one year.~~

~~“(b) Violation of the provisions of subsection (a) is punishable by a fine not to exceed \$25,000, imprisonment for not more than five years, or both.”.~~

~~“(b) (1) Section 591 of title 18, United States Code, as amended by section 404 (b) (1) of this Act is amended by striking out “and 613” and inserting in lieu thereof “612, 613, 614, 615, 616, 617, 618, 619, 620, 621, and 622”.~~

~~“(2) The table of sections for chapter 20 of title 18,~~

~~United States Code, is amended by adding at the end thereof the following new items:~~

~~“618. Use of funds to finance violation of provisions of Federal election laws.~~

~~“619. Contributions by certain other recipients of Federal funds.~~

~~“620. Fraudulent infiltration of Federal election campaigns for espionage and sabotage purposes.~~

~~“621. Misrepresentation of a candidate for elective office.~~

~~“622. Crimes affecting elections.”.~~

~~OBSTRUCTION OF GOVERNMENT FUNCTIONS—~~

~~SEC. 405. (a) Chapter 47 of title 18, United States Code, is amended by adding at the end thereof the following new section:~~

~~“§ 1028. Obstruction of Government functions generally—~~

~~“Whoever intentionally obstructs, impairs, or perverts a Government function by defrauding the Government of the United States, or any department or agency thereof, in any manner, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.”.~~

~~(b) The analysis of such chapter is amended by adding at the end thereof the following new item:~~

~~“1028. Obstruction of Government functions generally.”.~~

~~That this Act may be cited as the “Watergate Reorganization and Reform Act of 1976”.~~

~~TITLE I—AMENDMENTS TO TITLE 28, UNITED STATES CODE~~

~~REORGANIZATION OF THE DEPARTMENT OF JUSTICE~~

~~SEC. 101. (a) Title 28, United States Code, is amended by adding after chapter 37 the following new chapter:~~



1 **"Chapter 39—DIVISION OF GOVERNMENT CRIMES**  
 2 **AND APPOINTMENT OF TEMPORARY SPECIAL**  
 3 **PROSECUTOR**

"Sec.

"591. Establishment of Division of Government Crimes.

"592. Jurisdiction.

"593. Final decision by the Attorney General.

"594. Standard for appointment of temporary special prosecutor.

"595. Temporary special prosecutor.

"596. Disqualification of officers and employees of the Department of Justice.

"597. Expedited judicial review.

4 **"§ 591. Establishment of Division of Government Crimes**

5 **"(a) There is established within the Department of Jus-**  
 6 **tice the Division of Government Crimes which shall be headed**  
 7 **by the Assistant Attorney General for Government Crimes**  
 8 **(hereinafter referred to in this chapter as the 'Assistant At-**  
 9 **torney General') who shall be appointed by the President, by**  
 10 **and with the advice and consent of the Senate, for a term**  
 11 **coterminous with that of the President making the appoint-**  
 12 **ment.**

13 **"(b) An individual shall not be appointed Assistant At-**  
 14 **torney General if such individual has, during the five years**  
 15 **preceding such appointment, held a high level position of**  
 16 **trust and responsibility while serving on the personal cam-**  
 17 **paign staff or in an organization or political party working**  
 18 **on behalf of the campaign of an individual who was elected**  
 19 **to the office of President or Vice President.**

20 **"(c) The confirmation by the Senate of a Presidential**

1 **appointment of the Assistant Attorney General shall con-**  
 2 **stitute a final determination that such officer meets the re-**  
 3 **quirements under subsection (b).**

4 **"(d) While serving as Assistant Attorney General, an**  
 5 **individual shall not engage in any other business, vocation,**  
 6 **or employment.**

7 **"(e) The Attorney General, at the beginning of each reg-**  
 8 **ular session of the Congress, shall report to the Congress on**  
 9 **the activities and operation of the Division of Government**  
 10 **Crimes for the last preceding fiscal year, and on any other**  
 11 **matters pertaining to the Division which he considers proper,**  
 12 **including a listing of the number, type, and nature of the in-**  
 13 **vestigations and prosecutions conducted by such Division**  
 14 **and the disposition thereof, and any proposals for new legisla-**  
 15 **tion which the Attorney General may recommend. Such**  
 16 **report shall be made public except that the Committee on the**  
 17 **Judiciary of the House of Representatives or the Commit-**  
 18 **tee on the Judiciary of the Senate may on its own initiative,**  
 19 **or upon the request of the Attorney General, seal portions**  
 20 **of the report related to uncompleted and ongoing investiga-**  
 21 **tions.**

22 **"§ 592. Jurisdiction**

23 **"(a) The Attorney General shall, subject to the provi-**  
 24 **sions of section 595, delegate to the Assistant Attorney Gen-**  
 25 **eral jurisdiction of (1) criminal violations of Federal law**

1 committed by any elected or appointed Federal Government  
 2 officer or employee who is serving or has served at any time  
 3 during the preceding six years in a position compensated at  
 4 a rate equivalent to or greater than level III of the Executive  
 5 Schedule under section 5314 of title 5, United States Code;  
 6 (2) criminal violations of Federal law committed by any  
 7 elected or appointed Federal Government officer or employee,  
 8 other than those described in paragraph (1), who is serving  
 9 or has served at any time during the preceding six years, if  
 10 such violation is directly or indirectly related to the official  
 11 Government work or compensation of such officer or employee;  
 12 (3) criminal violations of Federal law committed by a spe-  
 13 cial Federal Government employee, as defined under section  
 14 202 of title 18, United States Code, in the course of his  
 15 employment by the Government, who is serving or has served  
 16 at any time during the preceding six years; (4) criminal vio-  
 17 lations of Federal laws relating to lobbying, campaigns, and  
 18 election to public office committed by any person; and (5) any  
 19 other matter which the Attorney General refers to the Assist-  
 20 ant Attorney General. Any jurisdictional grant of authority  
 21 which is inconsistent with this paragraph is hereby super-  
 22 seded.

23 "(b) For the purpose of subsection (a) of this section,  
 24 the six-year period referred to shall be computed from the  
 25 date on which (1) the Assistant Attorney General makes a

1 reasonable effort to notify an individual described in such  
 2 subsection in writing that such individual is the subject of an  
 3 investigation of a possible violation of a Federal law, or  
 4 (2) such individual is informed of his indictment, whichever  
 5 is earlier.

6 "(c) Any information, allegation, or complaint received  
 7 by any officer or employee of any branch of Government  
 8 relating to any violation specified in subsection (a) of this  
 9 section shall be expeditiously reported to a local United  
 10 States Attorney or to the Attorney General. Such United  
 11 States Attorney shall expeditiously inform the Attorney  
 12 General in writing of the receipt and content of such infor-  
 13 mation, allegation, or complaint.

#### 14 "§ 593. Final decision by the Attorney General

15 "The Attorney General shall supervise the Assistant  
 16 Attorney General in the discharge of his duties.

#### 17 "§ 594. Standard for appointment of temporary special 18 prosecutor

19 "(a) If the Attorney General, upon receiving informa-  
 20 tion, allegations, or evidence of any Federal criminal wrong-  
 21 doing, determines that a conflict of interest as defined in  
 22 subsection (c), or the appearance thereof, may exist if he  
 23 participates in any investigation or prosecution resulting  
 24 from such information, allegations, or evidence, the At-  
 25 torney General within thirty days after the receipt thereof



1 shall file a memorandum with the division of three judges  
2 of the United States Court of Appeals for the District of  
3 Columbia, as described in section 49 of this title (hereinafter  
4 in this chapter referred to as the 'court') containing—

5 “(1) a summary of the information, allegations, and  
6 evidence received and the results of a preliminary in-  
7 vestigation or evaluation thereof by any Federal in-  
8 vestigative agency;

9 “(2) a summary of the information relevant to  
10 determining whether a conflict of interest, or the appear-  
11 ance thereof, exists;

12 “(3) a finding by the Attorney General, based upon  
13 all information known to the Department of Justice, as to  
14 whether the information, allegations, and evidence sum-  
15 marized as required under paragraph (1) are clearly  
16 frivolous, and therefore, do not justify any further inves-  
17 tigation or prosecution, and any other comments or rec-  
18 ommendations by the Attorney General; and

19 “(4) a decision, if any, by the Attorney General  
20 to disqualify himself and to appoint a temporary spe-  
21 cial prosecutor under section 595.

22 “(b) Not sooner than thirty days after first notifying the  
23 Attorney General of the information, allegations or evidence  
24 in his possession of possible criminal wrongdoing, any indi-  
25 vidual may make a request to the court to decide whether the

1 Attorney General should disqualify himself with respect to a  
2 particular investigation by submitting in writing to the court  
3 and the Attorney General such information, allegations, or  
4 evidence and a summary of the information relevant to deter-  
5 mine whether a conflict of interest exists. The Attorney Gen-  
6 eral shall have fifteen days from his receipt thereof to file a  
7 memorandum with the court containing the information de-  
8 scribed in subsection (a) if the Attorney General has not  
9 already done so.

10 “(c)(1) In determining whether a conflict of interest or  
11 the appearance thereof exists, the court and the Attorney  
12 General shall consider whether the President or the Attorney  
13 General has a direct and substantial personal or partisan  
14 political interest in the outcome of the proposed criminal in-  
15 vestigation or prosecution.

16 “(2) For the purposes of this section, a conflict of  
17 interest, or the appearance thereof, is deemed to exist if the  
18 subject of a criminal investigation or prosecution is the Pres-  
19 ident, Vice President, Director of the Federal Bureau of  
20 Investigation, any individual serving in a position com-  
21 pensated at level I of the Executive Schedule under section  
22 5312 of title 5, United States Code, any individual working  
23 in the Executive Office of the President compensated at a rate  
24 equivalent to or greater than level V of the Executive Sched-  
25 ule under section 5316 of title 5, United States Code, or any



1 individual who held any office or position described in this  
 2 paragraph at any time during the four years immediately  
 3 preceding the investigation or prosecution.

4 “(d)(1) If (A) the Attorney General files a memoran-  
 5 dum as provided under subsection (a) or (b) which does not  
 6 include a decision to disqualify himself, or a finding pursuant  
 7 to subsection (a)(3) that the information, allegations and  
 8 evidence are clearly frivolous, or (B) the Attorney General  
 9 fails to make a timely reply as required under subsection  
 10 (b), the court shall determine whether a conflict of interest,  
 11 or the appearance thereof, exists. If the court finds such a  
 12 conflict, or the appearance thereof, it shall appoint a tem-  
 13 porary special prosecutor pursuant to section 595, and upon  
 14 notification in writing of such an appointment the Attorney  
 15 General shall disqualify himself.

16 “(2) Upon request of the court, the Attorney General  
 17 or any other individual shall make available to the court all  
 18 documents, materials, and memoranda as the court finds  
 19 necessary to carry out its duties under this section. The court  
 20 may request participation or argument from a party other  
 21 than the Attorney General or may appoint any individual to  
 22 perform the function described in this subsection.

23 “(e) If, after finding under subsection (a)(3) that  
 24 the information, allegations, and evidence of possible criminal  
 25 wrongdoing are clearly frivolous, the Attorney General re-

1 ceives additional information, allegations, or evidence which,  
 2 in his opinion, justify further investigation or prosecution,  
 3 the Attorney General shall within fifteen days after receiving  
 4 the information, allegations, or evidence, file a memorandum  
 5 with the court in accordance with subsection (a).

6 “§ 595. Temporary special prosecutor

7 “(a)(1) A temporary special prosecutor shall be ap-  
 8 pointed pursuant to this section—

9 “(A) by the Attorney General, upon a decision to  
 10 disqualify himself pursuant to section 594(a)(4); or

11 “(B) by the court, upon a finding of a conflict of  
 12 interest, or the appearance thereof, pursuant to section  
 13 594(d)(1).

14 “(2) The court shall notify the Attorney General in  
 15 writing of any decision under paragraph (1)(B). Any  
 16 action of the court under this section shall supersede any  
 17 actions by the Attorney General which are in conflict  
 18 therewith.

19 “(3) Whoever appoints a temporary special prosecutor  
 20 under this section shall specify in writing the matters which  
 21 such prosecutor is authorized to investigate and prosecute.

22 “(b) An individual shall not be appointed temporary  
 23 special prosecutor unless such individual (1) is not serving  
 24 as an officer or employee of the Federal Government, and  
 25 (2) meets the requirements of section 591(b).

1 “(c) The court shall review each appointment of a tempo-  
 2 rary special prosecutor by the Attorney General under this  
 3 section to determine whether—

4 “(1) the individual appointed temporary special  
 5 prosecutor (A) has a conflict of interest, or the appear-  
 6 ance thereof, in accordance with section 594(c); or (B)  
 7 fails to meet the requirements of subsection (b); or

8 “(2) the jurisdiction defined by the Attorney General  
 9 is not sufficiently broad to enable the temporary special  
 10 prosecutor to carry out the purposes of this chapter.

11 “If the court finds that the appointment is deficient under  
 12 paragraph (1) or (2), the court shall appoint a temporary  
 13 special prosecutor pursuant to this section.

14 “(d) (1) Except as provided under paragraph (2), the  
 15 authority and powers of any temporary special prosecutor  
 16 shall terminate upon the submission to the Attorney General  
 17 of a report stating that the investigation of all matters which  
 18 the temporary special prosecutor is authorized to investigate,  
 19 as set forth pursuant to subsection (a) (3), and any result-  
 20 ing prosecutions have been completed.

21 “(2) Prior to his submission of the report under para-  
 22 graph (1), a temporary special prosecutor may be removed  
 23 from office by the Attorney General only for extraordinary  
 24 improprieties. Immediately after removing a temporary spe-

1 cial prosecutor under this subsection, the Attorney General  
 2 shall submit to the court a written report specifying with  
 3 particularity the cause for which such temporary special  
 4 prosecutor was removed. The court shall make available to  
 5 the public such report, except that the court may, if necessary  
 6 to avoid prejudicing the rights under Federal law of any  
 7 individual, delete or postpone publishing such portions of the  
 8 report, or the whole report, or any name or other identifying  
 9 details.

10 “(3) A temporary special prosecutor or any aggrieved  
 11 person may bring an action in the United States District  
 12 Court for the District of Columbia to challenge the action of  
 13 the Attorney General under paragraph (2) by seeking  
 14 reinstatement or any other appropriate relief. In any hearing  
 15 of any such action, the court shall proceed de novo.

16 “(e) In carrying out the provisions of this section, a  
 17 temporary special prosecutor shall have, within the jurisdic-  
 18 tion specified by the Attorney General or the court in accord-  
 19 ance with subsection (a) (3), the same power as the Assistant  
 20 Attorney General for Government Crimes to act on behalf of  
 21 the United States, except that the temporary special prosecutor  
 22 shall have the authority to appeal any decision of a court in a  
 23 proceeding in which he is a party without the approval of the  
 24 Solicitor General or the Attorney General. The Attorney



1 General shall make available to the temporary special prose-  
 2 cutor all documents, materials, and memoranda necessary to  
 3 carry out his duties under this section.

4 “(f) Upon request by a temporary special prosecutor,  
 5 the Attorney General shall make available to him the resources  
 6 and personnel necessary to carry out his duties under this  
 7 section. If a temporary special prosecutor does not receive the  
 8 resources and personnel required to perform his duties, said  
 9 temporary special prosecutor shall inform the Committee on  
 10 the Judiciary of the House of Representatives and the Com-  
 11 mittee on the Judiciary of the Senate.

12 “§ 596. **Disqualification of officers and employees of the**  
 13 **Department of Justice**

14 “The Attorney General shall promulgate rules and regu-  
 15 lations which require any officer or employee of the Depart-  
 16 ment of Justice, including a United States attorney or a  
 17 member of his staff, to disqualify himself from participation  
 18 in a particular investigation or prosecution if such participa-  
 19 tion may result in a personal, financial, or partisan political  
 20 conflict of interest, or the appearance thereof. Such rules and  
 21 regulations may provide that a willful violation of any pro-  
 22 vision thereof shall result in removal from office.

23 “§ 597. **Expedited judicial review**

24 “(a)(1) Any objection on constitutional grounds by a  
 25 person who is the subject of an indictment or information

1 to the authority of a temporary special prosecutor appointed  
 2 under this chapter to frame and sign indictments or informa-  
 3 tions or to prosecute offenses in the name of the United States  
 4 shall be raised, if at all, by motion to dismiss the indictment or  
 5 information. Each such motion shall be made within twenty  
 6 days of notice of the indictment or information and shall not  
 7 preclude the making of any other motion under the Federal  
 8 Rules of Criminal Procedure.

9 “(2) The district court shall immediately certify any  
 10 motion under paragraph (1) of this subsection to the United  
 11 States court of appeals for that circuit, which shall hear the  
 12 motion sitting en banc.

13 “(3) Notwithstanding any other provision of law, any  
 14 determination on the motion shall be reviewable by appeal  
 15 directly to the Supreme Court of the United States, if such  
 16 appeal is filed within ten days after such determination.

17 “(4) Except as provided in this section, no court shall  
 18 have jurisdiction to consider any objection to the validity of  
 19 an indictment or information or a conviction based on the  
 20 lack of authority under the Constitution of a temporary spe-  
 21 cial prosecutor to frame and sign indictments and informa-  
 22 tions and to prosecute offenses in the name of the United  
 23 States.

24 “(5) Notwithstanding any subsequent judicial determi-  
 25 nation regarding his authority to frame and to sign indict-

1 ments and informations and to prosecute offenses in the name  
2 of the United States, an individual who is appointed as a  
3 temporary special prosecutor and anyone acting on his behalf  
4 shall be deemed a person authorized to be present during ses-  
5 sions of a grand jury.

6 “(b)(1) Any person aggrieved by an official act of a  
7 temporary special prosecutor may bring an action or file an  
8 appropriate motion challenging his constitutional authority  
9 under this chapter seeking appropriate relief. Such an action  
10 or motion shall be filed within twenty days after the aggrieved  
11 person has notice of the act to which he objects. The district  
12 court shall immediately certify all questions of the constitu-  
13 tionality of this chapter to the United States court of appeals  
14 for that circuit, which shall hear the matter sitting en banc.

15 “(2) Notwithstanding any other provision of law, any  
16 decision on a matter certified under paragraph (1) of this  
17 subsection shall be reviewable by appeal directly to the Su-  
18 preme Court of the United States, if such appeal is brought  
19 within ten days of the decision of the court of appeals.

20 “(c)(1) It shall be the duty of the court of appeals and  
21 of the United States Supreme Court to advance on the docket  
22 and to expedite to the greatest possible extent the disposition  
23 of any motion filed under subsection (a)(1), or any question  
24 certified under subsection (b)(1).

25 “(2) The expedited review procedures of this section shall

1 not apply to any challenge to the constitutionality of any  
2 provision of this chapter insofar as any question presented  
3 shall have been previously determined by the Supreme Court  
4 of the United States notwithstanding that the previous deter-  
5 mination occurred in litigation involving other parties.”.

6 (b) The analysis of part II of title 28, United States  
7 Code, is amended by adding after the item following chapter  
8 37 the following new item:

“39. Division of Government Crimes and Appointment of Tempo-  
rary Special Prosecutor----- 591”.

9 (c)(1) Section 5315 of title 5, United States Code, is  
10 amended by striking out “(9)” in item (19) and inserting in  
11 lieu thereof “(10)”.

12 (2) A temporary special prosecutor shall receive com-  
13 pensation at a per diem rate equal to the rate of basic pay  
14 for level V of the Executive Schedule under section 5316 of  
15 title 5, United States Code.

16 ASSIGNMENT OF JUDGES TO DIVISION TO APPOINT  
17 TEMPORARY SPECIAL PROSECUTORS

18 SEC. 102. (a) Chapter 3 of title 28, United States  
19 Code, is amended by adding at the end thereof the following  
20 new section:

21 “§ 49. Assignment of judges to division to appoint tempo-  
22 rary special prosecutors

23 “(a) The chief judge of the United States Court of Ap-  
24 peals for the District of Columbia shall every two years as-



1 sign three judges to a division of the United States Court of  
 2 Appeals for the District of Columbia to determine all mat-  
 3 ters arising under sections 594 and 595 of this title.

4 “(b) Except as provided under subsection (f), assign-  
 5 ment to the division established in subsection (a) shall not be  
 6 a bar to other judicial assignments during the term of such  
 7 division.

8 “(c) In assigning judges or justices to sit on the division  
 9 established in subsection (a), priority shall be given to senior  
 10 retired circuit court judges and senior retired justices.

11 “(d) The chief judge of the United States Court of  
 12 Appeals for the District of Columbia may make a request  
 13 to the Chief Justice of the United States, without presenting  
 14 a certificate of necessity, to designate and assign, in accord-  
 15 ance with section 294 of this title, retired circuit court judges  
 16 of another circuit or retired justices to the division established  
 17 under subsection (a).

18 “(e) Any vacancy in the division established under  
 19 subsection (a) shall be filled only for the remainder of the  
 20 two-year period in which such vacancy occurs and in the  
 21 same manner as initial assignments to the division were  
 22 made.

23 “(f) No judge or justice who as a member of the divi-  
 24 sion established in subsection (a) participated in a decision

1 of a matter under section 594 or 595 of this title involving  
 2 a temporary special prosecutor shall be eligible to partici-  
 3 pate on a circuit court panel deciding a matter which in-  
 4 volves such temporary special prosecutor while such tem-  
 5 porary special prosecutor is serving in that office or which  
 6 involves the exercise of the temporary special prosecutor's  
 7 official duties, regardless of whether he is still serving in that  
 8 office.”.

9 (b) The table of sections of chapter 3 of title 28, United  
 10 States Code, is amended by adding at the end thereof the  
 11 following:

“49. Assignment of judges to division to appoint temporary special  
 prosecutors.”.

12

#### SEPARABILITY

13 SEC. 103. If any part of this title is held invalid, the re-  
 14 mainder of the title shall not be affected thereby. If any pro-  
 15 vision of any part of this title, or the application thereof to  
 16 any person or circumstance, is held invalid, the provisions of  
 17 other parts and their application to other persons or circum-  
 18 stances shall not be affected thereby.

19

#### AUTHORIZATION OF APPROPRIATIONS

20 SEC. 104. There are authorized to be appropriated for  
 21 each fiscal year through October 30, 1981, such sums as may  
 22 be necessary to carry out the provisions of this title.

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

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

18 (2) For purpose of pay (other than pay of the Congressional Legal Counsel and Deputy Congressional Legal Counsel) and employment benefits, rights, and privileges, all personnel of the Office shall be treated as if they were employees  
19 of the Senate.

20 (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 gressional Legal Counsel, including but not limited to,  
 2 consulting with the Congressional Legal Counsel with  
 3 respect to the conduct of litigation in which the Con-  
 4 gressional Legal Counsel is involved;

5 (2) pursuant to section 209 of this title, recom-  
 6 mend the appropriate action to be taken in resolution of  
 7 a conflict or inconsistency;

8 (3) pursuant to section 205(b), cause the publica-  
 9 tion in the Congressional Record of the notification re-  
 10 quired of the Congressional Legal Counsel under that  
 11 section.

12 (c)(1) Whenever the Congress is not in session, the  
 13 Joint Committee may, in accordance with the provisions in  
 14 section 203(b)(2), authorize the Congressional Legal Coun-  
 15 sel to undertake its responsibilities under section 203(a) in  
 16 the absence of an appropriate resolution for a period not  
 17 to exceed ten days after the Congress or the appropriate  
 18 House of Congress reconvenes.

19 (2) The Joint Committee may poll its members by tele-  
 20 phone in order to conduct a vote under this subsection.

21 DEFENDING A HOUSE, COMMITTEE, MEMBER, OFFICER,  
 22 AGENCY, OR EMPLOYEE OF CONGRESS

23 SEC. 203. (a) Except as otherwise provided in subsec-  
 24 tion (b), the Congressional Legal Counsel, at the direction  
 25 of Congress or the appropriate House of Congress shall—

1 (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 **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 subpoena 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 subpoena or order.

24 (b) Nothing in subsection (a) shall limit the discretion  
25 of—

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

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

8 **INTERVENTION OR APPEARANCE**

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

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

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

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



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 IMMUNITY PROCEEDINGS

12 SEC. 206. The Congressional Legal Counsel, at the di-  
 13 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 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

(6) with any committee or subcommittee in promulgating and revising their rules and procedures for the use of congressional investigative powers and questions which may arise in the course of any investigation.

(b) The Congressional Legal Counsel shall compile and maintain legal research files of materials from court proceedings which have involved Congress, a House of Congress, an office or agency of Congress, or any committee, subcommittee, Member, officer, or employee of Congress. Public court papers and other research memoranda which do not contain information of a confidential or privileged nature shall be made available to the public consistent with any applicable procedures set forth in such rules of the Senate and House of Representatives as may apply and the interests of Congress.

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

#### DEFENSE OF CERTAIN CONSTITUTIONAL POWERS

SEC. 208. In performing any function under section 203, 204, or 205, the Congressional Legal Counsel shall defend vigorously when placed in issue—

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

(2) the constitutional power of each House of Congress to be judge of the elections, returns, and qualifications of its own Members and to punish or expel a Member under section 5 of article I of the Constitution of the United States;

(3) the constitutional power of each House of Congress to except from publication such parts of its journal as in its judgment may require secrecy;

(4) the constitutional power of each House of Congress to determine the rules of its proceedings;

(5) the constitutional power of Congress to make all laws as shall be necessary and proper for carrying into execution the constitutional powers of Congress and all other powers vested by the Constitution in the Government of the United States, or in any department or office thereof;

(6) all other constitutional powers and responsibilities of Congress; and

(7) the constitutionality of statutes enacted by Congress.

#### CONFLICT OR INCONSISTENCY

SEC. 209. (a) In the carrying out of the provisions of this title, the Congressional Legal Counsel shall notify the Joint Committee and any party represented or entitled to representation under this title, of the existence and nature



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 reimbursement shall be from funds appropriated to the con-  
 2 tingent fund of the appropriate House.

### 3 PROCEDURE FOR DIRECTION OF CONGRESSIONAL

#### 4 LEGAL COUNSEL

5 SEC. 210. (a) Directives made pursuant to sections 203  
 6 (a), 204(a), 205(a), and 206, of this title shall be made  
 7 as follows:

8 (1) Directives made by Congress pursuant to sec-  
 9 tions 203(a), 204(a), and 205(a) of this title shall be  
 10 authorized by a concurrent resolution of Congress.

11 (2) Directives made by either House of Congress  
 12 pursuant to sections 203(a), 204(a), and 206 of this  
 13 title shall be authorized by passage of a resolution of such  
 14 House.

15 (3) Directives made by a committee of Congress  
 16 pursuant to section 206 of this title shall be in writing  
 17 and approved by an affirmative vote of two-thirds of  
 18 the members of the full committee.

19 (b)(1) A resolution or concurrent resolution introduced  
 20 pursuant to subsection (a) shall not be referred to a commit-  
 21 tee, except as otherwise required under subsection (c)(1).  
 22 Upon introduction or when reported as required under sub-  
 23 section (c)(2), it shall at any time thereafter be in order  
 24 (even though a previous motion to the same effect has been

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 decision<sup>s</sup> 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(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 209(b)—

9 (1) continuity of session is broken only by an ad-  
10 journment 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(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 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 (1) be relieved of any responsibility with respect to  
19 such representational service;

20 (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 (3) transfer all materials relevant to the representa-

1 tion authorized under section 203(a) to the Congressional  
2 Legal Counsel.

3 (b) The Attorney General shall notify the Congression-  
4 al Legal Counsel with respect to any proceeding in which  
5 the United States is a party of any determination by the  
6 Attorney General or Solicitor General not to appeal any  
7 court decision affecting the constitutionality of a statute en-  
8 acted by Congress within such time as will enable the Con-  
9 gressional Legal Counsel to intervene in such proceeding  
10 pursuant to section 205.

#### 11 PROCEDURAL PROVISIONS

12 SEC. 212. (a) Permission to intervene as a party or to  
13 file a brief amicus curiae under section 205 of this title shall  
14 be of right and may be denied by a court only upon an  
15 express finding that such intervention or filing is untimely  
16 and would significantly delay the pending action.

17 (b) The Congressional Legal Counsel, the Deputy Con-  
18 gressional Legal Counsel or any designated Assistant Con-  
19 gressional Legal Counsel, shall be entitled, for the purpose  
20 of performing his functions under this title, to enter an  
21 appearance in any such proceeding before any court of the  
22 United States without compliance with any requirement  
23 for admission to practice before such court, except that the  
24 authorization conferred by this paragraph shall not apply

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  
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.”.

# TECHNICAL AND CONFORMING AMENDMENTS

1 SEC. 214. (a) Section 3210 of title 39, United States  
 2 Code, is amended—

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

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

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

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

1 (d) Section 8 of the Act entitled "An Act making appro-  
 2 priations for sundry civil expenses of the Government for the  
 3 fiscal year ending June thirtieth, eighteen hundred and sixty-  
 4 six, and for other purposes", approved March 3, 1875, as  
 5 amended (2 U.S.C. 118), is repealed.

6 (e) The first sentence in section 2403 of title 28, United  
 7 States Code, is amended by striking out "and for argument  
 8 on the question of constitutionality" and inserting in lieu  
 9 thereof "and for argument in favor of the constitutionality  
 10 of such act".

#### 11 SEPARABILITY

12 SEC. 215. If any part of this title is held invalid, the re-  
 13 mainder of the title shall not be affected thereby. If any  
 14 provision of any part of this title, or the application thereof to  
 15 any person or circumstance is held invalid, the provisions of  
 16 other parts and their application to other persons or circum-  
 17 stances shall not be affected thereby.

#### 18 AUTHORIZATION OF APPROPRIATIONS

19 SEC. 216. There are authorized to be appropriated for  
 20 each fiscal year through October 30, 1981, such sums as may  
 21 be necessary to carry out the provisions of this title. Amounts  
 22 so appropriated shall be disbursed by the Secretary of the  
 23 Senate upon vouchers signed by the Congressional Legal  
 24 Counsel, except that vouchers shall not be required for the  
 25 disbursement of salaries of employees paid at an annual rate.

## 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,*  
 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 (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 desig-  
11 nated under subsection (b), of each asset, 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 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;

21 (5) the identity, the category of amount, as desig-  
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;



(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 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.

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

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

#### 15 FILING OF REPORTS

16 SEC. 304. (a)(1) Each individual required to file a  
17 report under section 302(a), other than an individual ex-  
18 cepted under paragraph (3) of this subsection, shall file such  
19 report with the Comptroller General not later than May 15  
20 of each year. Each such individual, other than the President,  
21 Vice President, a Member of Congress, a justice or judge of  
22 the United States, any officer or employee of the Senate or  
23 the House of Representatives or any court of the United  
24 States, the head of each agency, each Presidential appointee  
25 in the Executive Office of the President who is not subordinate

1 to the head of an agency in the Executive Office, or each  
2 full-time member of a committee, board, or commission ap-  
3 pointed by the President, shall file a copy of such report with  
4 the head of the agency in which such individual occupies any  
5 office or position at the same time as such report is filed with  
6 the Comptroller General.

7 (2) Each Member, officer, and employee of the House  
8 of Representatives and the Senate required to file a report  
9 under section 302(a) shall file a copy of such report with  
10 the Clerk of the House of Representatives and the Secretary  
11 of the Senate, respectively, and each justice, judge, officer,  
12 and employee of any court of the United States shall file a  
13 copy of such report with the Director of the Administra-  
14 tive Office of the United States Courts at the same time as  
15 such report is filed with the Comptroller General.

16 (3) The head of each agency, each Presidential appointee  
17 in the Executive Office of the President who is not subordinate  
18 to the head of an agency in the Executive Office, and each full-  
19 time member of a committee, board, or commission appointed  
20 by the President, shall file a copy of such report with the  
21 Chairman of the Civil Service Commission at the same time  
22 such report is filed with the Comptroller General.

23 (4) The President may exempt any individual in the  
24 Central Intelligence Agency, the Defense Intelligence Agency,  
25 or the National Security Agency, or any individual engaged



1 exclusively in intelligence activities in any agency of the  
 2 United States from the requirement to file a report with the  
 3 Comptroller General 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 or, if an individual described in  
 10 subsection (a)(3), with the Chairman of the Civil Service  
 11 Commission.

12 (b) Each individual required to file a report under sec-  
 13 tion 302(c) shall file such report with the Comptroller Gen-  
 14 eral within one month after the earliest of either action which  
 15 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.

3 (d) The Comptroller General may grant one or more  
 4 reasonable extensions of time for filing any report but the  
 5 total of such extensions 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.

10 (c) The Comptroller General shall refer to the Attorney  
 11 General the name of any individual the Comptroller General  
 12 has reasonable cause to believe has failed to file a report or has  
 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.

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

2 SEC. 306. (a) The Comptroller General shall make  
 3 each report filed with him under section 305 available to the  
 4 public within fifteen days after the receipt of such report  
 5 from any individual and provide a copy of such report to  
 6 any person upon a written or oral request.

7 (b) The Comptroller General may require any person  
 8 receiving a copy of such report under subsection (a) to  
 9 supply his name and address and the name of the person or  
 10 organization, if any, on whose behalf he is requesting such  
 11 copy and to pay a reasonable fee in any amount which the  
 12 Comptroller General finds necessary to recover the cost of  
 13 reproduction or mailing of such report excluding any salary  
 14 of any employee involved in such reproduction or mailing.  
 15 The Comptroller General 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



1 (D) for use directly or indirectly in the solicitation  
2 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.

9 (d) Any report received by the Comptroller General shall  
10 be held in his custody and made available to the public for a  
11 period of five years after receipt by the Comptroller General  
12 of such report. After such five-year period, the Comptroller  
13 General shall destroy any such report.

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 Comptroller General of  
7 the United States directing him to appear and produce any  
8 reports filed pursuant to any financial disclosure requirement,  
9 then the Comptroller General shall—

10 (a) 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 (b) 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 subpoena 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.

# SEPARABILITY

1  
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.

## AUTHORIZATION OF APPROPRIATIONS

8  
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.



Calendar No. 897

94TH CONGRESS  
2D SESSION

**S. 495**

[Report No. 94-823]

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## **A BILL**

To establish certain Federal agencies, effect certain reorganizations of the Federal Government, and to implement certain reforms in the operation of the Federal Government recommended by the Senate Select Committee on Presidential Campaign Activities, and for other purposes.

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By Mr. RIBICOFF, Mr. PERCY, Mr. ABOUREZK,  
Mr. BAKER, Mr. CASE, Mr. INOUE, Mr.  
METCALF, Mr. MONTOYA, Mr. JAVITS, Mr.  
WEICKER, and Mr. MONDALE

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JANUARY 30, 1975

Read twice and referred to the Committee on  
Government Operations

MAY 12, 1976

Reported with an amendment, referred to the Committee on the Judiciary with instructions to report not later than June 11, 1976

JUNE 15, 1976

The Committee on the Judiciary discharged, and ordered to be placed on the calendar

94TH CONGRESS  
2D SESSION

S. 495



IN THE HOUSE OF REPRESENTATIVES

JULY 26, 1976

Referred jointly to the Committees on the Judiciary, Rules, and Standards  
of Official Conduct

AN ACT

To establish certain Federal agencies, effect certain reorganizations of the Federal Government, and to implement certain reforms in the operation of the Federal Government recommended by the Senate Select Committee on Presidential Campaign Activities, and for other purposes.

1 *Be it enacted, by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That this Act may be cited as the "Watergate Reorganization  
4 and Reform Act of 1976".

5 TITLE I—AMENDMENTS TO TITLE 28, UNITED  
6 STATES CODE

7 REORGANIZATION OF THE DEPARTMENT OF JUSTICE

8 SEC. 101. (a) Title 28, United States Code, is amended  
9 by adding after chapter 37 the following new chapter:



1 **"Chapter 39—OFFICE OF SPECIAL PROSECUTOR**  
 2 **AND OFFICE OF GOVERNMENT CRIMES AND**  
 3 **OFFICE OF PROFESSIONAL RESPONSIBILITY**

"Sec.

"591. Special Prosecutor: appointment and removal.

"592. Jurisdiction.

"593. Authority.

"594. Office of Government Crimes.

"595. Jurisdiction.

"596. Reporting.

"597. Disqualification of officers and employees of the Department of Justice.

"598. Office of Professional Responsibility.

4 **"§ 591. Special Prosecutor; appointment and removal**

5 " (a) There is established within the Department of  
 6 Justice an independent Office of Special Prosecutor which  
 7 shall be headed by a Special Prosecutor appointed by the  
 8 President, by and with the advice and consent of the Senate.

9 " (b) The Special Prosecutor shall be appointed for a  
 10 term of three years and shall be compensated pursuant to  
 11 level II of the Executive Schedule, section 5313 of title 5,  
 12 United States Code. No person shall serve as Special Prose-  
 13 cutor for more than a single term.

14 " (c) A person shall not be appointed Special Prosecu-  
 15 tor if he has at any time during the five years preceding  
 16 such appointment held a high level position of trust and  
 17 responsibility on the personal campaign staff of, or in an  
 18 organization or political party working on behalf of, a candi-  
 19 date for any elective Federal office. The confirmation by the  
 20 Senate of a Presidential nomination of a Special Prosecutor

1 shall constitute a final determination that such officer meets  
 2 the requirements of this subsection.

3 " (d) A Special Prosecutor shall only be removed by the  
 4 President for extraordinary improprieties, for malfeasance in  
 5 office, for willful neglect of duty, for permanent incapacita-  
 6 tion, or for any conduct constituting a felony. An action may  
 7 be brought in the United States District Court for the Dis-  
 8 trict of Columbia to challenge the action of the President  
 9 under this subsection by seeking reinstatement or other  
 10 appropriate relief. In the event of any removal, the Presi-  
 11 dent shall promptly submit to the Committee on the Judi-  
 12 ciary of the Senate and the Committee on the Judiciary of  
 13 the House of Representatives a report describing with par-  
 14 ticularity the grounds for such action. The committees shall  
 15 make available to the public such report, except that each  
 16 committee may, if necessary to avoid prejudicing the legal  
 17 rights of any individual, delete or postpone publishing such  
 18 portions of the report, or the whole report, or any name or  
 19 other identifying details.

20 " (e) The Special Prosecutor shall report no less than  
 21 annually to the Committee on the Judiciary of the Senate  
 22 and the Committee on the Judiciary of the House of Repre-  
 23 sentatives and shall include in such reports information con-  
 24 cerning his relationship with the Attorney General, United  
 25 States Attorneys, other agencies of Government, the degree

1 of independence exercised under section 593, the types and  
 2 numbers of matters of which he has declined jurisdiction  
 3 under section 592 (b) and such other matters as he deems  
 4 appropriate. However, the report shall not include any  
 5 information which might impair or compromise an ongoing  
 6 matter, or which the Special Prosecutor determines would  
 7 constitute an improper invasion of personal privacy or other  
 8 improper disclosure.

#### 9 § 592. Jurisdiction

10 “(a) (1) The Special Prosecutor shall have jurisdiction  
 11 to investigate and prosecute possible violations of Federal  
 12 criminal law by a person who holds or who at the time of  
 13 such possible violation held any of the following positions in  
 14 the Federal Government: (i) President, Vice President,  
 15 Attorney General, or Director of the Federal Bureau of  
 16 Investigation; (ii) any position compensated at a rate equal  
 17 to or greater than level I or level II of the Executive Sched-  
 18 ule under sections 5312 or 5313 of title 5, United States  
 19 Code, (iii) Member of Congress, or (iv) any member of  
 20 the Federal judiciary.

21 “(2) The Attorney General shall promptly refer to  
 22 the Special Prosecutor for investigation and, if warranted,  
 23 prosecution any information, allegations or complaints relat-  
 24 ing to any violation specified in paragraph (1). In addition,  
 25 the Attorney General shall promptly refer to the Special

1 Prosecutor for investigation and if warranted prosecution  
 2 any matter where the Attorney General determines that in  
 3 the interest of the administration of justice it would be in-  
 4 appropriate for the Department of Justice (other than the  
 5 Office of Special Prosecutor) to conduct such investigation  
 6 or prosecution.

7 “(b) The Special Prosecutor may in his discretion de-  
 8 cline to accept referrals under subsection (a) (2) of this  
 9 section. The Special Prosecutor may decline to assert juris-  
 10 diction under subsection (a) (1) of this section when the  
 11 matter over which he has jurisdiction is a peripheral or  
 12 incidental part of an investigation or prosecution already  
 13 being conducted elsewhere in the Department of Justice, or  
 14 when for some other reason he determines it would be in  
 15 the interest of the administration of justice to permit the  
 16 matter to be handled elsewhere in the Department: *Provided,*  
 17 *however,* That any such declination shall be accompanied by  
 18 the establishment of such procedures as the Special Prosecu-  
 19 tor considers necessary and appropriate to keep him informed  
 20 of the progress of the investigation or prosecution as it  
 21 relates to such matter: *And provided further,* That the  
 22 Special Prosecutor may at any time assume responsibility for  
 23 investigation and prosecution of such matter. If the Special  
 24 Prosecutor declines to accept a referral under subsection (a)  
 25 (2) or declines to assert jurisdiction under subsection (a)



1 (1) he shall submit his reasons for taking such action in  
2 writing to the Attorney General.

3 **“§ 593. Authority**

4 “(a) The temporary Special Prosecutor shall have,  
5 within the jurisdiction specified by section 592 over matters  
6 which he has assumed responsibility, full power and in-  
7 dependent authority, subject only to the power of the Pres-  
8 ident under section 591 (d) to—

9 “(1) conduct proceedings before grand juries and  
10 other investigations;

11 “(2) participate in court proceedings and engage  
12 in any litigation, including civil and criminal matters,  
13 as he deems necessary;

14 “(3) appeal any decision of a court in which he is  
15 a party;

16 “(4) review all documentary evidence available  
17 from any source;

18 “(5) determine whether or not to contest the as-  
19 sertion of any testimonial privilege;

20 “(6) receive appropriate national security clear-  
21 ances and, if necessary contest in court, including where  
22 appropriate participation in in camera proceedings, any  
23 claim of privilege or attempt to withhold evidence on  
24 grounds of national security;

25 “(7) make applications to any Federal court for a

1 grant of immunity to any witness, consistent with ap-  
2 plicable statutory requirements, or for warrants, sub-  
3 penas, or other court orders, and for purposes of sections  
4 6003, 6004, and 6005, of title 18, United States Code,  
5 as amended, the Special Prosecutor may exercise the  
6 authority vested in a United States Attorney, or the  
7 Attorney General;

8 “(8) inspect, obtain, or use the original or copy of  
9 any tax return, in accordance with the applicable stat-  
10 utes and regulations, and for purposes of section 6103,  
11 of title 26, United States Code, as amended, and the  
12 regulations thereunder, a Special Prosecutor may exer-  
13 cise the powers vested in a United States Attorney or  
14 the Attorney General;

15 “(9) initiate and conduct prosecutions in any court  
16 of competent jurisdiction, frame and sign indictments,  
17 file information, and handle all aspects of any case in the  
18 name of the United States;

19 “(10) communicate with, and appear before, and  
20 provide information to, appropriate Congressional com-  
21 mittees;

22 “(11) exercise all other powers as to the conduct  
23 of criminal investigations and prosecutions which would  
24 otherwise be vested in the Attorney General or the  
25 United States Attorneys under the provisions of chapters

31 and 35 of title 28 of the United States Code, as amended, and the regulations thereunder, coordinate and direct the activities of all Department of Justice personnel, including United States Attorneys, and act as attorney for the Government in such investigations and prosecutions except that the Attorney General shall exercise direction or control as to those matters that specifically require the Attorney General's personal action under section 2516 of title 18, United States Code.

“(b) The Special Prosecutor shall have power to appoint, fix the compensation, and assign the duties of such employees as he deems necessary, including but not limited to investigators, attorneys, and part-time consultants, without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title. The Department of Justice shall provide assistance to the Special Prosecutor which shall include but not be limited to, affording to the Special Prosecutor full access to any records, files, or other materials relevant to matters within his jurisdiction, providing to the Special Prosecutor the resources and personnel required to perform his duties,

and use by the Special Prosecutor of the investigative and other services of the Federal Bureau of Investigation.

“(c) The Special Prosecutor may from time to time make public such statements or reports as he deems appropriate. The Special Prosecutor may present reports, statements, or recommendations to the Congress, the President or the Attorney General.

“(d) Nothing in this chapter shall prevent the Attorney General or the Solicitor General from making presentations to any court as to issues of law raised by any case or appeal.

#### “§ 594. Office of Government Crimes

“(a) There is established within the Department of Justice an Office of Government Crimes, which shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate. The Director shall report directly to the Attorney General on a regular basis and when he deems it necessary and shall report to any other person the Attorney General directs. The Attorney General shall determine the organizational placement of the office within the department.

“(b) A person shall not be appointed director of the Office of Government Crimes if he has at any time during the five years preceding such appointment held a high level position of trust and responsibility on the personal campaign staff of, or in an organization or political party



1 working on behalf of, a candidate for any elective Federal  
2 office. The confirmation by the Senate of a Presidential  
3 nomination of a director shall constitute a final determination  
4 that such officer meets the requirements of this subsection.

5 “(c) An individual who has played a leading partisan  
6 role in the election of a President shall not be appointed  
7 Attorney General or Deputy Attorney General. Individuals  
8 holding the position of national campaign manager, national  
9 chairman of the finance committee, chairman of the national  
10 political party, or other comparable high level campaign role  
11 involved in electing the President should be those considered  
12 to have played a leading partisan role.

### 13 § 595. Jurisdiction

14 “(a) The Attorney General shall, except as to matters  
15 referred to the Special Prosecutor pursuant to section 592 of  
16 this chapter, delegate to the Office on Government Crimes  
17 jurisdiction of (1) criminal violations of Federal law related  
18 directly or indirectly to his Government position, employ-  
19 ment, or compensation, by any individual who holds or who  
20 at the time of such possible violation held a position as an  
21 elected or appointed Federal Government officer, employee  
22 or special employee; (2) criminal violations of Federal laws  
23 relating to lobbying, conflicts of interest, campaigns, and  
24 election to public office committed by any person except in-  
25 sofar as such violations relate to matters involving discrimi-

1 nation or intimidation on the grounds of race, color, religion  
2 or national origin; (3) the supervision of investigations and  
3 prosecutions of criminal violations of Federal law involving  
4 State or local government officials or employees; and (4)  
5 such other matters as the Attorney General may deem  
6 appropriate.

7 “(b) Jurisdiction delegated to the Office of Govern-  
8 ment Crimes pursuant to subsection (a) of this subsection  
9 may be concurrently delegated by the Attorney General to,  
10 or concurrently reside in, the United States attorneys or  
11 other units of the Department of Justice. In the event of  
12 such concurrent delegation, the Director shall supervise the  
13 United States attorneys or other units in the performance of  
14 such duties. This section shall not limit any authority con-  
15 ferred upon the Attorney General, the Federal Bureau of  
16 Investigation, or any other department or agency of govern-  
17 ment to investigate any matter.

### 18 § 596. Reporting

19 “(a) At the beginning of each regular session of the  
20 Congress, the Attorney General shall report to the Congress  
21 on the activities and operation of the Office of Government  
22 Crimes for the preceding fiscal year.

23 “(b) Such report shall specify the number and type of  
24 investigations and prosecutions subject to the jurisdiction of  
25 such unit and the disposition thereof but shall not include any

1 information which would impair an ongoing investigation,  
2 prosecution, or proceeding, or which the Attorney General  
3 determines would constitute an improper invasion of per-  
4 sonal privacy.

5 **"§ 597. Disqualification of officers and employees of the**  
6 **Department of Justice**

7 "The Attorney General shall promulgate rules and  
8 regulations which require any officer or employee of the  
9 Department of Justice, including a United States attorney  
10 or a member of his staff, to disqualify himself from participa-  
11 tion in a particular investigation or prosecution if such  
12 participation may result in a personal, financial, or partisan  
13 political conflict of interest, or the appearance thereof. Such  
14 rules and regulations may provide that a willful violation of  
15 any provision thereof shall result in removal from office.

16 **"§ 598. Office of Professional Responsibility**

17 "(a) There is established within the Department of  
18 Justice an Office of Professional Responsibility, which shall  
19 be headed by a Counsel on Special Responsibility appointed  
20 by the Attorney General. The counsel shall be subject to the  
21 general supervision and direction of the Attorney General,  
22 and shall report directly to the Attorney General or, in appro-  
23 priate cases, to the Deputy Attorney General or the  
24 Solicitor General.

25 "(b) Except as to matters which are to be referred

1 to the Special Prosecutor under section 592 of this chapter,  
2 the Counsel on Professional Responsibility shall be respon-  
3 sible for reviewing any information or allegation presented  
4 to him concerning conduct by an employee of the Depart-  
5 ment of Justice that may be in violation of law, of depart-  
6 ment regulations or orders, or of applicable standards of  
7 conduct, and shall undertake a preliminary investigation to  
8 determine what further steps should be taken. On the basis of  
9 such investigation the counsel shall refer the matter to the  
10 appropriate unit within the department or shall recommend  
11 to the Attorney General or, in appropriate cases, to the  
12 Deputy Attorney General or Solicitor General, what other  
13 action, if any should be taken. The counsel shall undertake  
14 such other responsibilities as the Attorney General may  
15 direct.

16 "(c) Nothing in this section shall derogate from the  
17 authority of internal inspection units of the Department of  
18 Justice and the heads of other units to receive, investigate  
19 and act upon information or allegations concerning unlawful  
20 or improper conduct."

21 (b) The analysis of part II of title 28, United States  
22 Code, is amended by adding after the item following chapter  
23 37 the following new item:

"39, Office of Special Prosecutor, Office of Government Crimes,  
and Office of Professional Responsibility----- 591",



1 (c) (1) Section 5315 of title 5, United States Code, is  
2 amended by adding "(105) Director of Office of Govern-  
3 ment Crimes."

4 (2) Section 5313 of title 5, United States Code, is  
5 amended by adding "Special Prosecutor".

#### 6 SEPARABILITY

7 SEC. 102. If any part of this title is held invalid, the  
8 remainder of the title shall not be affected thereby. If any  
9 provision of any part of this title, or the application thereof  
10 to any person or circumstance, is held invalid, the provisions  
11 of other parts and their application to other persons or cir-  
12 cumstances shall not be affected thereby.

#### 13 AUTHORIZATION OF APPROPRIATIONS

14 SEC. 103. There are authorized to be appropriated for  
15 each fiscal year through September 30, 1981, such sums as  
16 may be necessary to carry out the provisions of this title.

### 17 TITLE II—CONGRESSIONAL LEGAL COUNSEL

#### 18 ESTABLISHMENT OF OFFICE OF CONGRESSIONAL LEGAL

#### 19 COUNSEL

20 SEC. 201. (a) (1) There is established, as an office of  
21 the Congress, the Office of Congressional Legal Counsel  
22 (hereinafter referred to as the "Office"), which shall be  
23 headed by a Congressional Legal Counsel; and there shall  
24 be a Deputy Congressional Legal Counsel who shall per-  
25 form such duties as may be assigned to him by the Con-

1 gressional Legal Counsel and, during any absence, disability,  
2 or vacancy in the office of the Congressional Legal Counsel,  
3 the Deputy Congressional Legal Counsel shall serve as Act-  
4 ing Congressional Legal Counsel.

5 (2) The Congressional Legal Counsel and the Deputy  
6 Congressional Legal Counsel each shall be appointed by the  
7 President pro tempore of the Senate and the Speaker of the  
8 House of Representatives from among recommendations sub-  
9 mitted by the majority and minority leaders of the Senate  
10 and the House of Representatives. Any appointment made  
11 under this subsection shall be made without regard to polit-  
12 ical affiliation and solely on the basis of fitness to perform  
13 the duties of the Office. Any person appointed as Congres-  
14 sional Legal Counsel or Deputy Congressional Legal Counsel  
15 shall be learned in the law, a member of the bar of a State  
16 or the District of Columbia, and shall not engage in any  
17 other business, vocation, or employment during the term of  
18 such appointment.

19 (3) (A) Any appointment made under this subsection  
20 shall become effective upon approval, by concurrent resolu-  
21 tion, of the Senate and the House of Representatives. The  
22 Congressional Legal Counsel and the Deputy Congressional  
23 Legal Counsel shall each be appointed for a term which shall  
24 expire at the end of the Congress following the Congress  
25 during which the Congressional Legal Counsel is appointed

1 except that the Congress may, by concurrent resolution, re-  
 2 move either the Congressional Legal Counsel or the Deputy  
 3 Congressional Legal Counsel prior to the termination of his  
 4 term of office. The Congressional Legal Counsel and the  
 5 Deputy Congressional Legal Counsel may be reappointed at  
 6 the termination of any term of office.

7 (B) The first Congressional Legal Counsel and the first  
 8 Deputy Congressional Legal Counsel shall be appointed and  
 9 take office within ninety days after the enactment of this title,  
 10 and thereafter the Counsel shall be appointed and take  
 11 office within thirty days after the beginning of the session  
 12 of Congress immediately following the termination of the  
 13 Congressional Legal Counsel's term of office.

14 (4) The Congressional Legal Counsel shall receive com-  
 15 pensation at a per annum gross rate equal to the rate of basic  
 16 pay for level III of the Executive Schedule under section  
 17 5314 of title 5, United States Code. The Deputy Congres-  
 18 sional Legal Counsel shall receive compensation at a per  
 19 annum gross rate equal to the rate of basic pay for level IV  
 20 of the Executive Schedule under section 5316 of title 5,  
 21 United States Code.

22 (b) (1) The Congressional Legal Counsel shall appoint  
 23 and fix the compensation of such Assistant Congressional  
 24 Legal Counsels and of such other personnel as may be neces-

1 sary to carry out the provisions of this title and may prescribe  
 2 the duties and responsibilities of such personnel. Any ap-  
 3 pointment made under this subsection shall be made without  
 4 regard to political affiliation and solely on the basis of fitness  
 5 to perform the duties of the Office. Any person appointed as  
 6 Assistant Congressional Legal Counsel shall be learned in  
 7 the law, a member of the bar of a State or the District of  
 8 Columbia, and shall not engage in any other business, voca-  
 9 tion, or employment during the term of such appointment.  
 10 All such employees shall serve at the pleasure of the Congres-  
 11 sional Legal Counsel.

12 (2) For purpose of pay (other than pay of the Congres-  
 13 sional Legal Counsel and Deputy Congressional Legal Coun-  
 14 sel) and employment benefits, rights, and privileges, all per-  
 15 sonnel of the Office shall be treated as if they were employees  
 16 of the Senate.

17 (c) In carrying out the functions of the Office, the Con-  
 18 gressional Legal Counsel may procure the temporary (not  
 19 to exceed one year) or intermittent services of individual  
 20 consultants (including outside counsel), or organizations  
 21 thereof, in the same manner and under the same conditions  
 22 as a standing committee of the Senate may procure such  
 23 services under section 202 (i) of the Legislative Reorganiza-  
 24 tion Act of 1946 (2 U.S.C. 72 (a) (i)).



1 (d) The Congressional Legal Counsel may establish  
2 such procedures as may be necessary to carry out the pro-  
3 visions of this title.

4 (e) The Congressional Legal Counsel may delegate  
5 authority for the performance of any function imposed by  
6 this Act except any function imposed upon the Congressional  
7 Legal Counsel under section 205 (b) of this title.

#### 8 DUTIES AND FUNCTIONS

9 SEC. 202. (a) Whenever the Joint Committee on Con-  
10 gressional Operations (hereinafter referred to in this title as  
11 the "Joint Committee") is performing any of the responsi-  
12 bilities set forth in subsection (b), the Speaker of the House  
13 of Representatives, the majority and minority leaders of the  
14 House of Representatives, the President pro tempore of the  
15 Senate, and the majority and minority leaders of the Senate  
16 shall be ex officio members of the Joint Committee.

17 (b) The Joint Committee shall—

18 (1) oversee the activities of the Office of Con-  
19 gressional Legal Counsel, including but not limited to,  
20 consulting with the Congressional Legal Counsel with  
21 respect to the conduct of litigation in which the Congres-  
22 sional Legal Counsel is involved;

23 (2) pursuant to section 203 (a), make a recom-  
24 mendation with respect to representation of a Member,  
25 officer, or employee in a civil action;

1 (3) pursuant to section 209 of this title, recom-  
2 mend the appropriate action to be taken in resolution  
3 of a conflict or inconsistency;

4 (4) pursuant to section 205 (b), cause the publica-  
5 tion in the Congressional Record of the notification re-  
6 quired of the Congressional Legal Counsel under that  
7 section.

8 (c) (1) Whenever the Congress is not in session, the  
9 Joint Committee may, in accordance with the provisions in  
10 section 203 (b) (2), authorize the Congressional Legal  
11 Counsel to undertake its responsibilities under section 203  
12 (a) in the absence of an appropriate resolution for a period  
13 not to exceed ten days after the Congress or the appropriate  
14 House of Congress reconvenes.

15 (2) The Joint Committee may poll its members by  
16 telephone in order to conduct a vote under this subsection.

#### 17 DEFENDING A HOUSE, COMMITTEE, MEMBER, OFFICER, 18 AGENCY, OR EMPLOYEE OF CONGRESS

19 SEC. 203. (a) Except as otherwise provided in subsec-  
20 tion (b), the Congressional Legal Counsel, at the direction  
21 of Congress or the appropriate House of Congress shall—

22 (1) defend Congress, a House of Congress, an office  
23 or agency of Congress, a committee or subcommittee, or  
24 any Member, officer, or employee of a House of Congress  
25 in any civil action pending in any court of the United

1 States or of a State or political subdivision thereof in  
 2 which Congress, such House, committee, subcommittee,  
 3 Member, officer, employee, office, or agency is made a  
 4 party defendant and in which there is placed in issue the  
 5 validity of any proceeding of, or action, including issu-  
 6 ance of any subpoena or order, taken by Congress, such  
 7 House, committee, subcommittee, Member, officer, em-  
 8 ployee, office, or agency in its or his official or representa-  
 9 tive capacity; or  
 10 (2) defend Congress, a House of Congress, an  
 11 office or agency of Congress, a committee or subcommit-  
 12 tee, or a Member, officer, or employee of a House of  
 13 Congress in any civil action pending in any court of the  
 14 United States or of a State or political subdivision  
 15 thereof with respect to any subpoena or order directed to  
 16 Congress, such House, committee, subcommittee, Mem-  
 17 ber, officer, employee, office, or agency in its or his  
 18 official or representative capacity.

19 (b) (1) Representation of a Member, officer, or em-  
 20 ployee under section 203 (a) shall be undertaken by the  
 21 Congressional Legal Counsel only upon the consent of such  
 22 Member, officer, or employee. The resolution directing the  
 23 Congressional Legal Counsel to represent a Member, officer,  
 24 or employee may limit such representation to constitutional  
 25 issues relating to the powers and responsibilities of Congress.

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

5 (A) Congress or the appropriate House of Congress  
 6 is not in session;

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

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

12 INSTITUTING A CIVIL ACTION TO ENFORCE A SUBPENA  
 13 OR ORDER

14 SEC. 204. (a) The Congressional Legal Counsel, at the  
 15 direction of Congress or the appropriate House of Congress,  
 16 shall bring a civil action under any statute conferring  
 17 jurisdiction on any court of the United States to enforce, or  
 18 issue a declaratory judgment concerning the validity of any  
 19 subpoena or order issued by Congress, or a House of Con-  
 20 gress, a committee, or a subcommittee of a committee au-  
 21 thorized to issue a subpoena or order.

22 (b) Nothing in subsection (a) shall limit the discretion  
 23 of—

24 (1) the President pro tempore of the Senate or the  
 25 Speaker of the House of Representatives in certifying



1 to the United States Attorney for the District of  
2 Columbia any matter pursuant to section 104 of the  
3 Revised Statutes (2 U.S.C. 194); or

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

#### 6 INTERVENTION OR APPEARANCE

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

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

15 (2) the powers and responsibilities of Congress un-  
16 der article I of the Constitution of the United States are  
17 placed in issue.

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

1 amicus curiae. The Joint Committee shall cause said notifi-  
2 cation to be published in the Congressional Record for the  
3 Senate and House of Representatives.

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

#### 9 IMMUNITY PROCEEDINGS

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

#### 17 ADVISORY AND OTHER FUNCTIONS

18 SEC. 207. (a) The Congressional Legal Counsel shall  
19 advise, consult, and cooperate—

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

24 (2) with the Joint Committee on Congressional  
25 Operations in identifying any court proceeding or action

1 which is of vital interest to Congress or to either House  
2 of Congress under section 402 (a) (2) of the Legisla-  
3 tive Reorganization Act of 1970 (2 U.S.C. 412 (a)  
4 (2));

5 (3) with the Comptroller General, General Ac-  
6 counting Office, the Office of Legislative Counsel of the  
7 Senate, the Office of the Legislative Counsel of the  
8 House of Representatives, and the Congressional Re-  
9 search Service, except that none of the responsibilities  
10 and authority granted by this title to the Congressional  
11 Legal Counsel shall be construed to affect or infringe  
12 upon any function, powers, or duties of the Comptroller  
13 General of the United States;

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

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

25 (6) with any committee or subcommittee in pro-

1 mulgating and revising their rules and procedures for the  
2 use of congressional investigative powers and questions  
3 which may arise in the course of any investigation.

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

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

#### 18 DEFENSE OF CERTAIN CONSTITUTIONAL POWERS

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

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



(2) the constitutional power of each House of Congress to be judge of the elections, returns, and qualifications of its own Members and to punish or expel a Member under section 5 of article I of the Constitution of the United States;

(3) the constitutional power of each House of Congress to except from publication such parts of its journal as in its judgment may require secrecy;

(4) the constitutional power of each House of Congress to determine the rules of its proceedings;

(5) the constitutional power of Congress to make all laws as shall be necessary and proper for carrying into execution the constitutional powers of Congress and all other powers vested by the Constitution in the Government of the United States, or in any department or office thereof;

(6) all other constitutional powers and responsibilities of Congress; and

(7) the constitutionality of statutes enacted by Congress.

#### CONFLICT OR INCONSISTENCY

SEC. 209. (a) In the carrying out of the provisions of this title, the Congressional Legal Counsel shall notify the Joint Committee and any party represented or entitled to representation under this title, of the existence and nature

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

(b) Upon receipt of such notification, the Joint Committee shall recommend the action to be taken to avoid or resolve the conflict or inconsistency. The Joint Committee shall cause the notification of conflict or inconsistency and the Joint Committee's recommendation with respect to resolution thereof to be published in the Congressional Record of the appropriate House or Houses of Congress. If Congress or the appropriate House of Congress does not direct the Joint Committee within fifteen days from the date of publication in the Record to resolve the conflict in another manner, the Congressional Legal Counsel shall take such action as may be necessary to resolve the conflict or inconsistency as recommended by the Joint Committee. Any instruction or determination made pursuant to this subsection shall not be reviewable in any court of law.

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

1 reimbursement shall be from funds appropriated to the con-  
2 tingent fund of the appropriate House.

3 PROCEDURE FOR DIRECTION OF CONGRESSIONAL  
4 LEGAL COUNSEL

5 SEC. 210. (a) Directives made pursuant to sections 203  
6 (a), 204 (a), 205 (a), and 206, of this title shall be made  
7 as follows:

8 (1) Directives made by Congress pursuant to sec-  
9 tions 203 (a), 204 (a), and 205 (a) of this title shall be  
10 authorized by a concurrent resolution of Congress.

11 (2) Directives made by either House of Congress  
12 pursuant to sections 203 (a), 204 (a), and 206 of this  
13 title shall be authorized by passage of a resolution of  
14 such House.

15 (3) Directives made by a committee of Congress  
16 pursuant to section 206 of this title shall be in writing  
17 and approved by an affirmative vote of two-thirds of  
18 the members of the full committee.

19 (b) (1) A resolution or concurrent resolution introduced  
20 pursuant to subsection (a) shall not be referred to a commit-  
21 tee, except as otherwise required under subsection (c) (1).  
22 Upon introduction or when reported as required under sub-  
23 section (c) (2), it shall at any time thereafter be in order  
24 (even though a previous motion to the same effect has been  
25 disagreed to) to move to proceed to the consideration of such

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

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

22 (3) Motions to postpone, made with respect to the  
23 consideration of the resolution or concurrent resolution, and  
24 motions to proceed to the consideration of other business,  
25 shall be decided without debate.



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

(c) It shall not be in order in the Senate or House of Representatives to consider a resolution to direct the Congressional Legal Counsel to bring a civil action pursuant to section 204 (a) to enforce or secure a declaratory judgment concerning the validity of a subpoena or order issued by a committee or subcommittee unless (1) such resolution is reported by a majority vote of the members of such committee or committee of which such subcommittee is a subcommittee, and (2) the report filed by such committee or committee of which such subcommittee is a subcommittee contains a statement of—

(A) the procedure followed in issuing such subpoena;

(B) the extent to which the party subpoenaed has complied with such subpoena;

(C) any objections or privileges raised by the subpoenaed party; and

(D) the comparative effectiveness of bringing a civil action to enforce the subpoena, certification of a criminal action for contempt of Congress, and initiating a contempt proceeding before a House of Congress.

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

(e) For purposes of the computation of time in sections 202 (c) (1) and 209 (b) —

(1) continuity of session is broken only by an adjournment of Congress sine die; and

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

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

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

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

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating

1 to the procedure in such House) at any time, in the same  
2 manner, and to the same extent as in the case of any  
3 other rule of such House.

4 (h) Any directive to the Congressional Legal Counsel  
5 to bring a civil action pursuant to section 204 (a) of this title  
6 in the name of a committee, or subcommittee of Congress  
7 shall constitute authorization for such committee, or subcom-  
8 mittee to bring such action within the meaning of any statute  
9 conferring jurisdiction on any court of the United States.

#### 10 ATTORNEY GENERAL RELIEVED OF RESPONSIBILITY

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

16 (1) be relieved of any responsibility with respect to  
17 such representational service;

18 (2) have no authority to perform such service in  
19 such action or proceeding except at the request or with  
20 the approval of the Congressional Legal Counsel or  
21 either House of Congress; and

22 (3) transfer all materials relevant to the representa-  
23 tion authorized under section 203 (a) to the Congres-  
24 sional Legal Counsel.

25 *Provided, however,* That nothing in this subsection shall limit

1 any right of the Attorney General under existing law to  
2 intervene or appear as amicus curiae in such action or  
3 proceeding.

4 (b) The Attorney General shall notify the Congres-  
5 sional Legal Counsel with respect to any proceeding in which  
6 the United States is a party of any determination by the  
7 Attorney General or Solicitor General not to appeal any  
8 court decision affecting the constitutionality of a statute en-  
9 acted by Congress within such time as will enable the Con-  
10 gressional Legal Counsel to intervene in such proceeding  
11 pursuant to section 205.

#### 12 PROCEDURAL PROVISIONS

13 SEC. 212. (a) Permission to intervene as a party or to  
14 file a brief amicus curiae under section 205 of this title shall  
15 be of right and may be denied by a court only upon an  
16 express finding that such intervention or filing is untimely  
17 and would significantly delay the pending action.

18 (b) The Congressional Legal Counsel, the Deputy Con-  
19 gressional Legal Counsel or any designated Assistant Con-  
20 gressional Legal Counsel, shall be entitled, for the purpose  
21 of performing his functions under this title, to enter an  
22 appearance in any such proceeding before any court of the  
23 United States without compliance with any requirement  
24 for admission to practice before such court, except that the  
25 authorization conferred by this paragraph shall not apply



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  
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  
17 Code, is amended by adding at the end thereof the follow-  
18 ing new 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  
25 any subcommittee thereof, to enforce, or secure a decla-

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

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

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

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

"1364. Congressional actions."

## TECHNICAL AND CONFORMING AMENDMENTS

SEC. 214. (a) Section 3210 of title 39, United States Code, is amended—

(1) by striking out “and the Legislative Counsels of the House of Representatives and the Senate” in subsection (b) (1) and inserting in lieu thereof “the Legislative Counsels of the House of Representatives and the Senate, and the Congressional Legal Counsel”; and

(2) by striking out “or the Legislative Counsel of the House of Representatives or the Senate” in subsection (b) (2) and inserting in lieu thereof “the Legislative Counsel of the House of Representatives or the Senate, or the Congressional Legal Counsel”.

(b) Section 3216 (a) (1) (A) of such title is amended by striking out “and the Legislative Counsels of the House of Representatives and the Senate” and inserting in lieu thereof “the Legislative Counsels of the House of Representatives and the Senate, and the Congressional Legal Counsel”.

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

(d) Section 8 of the Act entitled “An Act making ap-

propriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and seventy-six, and for other purposes”, approved March 3, 1875, as amended (2 U.S.C. 118), is repealed.

## SEPARABILITY

SEC. 215. 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. 216. There are authorized to be appropriated to the office for each fiscal year through October 30, 1981, such sums as may be necessary to enable it to carry out its duties and functions. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding twelve months following the effective date of this subsection, the expenses of the office shall be paid from the contingent fund of the Senate, in accordance with the paragraph relating to the contingent fund of the Senate under the heading “UNDER LEGISLATIVE” in the Act of October 1, 1888 (28 Stat. 546; 2 U.S.C. 68), and upon vouchers approved by the director.



1 TITLE III—GOVERNMENT PERSONNEL; FINAN-  
2 CIAL 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 fined 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,  
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

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-7, 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



1 with the preparation or delivery of any speech, attend-  
 2 ance at any convention or other assembly of individuals,  
 3 or the preparation of any article or other composition for  
 4 publication;

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

12 (3) the identity and the category of value, as desig-  
 13 nated under subsection (b), of each asset, other than  
 14 household furnishings or goods, jewelry, clothing, or any  
 15 vehicle owned solely for the personal use of the individ-  
 16 ual, his spouse, or any of his dependents, held during  
 17 the preceding calendar year which has a value in excess  
 18 of \$1,000 as of the close of the preceding calendar  
 19 year;

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

24 (5) the identity, the category of amount, as desig-  
 25 nated under subsection (b), and date of any transaction

1 in securities of any business entity or any transaction in  
 2 commodities futures during the preceding calendar year  
 3 which is in excess of \$1,000;

4 (6) the identity and the category of value, as  
 5 designated under subsection (b), of any purchase or  
 6 sale of real property or any interest in any real property  
 7 during the preceding calendar year if the value of  
 8 property involved in such purchase or sale exceeds  
 9 \$1,000;

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

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

24 Each individual designated under paragraphs (5) and (6)  
 25 of section 302 (b) shall also include in such report the identity

1 of any person, other than the Government, who paid such  
 2 individual compensation in excess of \$5,000 in any of the  
 3 five years prior to the preceding calendar year and the na-  
 4 ture and term of the services such individual performed for  
 5 such person. The preceding sentence shall not require any  
 6 individual to include in such report any information which is  
 7 considered confidential as a result of a privileged relationship,  
 8 established by law, between such individual and any person  
 9 nor shall it require an individual to report any information  
 10 with respect to any person for whom services were provided  
 11 by any firm or association of which such individual was a  
 12 member, partner, or employee unless such individual was  
 13 directly involved in the provision of such services.

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

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

22 (B) greater than \$5,000 but not more than

23 \$15,000,

24 (C) greater than \$15,000 but not more than

25 \$50,000,

1 (D) greater than \$50,000, but not more than  
 2 \$100,000, or

3 (E) greater than \$100,000.

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

7 (c) For purposes of paragraphs (1) through (7) of  
 8 subsection (a), an individual shall include each item of  
 9 income or reimbursement and each gift received, each item  
 10 received in kind, each asset held, each liability owed, each  
 11 transaction in commodities futures and in securities, each  
 12 purchase or sale of real property or interest in any real  
 13 property, and each patent right or interest in any patent  
 14 right held by him, his spouse, or any of his dependents within  
 15 his control, or by him and his spouse or dependents jointly,  
 16 or by any person acting on his behalf: *Provided*, That no  
 17 disclosure shall be required as to those items of the spouse  
 18 and dependents of the reporting individual which represent  
 19 their sole property and which are not in any way, directly  
 20 or indirectly, past or present, derived from the income, earn-  
 21 ings, investments, assets, dividends, property, holdings, or  
 22 activities of the covered official.

# 23 FILING OF REPORTS

24 SEC. 304. (a) (1) Each individual required to file a  
 25 report under section 302 (a), other than an individual ex-



cepted under paragraph (3) of this subsection, shall file such report with the Comptroller General not later than May 15 of each year. 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 with the Comptroller General.

(2) Each Member, officer, and employee of the House of Representatives and the Senate required to file a report under section 302 (a) shall file a copy of such report with the Clerk of the House of Representatives and the Secretary of the Senate, respectively, and each justice, judge, officer, and employee of any court of the United States shall file a copy of such report with the Director of the Administrative Office of the United States Courts at the same time as such report is filed with the Comptroller General.

(3) 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, shall file a copy of such report with the Chairman of the Civil Service Commission at the same time such report is filed with the Comptroller General.

(4) 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 Comptroller General 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 or, if an individual described in subsection (a) (3), with the Chairman of the Civil Service Commission.

(b) Each individual required to file a report under section 302 (c) shall file such report with the Comptroller General 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

1 any calendar year to occupy the office or position the occu-  
 2 pancy of which imposes upon him the reporting requirement  
 3 contained in section 302 (a) shall file such report for the  
 4 preceding calendar year and the period of such calendar year  
 5 for which he occupies such office or position on or before  
 6 May 15 of such calendar year.

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

12 (d) The Comptroller General may grant one or more  
 13 reasonable extensions of time for filing any report but the  
 14 total of such extensions shall not exceed ninety days.

15 (e) The Comptroller General shall promulgate such  
 16 rules and regulations as are required to carry out the provi-  
 17 sions and purposes of this title.

#### 18 FAILURE TO FILE OR FALSIFYING REPORTS; PROCEDURE

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

24 (c) (2) The Attorney General may bring a civil action in  
 25 any district court of the United States against any individual

1 who fails to file a report which such individual is required to  
 2 file under section 302 or who fails to report any information  
 3 which such individual is required to report under section 303.

4 The court in which such action is brought may assess against  
 5 such individual a penalty in any amount not to exceed  
 6 \$5,000.

7 (b) The head of each agency, the Clerk of the House of  
 8 Representatives with respect to any Member, officer, or em-  
 9 ployee of the House of Representatives, the Secretary of the  
 10 Senate with respect to any Member, officer or employee of the  
 11 Senate, and the Director of the Administrative Office of the  
 12 United States Courts with respect to any justice, judge, officer,  
 13 or employee of any court of the United States shall submit  
 14 annually to the Comptroller General a complete list of in-  
 15 dividuals who are required to file a report under section 302  
 16 and shall submit at the close of each calendar quarter a list  
 17 of individuals who have begun or have terminated employ-  
 18 ment with such agency, the House of Representatives, the  
 19 Senate, or any court in such calendar quarter.

20 (c) The Comptroller General shall refer to the Attorney  
 21 General the name of any individual the Comptroller General  
 22 has reasonable cause to believe has failed to file a report or has  
 23 falsified or failed to file information required to be reported.  
 24 In addition, if such individual is a Member, officer, or em-  
 25 ployee of the Senate or the House of Representatives, the



1 Comptroller General shall refer the name of such individual  
2 to the Senate Select Committee on Standards and Conduct or  
3 the Committee on Standards of Official Conduct of the House  
4 of Representatives, whichever is appropriate.

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

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

12 SEC. 306. (a) The Comptroller General shall make  
13 each report filed with him under section 305 available to the  
14 public within fifteen days after the receipt of such report  
15 from any individual and provide a copy of such report to  
16 any person upon a written or oral request.

17 (b) The Comptroller General may require any person  
18 receiving a copy of such report under subsection (a) to  
19 supply his name and address and the name of the person or  
20 organization, if any, on whose behalf he is requesting such  
21 copy and to pay a reasonable fee in any amount which the  
22 Comptroller General finds necessary to recover the cost of  
23 reproduction or mailing of such report excluding any salary  
24 of any employee involved in such reproduction or mailing.  
25 The Comptroller General may furnish any copy of such

1 report without charge or at a reduced charge if he determines  
2 that waiver or reduction of the fee is in the public interest  
3 because furnishing the information can be considered as  
4 primarily benefiting the public.

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

7 (A) for any unlawful purpose;

8 (B) for any commercial purpose;

9 (C) to determine or establish the credit rating of  
10 any individual; or

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

13 (2) The Attorney General may bring a civil action  
14 in any district court of the United States against any per-  
15 son who inspects or obtains such report for any purpose  
16 prohibited in paragraph (1). The court in which such ac-  
17 tion is brought may assess against such individual a penalty  
18 in any amount not to exceed \$1,000.

19 (d) Any report received by the Comptroller General  
20 shall be held in his custody and made available to the public  
21 for a period of five years after receipt by the Comptroller  
22 General of such report. After such five-year period, the  
23 Comptroller General shall destroy any such report.

24 (e) (1) The House of Representatives, the Senate, the  
25 Director of the Administrative Office of the United States

1 Courts, the Chairman of the Civil Service Commission, and  
 2 the head of each agency shall make provisions to assure that  
 3 each report shall be reviewed in accordance with any law or  
 4 regulation with respect to conflicts of interest or confidential  
 5 financial information of officers or employees of the House of  
 6 Representatives, the Senate, the United States courts or each  
 7 such agency or in accordance with rules and regulations as  
 8 may be prescribed,

9 (2) Notwithstanding any law or resolution, when-  
 10 ever in any criminal case pending in any competent court  
 11 in which a Member, officer, or employee of the Senate is  
 12 a defendant, or in any proceeding before a grand jury of  
 13 any competent court in which alleged criminal conduct of a  
 14 Member, officer, or employee of the Senate is under investi-  
 15 gation, a discovery order of a competent court is served  
 16 upon the Comptroller General of the United States directing  
 17 him to appear and produce any reports filed pursuant to  
 18 any financial disclosure requirement, then the Comptroller  
 19 General shall—

20 (a) if such report is in a sealed envelope, unseal  
 21 the envelope containing such report and have an authen-  
 22 ticated copy made of such report, replace such report  
 23 in such envelope and reseal it, and note on such enve-  
 24 lope that it was opened pursuant to this paragraph in

1 response to a subpoena, a copy of which shall be attached  
 2 to such envelope, and

3 (b) appear in response to such subpoena and pro-  
 4 duce the authenticated copy so made.

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

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

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

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

23 (4) (A) In conducting an audit under paragraph (1),  
 24 (2), or (3), the Comptroller General is authorized to re-



quire 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.

SEC. 307. The Civil Service Commission and the Department of Justice shall each analyze regulations and procedures presently in effect with regard to financial conflicts of interest among employees of the Federal Government and recommend to the appropriate committees of Congress for their consideration such legislation as may be necessary including comments on amendment numbered 2031 as submitted. Such reports shall be delivered within six months of the enactment of this Act.

#### SEPARABILITY

SEC. 308. 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. 309. There are authorized to be appropriated for each fiscal year through September 30, 1981, such sums as may be necessary to carry out the provisions of this title.

#### EFFECTIVE DATE

SEC. 310. The provisions of this title shall take effect on January 1, 1977, except that (1) no individual shall be required to file a report under section 304 (a) prior to May 15, 1978, and (2) any individual who is required to file a report during calendar year 1977 under section 304 (b) or (c) shall only be required to include information with respect to calendar year 1977.

Passed the Senate July 21, 1976.

Attest:

FRANCIS R. VALEO,  
*Secretary.*

## AN ACT

To establish certain Federal agencies, effect certain reorganizations of the Federal Government, and to implement certain reforms in the operation of the Federal Government recommended by the Senate Select Committee on Presidential Campaign Activities, and for other purposes.

JULY 26, 1976

Referred jointly to the Committees on the Judiciary,  
Rules, and Standards of Official Conduct

Secretary.



94TH CONGRESS  
2D SESSION

# H. R. 14476



## IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 1976

Mr. HUNGATE introduced the following bill; which was referred to the Committee on the Judiciary

## A BILL

To provide for a temporary special prosecutor in appropriate cases, and for other purposes.

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

That this Act may be cited as the "Special Prosecutor Act of 1976".

### DIVISION OF GOVERNMENT CRIMES

### TEMPORARY SPECIAL PROSECUTOR

SEC. 2. (a) Title 28, United States Code, is amended by inserting immediately after chapter 37 the following new chapter:

#### I

1 **"Chapter 39—DIVISION OF GOVERNMENT CRIMES**  
 2 **AND APPOINTMENT OF TEMPORARY SPECIAL**  
 3 **PROSECUTOR**

"Sec.

"591. Establishment of Division of Government Crimes.

"592. Jurisdiction.

"593. Final decision by the Attorney General.

"594. Standard for appointment of temporary special prosecutor.

"595. Temporary special prosecutor.

"596. Disqualification of officers and employees of the Department of Justice.

"597. Expedited judicial review.

4 **"§ 591. Establishment of Division of Government Crimes**

5     "(a) There is established within the Department of Jus-  
 6 tice the Division of Government Crimes which shall be  
 7 headed by the Assistant Attorney General for Government  
 8 Crimes (hereinafter referred to in this chapter as the 'Assist-  
 9 ant Attorney General') who shall be appointed by the  
 10 President, by and with the advice and consent of the Senate,  
 11 for a term coterminous with that of the President making the  
 12 appointment.

13     "(b) An individual shall not be appointed Assistant At-  
 14 torney General if such individual has, during the five years  
 15 preceding such appointment, held a high-level position of  
 16 trust and responsibility while serving on the personal cam-  
 17 paign staff or in an organization or political party working  
 18 on behalf of the campaign of an individual who was elected  
 19 to the office of President or Vice President.

20     "(c) The confirmation by the Senate of a Presidential

1 appointment of the Assistant Attorney General shall con-  
 2 stitute a final determination that such officer meets the re-  
 3 quirements under subsection (b).

4     "(d) While serving as Assistant Attorney General, an  
 5 individual shall not engage in any other business, vocation,  
 6 or employment.

7     "(e) The Attorney General, at the beginning of each  
 8 regular session of the Congress, shall report to the Congress  
 9 on the activities and operation of the Division of Govern-  
 10 ment Crimes for the last preceding fiscal year, and on any  
 11 other matters pertaining to the Division which he considers  
 12 proper, including a listing of the number, type, and nature of  
 13 the investigations and prosecutions conducted by such Divi-  
 14 sion and the disposition thereof, and any proposals for new  
 15 legislation which the Attorney General may recommend.  
 16 Such report shall be made public except that the Committee  
 17 on the Judiciary of the House of Representatives or the Com-  
 18 mittee on the Judiciary of the Senate may on its own initia-  
 19 tive, or upon the request of the Attorney General, seal por-  
 20 tions of the report related to uncompleted and ongoing  
 21 investigations.

22 **"§ 592. Jurisdiction**

23     "(a) The Attorney General shall, subject to the provi-  
 24 sions of section 595, delegate to the Assistant Attorney Gen-  
 25 eral jurisdiction of (1) criminal violations of Federal law



1 committed by any elected or appointed Federal Government  
 2 officer or employee who is serving or has served at any time  
 3 during the preceding six years in a position compensated at  
 4 a rate equivalent to or greater than level III of the Executive  
 5 Schedule under section 5314 of title 5, United States Code;  
 6 (2) criminal violations of Federal law committed by any  
 7 elected or appointed Federal Government officer or employee,  
 8 other than those described in paragraph (1), who is serving  
 9 or has served at any time during the preceding six years, if  
 10 such violation is directly or indirectly related to the official  
 11 Government work or compensation of such officer or employee;  
 12 (3) criminal violations of Federal law committed by a special  
 13 Federal Government employee, as defined under section  
 14 202 of title 18, United States Code, in the course of his  
 15 employment by the Government, who is serving or has served  
 16 at any time during the preceding six years; (4) criminal vio-  
 17 lations of Federal laws relating to lobbying, campaigns, and  
 18 election to public office committed by any person; and (5)  
 19 any other matter which the Attorney General refers to the  
 20 Assistant Attorney General. Any jurisdictional grant of au-  
 21 thority which is inconsistent with this paragraph is hereby  
 22 superseded.

23 “(b) For the purpose of subsection (a) of this section,  
 24 the six-year period referred to shall be computed from the  
 25 date on which (1) the Assistant Attorney General makes a

1 reasonable effort to notify an individual described in such  
 2 subsection in writing that such individual is the subject of an  
 3 investigation of a possible violation of a Federal law, or  
 4 (2) such individual is informed of his indictment, whichever  
 5 is earlier.

6 “(c) Any information, allegation, or complaint received  
 7 by any officer or employee of any branch of Government  
 8 relating to any violation specified in subsection (a) of this  
 9 section shall be expeditiously reported to a local United  
 10 States Attorney or to the Attorney General. Such United  
 11 States Attorney shall expeditiously inform the Attorney  
 12 General in writing of the receipt and content of such infor-  
 13 mation, allegation, or complaint.

#### 14 “§ 593. Final decision by the Attorney General

15 “The Attorney General shall supervise the Assistant  
 16 Attorney General in the discharge of his duties.

#### 17 “§ 594. Standard for appointment of temporary special 18 prosecutor

19 “(a) If the Attorney General, upon receiving informa-  
 20 tion, allegations, or evidence of any Federal criminal wrong-  
 21 doing, determines that a conflict of interest as defined in  
 22 subsection (c), or the appearance thereof, may exist if he  
 23 participates in any investigation or prosecution resulting  
 24 from such information, allegations, or evidence, the At-  
 25 torney General within thirty days after the receipt thereof

1 shall file a memorandum with the division of three judges  
2 of the United States Court of Appeals for the District of  
3 Columbia, as described in section 49 of this title (hereinafter  
4 in this chapter referred to as the 'court') containing—

5 “(1) a summary of the information, allegations, and  
6 evidence received and the results of a preliminary in-  
7 vestigation or evaluation thereof by any Federal in-  
8 vestigative agency;

9 “(2) a summary of the information relevant to  
10 determining whether a conflict of interest, or the appear-  
11 ance thereof, exists;

12 “(3) a finding by the Attorney General, based upon  
13 all information known to the Department of Justice, as to  
14 whether the information, allegations, and evidence sum-  
15 marized as required under paragraph (1) are clearly  
16 frivolous, and therefore, do not justify any further inves-  
17 tigation or prosecution, and any other comments or rec-  
18 ommendations by the Attorney General; and

19 “(4) a decision, if any, by the Attorney General  
20 to disqualify himself and to appoint a temporary spe-  
21 cial prosecutor under section 595.

22 “(b) Not sooner than thirty days after first notifying the  
23 Attorney General of the information, allegations, or evidence  
24 in his possession of possible criminal wrongdoing, any indi-  
25 vidual may make a request to the court to decide whether the

1 Attorney General should disqualify himself with respect to a  
2 particular investigation by submitting in writing to the court  
3 and the Attorney General such information, allegations, or  
4 evidence and a summary of the information relevant to deter-  
5 mine whether a conflict of interest exists. The Attorney Gen-  
6 eral shall have fifteen days from his receipt thereof to file a  
7 memorandum with the court containing the information de-  
8 scribed in subsection (a) if the Attorney General has not  
9 already done so.

10 “(c) (1) In determining whether a conflict of interest or  
11 the appearance thereof exists, the court and the Attorney  
12 General shall consider whether the President or the Attorney  
13 General has a direct and substantial personal or partisan  
14 political interest in the outcome of the proposed criminal in-  
15 vestigation or prosecution.

16 “(2) For the purposes of this section, a conflict of  
17 interest, or the appearance thereof, is deemed to exist if the  
18 subject of a criminal investigation or prosecution is the Pres-  
19 ident, Vice President, Director of the Federal Bureau of  
20 Investigation, any individual serving in a position com-  
21 pensated at level I of the Executive Schedule under section  
22 5312 of title 5, United States Code, any individual working  
23 in the Executive Office of the President compensated at a rate  
24 equivalent to or greater than level V of the Executive Sched-  
25 ule under section 5316 of title 5, United States Code, or any



1 individual who held any office or position described in this  
 2 paragraph at any time during the four years immediately  
 3 preceding the investigation or prosecution.

4 “(d) (1) If (A) the Attorney General files a memoran-  
 5 dum as provided under subsection (a) or (b) which does  
 6 not include a decision to disqualify himself, or a finding pur-  
 7 suant to subsection (a) (3) that the information, allegations  
 8 and evidence are clearly frivolous, or (B) the Attorney Gen-  
 9 eral fails to make a timely reply as required under subsection  
 10 (b), the court shall determine whether a conflict of interest,  
 11 or the appearance thereof exists. If the court finds such a  
 12 conflict, or the appearance thereof, it shall appoint a tem-  
 13 porary special prosecutor pursuant to section 595, and upon  
 14 notification in writing of such an appointment the Attorney  
 15 General shall disqualify himself.

16 “(2) Upon request of the court, the Attorney General  
 17 or any other individual shall make available to the court all  
 18 documents, materials, and memoranda as the court finds  
 19 necessary to carry out its duties under this section. The court  
 20 may request participation or argument from a party other  
 21 than the Attorney General or may appoint any individual to  
 22 perform the function described in this subsection.

23 “(3) If, after finding under subsection (a) (3) that  
 24 the information, allegations, and evidence of possible criminal  
 25 wrongdoing are clearly frivolous, the Attorney General re-

1 ceives additional information, allegations, or evidence which,  
 2 in his opinion, justify further investigation or prosecution,  
 3 the Attorney General shall within fifteen days after receiving  
 4 the information, allegations, or evidence, file a memorandum  
 5 with the court in accordance with subsection (a).

#### 6 “§ 595. Temporary special prosecutor

7 “(a) (1) A temporary special prosecutor shall be ap-  
 8 pointed pursuant to this section—

9 “(A) by the Attorney General, upon a decision to  
 10 disqualify himself pursuant to section 594 (a) (4); or

11 “(B) by the court, upon a finding of a conflict of  
 12 interest, or the appearance thereof, pursuant to section  
 13 594 (d) (1).

14 “(2) The court shall notify the Attorney General in  
 15 writing of any decision under paragraph (1) (B). Any  
 16 action of the court under this section shall supersede any  
 17 actions by the Attorney General which are in conflict  
 18 therewith.

19 “(3) Whoever appoints a temporary special prosecutor  
 20 under this section shall specify in writing the matters which  
 21 such prosecutor is authorized to investigate and prosecute.

22 “(b) An individual shall not be appointed temporary  
 23 special prosecutor unless such individual (1) is not serving  
 24 as an officer or employee of the Federal Government, and  
 25 (2) meets the requirements of section 591 (b).



1 “(c) The court shall review each appointment of a tem-  
 2 porary special prosecutor by the Attorney General under  
 3 this section to determine whether—

4 “(1) the individual appointed temporary special  
 5 prosecutor (A) has a conflict of interest, or the appear-  
 6 ance thereof, in accordance with section 594 (c) ; or (B)  
 7 fails to meet the requirements of subsection (b) ; or

8 “(2) the jurisdiction defined by the Attorney Gen-  
 9 eral is not sufficiently broad to enable the temporary  
 10 special prosecutor to carry out the purposes of this  
 11 chapter.

12 If the court finds that the appointment is deficient under  
 13 paragraph (1) or (2), the court shall appoint a temporary  
 14 special prosecutor pursuant to this section.

15 “(d) (1) Except as provided under paragraph (2), the  
 16 authority and powers of any temporary special prosecutor  
 17 shall terminate upon the submission to the Attorney General  
 18 of a report stating that the investigation of all matters which  
 19 the temporary special prosecutor is authorized to investigate,  
 20 as set forth pursuant to subsection (a) (3), and any result-  
 21 ing prosecutions have been completed.

22 “(2) Prior to his submission of the report under para-  
 23 graph (1), a temporary special prosecutor may be removed  
 24 from office by the Attorney General only for extraordinary  
 25 improprieties. Immediately after removing a temporary spe-

1 cial prosecutor under this subsection, the Attorney General  
 2 shall submit to the court a written report specifying with  
 3 particularity the cause for which such temporary special  
 4 prosecutor was removed. The court shall make available to  
 5 the public such report, except that the court may, if necessary  
 6 to avoid prejudicing the rights under Federal law of any  
 7 individual, delete or postpone publishing such portions of the  
 8 report, or the whole report, or any name or other identifying  
 9 details.

10 “(3) A temporary special prosecutor or any aggrieved  
 11 person may bring an action in the United States District  
 12 Court for the District of Columbia to challenge the action of  
 13 the Attorney General under paragraph (2) by seeking re-  
 14 instatement or any other appropriate relief. In any hearing  
 15 of any such action, the court shall proceed de novo.

16 “(e) In carrying out the provisions of this section, a  
 17 temporary special prosecutor shall have, within the jurisdic-  
 18 tion specified by the Attorney General or the court in accord-  
 19 ance with subsection (a) (3), the same power as the Assist-  
 20 ant Attorney General for Government Crimes to act on be-  
 21 half of the United States, except that the temporary special  
 22 prosecutor shall have the authority to appeal any decision of  
 23 a court in a proceeding in which he is a party without the ap-  
 24 proval of the Solicitor General or the Attorney General. The  
 25 Attorney General shall make available to the temporary



1 special prosecutor all documents, materials, and memoranda  
2 necessary to carry out his duties under this section.

3 “(f) Upon request by a temporary special prosecutor,  
4 the Attorney General shall make available to him the re-  
5 sources and personnel necessary to carry out his duties under  
6 this section. If a temporary special prosecutor does not receive  
7 the resources and personnel required to perform his duties,  
8 said temporary special prosecutor shall inform the Commit-  
9 tee on the Judiciary of the House of Representatives and the  
10 Committee on the Judiciary of the Senate.

11 **“§ 596. Disqualification of officers and employees of the**  
12 **Department of Justice**

13 “The Attorney General shall promulgate rules and regu-  
14 lations which require any officer or employee of the Depart-  
15 ment of Justice, including a United States attorney or a mem-  
16 ber of his staff, to disqualify himself from participation in a  
17 particular investigation or prosecution if such participation  
18 may result in a personal, financial, or partisan political con-  
19 flict of interest, or the appearance thereof. Such rules and  
20 regulations may provide that a willful violation of any pro-  
21 vision thereof shall result in removal from office.

22 **“§ 597. Expedited judicial review**

23 “(a) (1) Any objection on constitutional grounds by a  
24 person who is the subject of an indictment or information  
25 to the authority of a temporary special prosecutor appointed

1 under this chapter to frame and sign indictments or informa-  
2 tions or to prosecute offenses in the name of the United States  
3 shall be raised, if at all, by motion to dismiss the indictment  
4 or information. Each such motion shall be made within  
5 twenty days of notice of the indictment or information and  
6 shall not preclude the making of any other motion under the  
7 Federal Rules of Criminal Procedure.

8 “(2) The district court shall immediately certify any  
9 motion under paragraph (1) of this subsection to the United  
10 States court of appeals for that circuit, which shall hear the  
11 motion sitting en banc.

12 “(3) Notwithstanding any other provision of law, any  
13 determination on the motion shall be reviewable by appeal  
14 directly to the Supreme Court of the United States, if such  
15 appeal is filed within ten days after such determination.

16 “(4) Except as provided in this section, no court shall  
17 have jurisdiction to consider any objection to the validity of  
18 an indictment or information or a conviction based on the  
19 lack of authority under the Constitution of a temporary spe-  
20 cial prosecutor to frame and sign indictments and informa-  
21 tions and to prosecute offenses in the name of the United  
22 States.

23 “(5) Notwithstanding any subsequent judicial determi-  
24 nation regarding his authority to frame and to sign indict-  
25 ments and informations and to prosecute offenses in the name

1 of the United States, an individual who is appointed as a  
2 temporary special prosecutor and anyone acting on his behalf  
3 shall be deemed a person authorized to be present during ses-  
4 sions of a grand jury.

5 “(b) (1) Any person aggrieved by an official act of a  
6 temporary special prosecutor may bring an action or file an  
7 appropriate motion challenging his constitutional authority  
8 under this chapter seeking appropriate relief. Such an action  
9 or motion shall be filed within twenty days after the ag-  
10 grieved person has notice of the act to which he objects.  
11 The district court shall immediately certify all questions of  
12 the constitutionality of this chapter to the United States  
13 court of appeals for that circuit, which shall hear the matter  
14 sitting en banc.

15 “(2) Notwithstanding any other provision of law, any  
16 decision on a matter certified under paragraph (1) of this  
17 subsection shall be reviewable by appeal directly to the  
18 Supreme Court of the United States, if such appeal is  
19 brought within ten days of the decision of the court of  
20 appeals.

21 “(c) (1) It shall be the duty of the court of appeals and  
22 of the United States Supreme Court to advance on the  
23 docket and to expedite to the greatest possible extent the dis-  
24 position of any motion filed under subsection (a) (1), or  
25 any question certified under subsection (b) (1).

1 “(2) The expedited review procedures of this section  
2 shall not apply to any challenge to the constitutionality of  
3 any provision of this chapter insofar as any question pre-  
4 sented shall have been previously determined by the Supreme  
5 Court of the United States notwithstanding that the pre-  
6 vious determination occurred in litigation involving other  
7 parties.”.

8 (b) The tables of chapters for title 28, United States  
9 Code, and for part II of title 28, United States Code, are  
10 each amended by adding after the item relating to chapter  
11 37 the following new item:

“39. Division of Government Crimes and Appointment of Tempo-  
rary Special Prosecutor----- 591”.

12 (c) (1) Section 5315 of title 5, United States Code, is  
13 amended by striking out “(9)” in item (19) and inserting  
14 in lieu thereof “(10)”.

15 (2) A temporary special prosecutor shall receive com-  
16 pensation at a per diem rate equal to the rate of basic pay  
17 for level V of the Executive Schedule under section 5316 of  
18 title 5, United States Code.

19 ASSIGNMENT OF JUDGES TO DIVISION TO APPOINT

20 TEMPORARY SPECIAL PROSECUTORS

21 SEC. 3. (a) Chapter 3 of title 28, United States Code,  
22 is amended by adding at the end thereof the following new  
23 section:



1 "§ 49. Assignment of judges to division to appoint tempo-  
2 rary special prosecutors

3 "(a) The chief judge of the United States Court of Ap-  
4 peals for the District of Columbia shall every two years as-  
5 sign three judges to a division of the United States Court of  
6 Appeals for the District of Columbia to determine all mat-  
7 ters arising under sections 594 and 595 of this title.

8 "(b) Except as provided under subsection (f), assign-  
9 ment to the division established in subsection (a) shall not be  
10 a bar to other judicial assignments during the term of such  
11 division.

12 "(c) In assigning judges or justices to sit on the division  
13 established in subsection (a), priority shall be given to senior  
14 retired circuit judges and senior retired justices.

15 "(d) The chief judge of the United States Court of  
16 Appeals for the District of Columbia may make a request  
17 to the Chief Justice of the United States, without presenting  
18 a certificate of necessity, to designate and assign, in accord-  
19 ance with section 294 of this title, retired circuit court judges  
20 of another circuit or retired justices to the division established  
21 under subsection (a).

22 "(e) Any vacancy in the division established under  
23 subsection (a) shall be filled only for the remainder of the  
24 two-year period in which such vacancy occurs and in the

1 same manner as initial assignments to the division were  
2 made.

3 "(f) No judge or justice who as a member of the divi-  
4 sion established in subsection (a) participated in a decision  
5 of a matter under section 594 or 595 of this title involving  
6 a temporary special prosecutor shall be eligible to partici-  
7 pate on a circuit court panel deciding a matter which in-  
8 volves such temporary special prosecutor while such tem-  
9 porary special prosecutor is serving in that office or which  
10 involves the exercise of the temporary special prosecutor's  
11 official duties, regardless of whether he is still serving in that  
12 office."

13 (b) The table of sections of chapter 3 of title 28, United  
14 States Code, is amended by adding at the end thereof the  
15 following:

"49. Assignment of judges to division to appoint temporary special  
prosecutors."

16 AUTHORIZATION OF APPROPRIATIONS .

17 SEC. 4. There are authorized to be appropriated for  
18 each fiscal year through the fiscal year ending September 30,  
19 1981, such sums as may be necessary to carry out the pro-  
20 visions of this Act.

94TH CONGRESS  
2D SESSION

**H. R. 14476**

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**A BILL**

To provide for a temporary special prosecutor  
in appropriate cases, and for other purposes.

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By Mr. HUNGATE

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JUNE 21, 1976

Referred to the Committee on the Judiciary



OFFICE OF  
THE ATTORNEY GENERAL



9/13/76

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per conversation.

EHL

Subcommittee meets again Tuesday, Sept. 14  
at 9:30 A.M.

[SUBCOMMITTEE PRINT]

SEPTEMBER 13, 1976

94TH CONGRESS  
2D SESSION

H. R.



IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER , 1976

Mr. ----- introduced the following bill; which was referred to the Com-  
mittee on -----

A BILL

To amend title 28 of the United States Code to provide for the  
appointment of an independent temporary special prose-  
cutor in appropriate cases, and for other purposes.

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

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "Independent  
5 Temporary Special Prosecutor Act".

6 INDEPENDENT TEMPORARY SPECIAL PROSECUTOR .

7 SEC. 2. (a) Title 28 of the United States Code is  
8 amended by inserting immediately after chapter 37 the fol-  
9 lowing new chapter:

J. 76-815—1



1       **"Chapter 39—INDEPENDENT TEMPORARY**  
 2                   **SPECIAL PROSECUTOR**

"Sec.

"591. Appointment.

"592. Prosecutorial jurisdiction; authority.

"593. Removal or termination.

"594. Final report; congressional oversight.

"595. Presentations by Attorney General and Solicitor General.

"596. Special panel of the court.

3   **"§ 591. Appointment**

4       "(a) Upon receiving any specific information that any  
 5 of the persons described in subsection (b) of this section  
 6 has—

7       "(1) knowingly authorized or engaged in any Fed-  
 8 eral criminal act or omission involving the abuse of  
 9 Federal office;

10       "(2) knowingly authorized or engaged in any act  
 11 or omission constituting a violation of any Federal  
 12 criminal law regulating the financing or conduct of elec-  
 13 tions or election campaigns; or

14       "(3) violated any Federal criminal law relating to  
 15 the obstruction of justice or perjury, or conspired to  
 16 violate any such Federal criminal law or to defraud the  
 17 United States;

18 the Attorney General shall conduct, for a period not to  
 19 exceed sixty days, such preliminary investigation as the  
 20 Attorney General deems appropriate to ascertain whether

1 the matter under investigation is so unsubstantiated that no  
2 further investigation or prosecution is warranted.

3 “(b) The persons referred to in subsection (a) of this  
4 section are as follows:

5 “(1) The President or Vice President.

6 “(2) Any individual serving in a position compen-  
7 sated at level I of the Executive Schedule under section  
8 5312 of title 5 of the United States Code.

9 “(3) Any individual working in the Executive  
10 Office of the President and compensated at a rate not  
11 less than the rate provided for level IV of the Executive  
12 Schedule under section 5315 of title 5 of the United  
13 States Code.

14 “(4) The Director of the Federal Bureau of In-  
15 vestigation or the Director of the Central Intelligence.

16 “(5) Any individual who held any office or position  
17 described in any of paragraphs (1) through (4) of this  
18 subsection during the incumbency of the President or  
19 during the period the last preceding President held  
20 office, if such preceding President was of the same  
21 political party as the incumbent President.

22 “(6) A national campaign manager or chairman of  
23 any national campaign committee seeking the election  
24 or reelection of the President.

25 “(c) If the Attorney General finds the matter subject



1 to preliminary investigation in accordance with subsection  
2 (a) of this section is so unsubstantiated that no further  
3 investigation or prosecution is warranted, the Attorney  
4 General shall file a memorandum with the special panel of  
5 the court. Such memorandum shall contain a summary of  
6 the information received and the results of any preliminary  
7 investigation.

8 “(d) If, after the filing of a memorandum under sub-  
9 section (c) of this section, the Attorney General receives  
10 additional specific information about the matter to which  
11 such memorandum related which information, in the judg-  
12 ment of the Attorney General, warrants further investigation  
13 or prosecution, the Attorney General shall, not later than  
14 thirty days after receiving such additional information, apply  
15 to the special panel of the court for the appointment of an  
16 independent temporary special prosecutor.

17 “(e) If the Attorney General finds the matter subject  
18 to preliminary investigation in accordance with subsection  
19 (a) of this section warrants further investigation or prosecu-  
20 tion, or if sixty days elapse from the receipt of the informa-  
21 tion and the Attorney General has not yet determined that  
22 the matter is so unsubstantiated that the matter does not  
23 warrant further investigation, then the Attorney General  
24 shall apply to the special panel of the court for the appoint-  
25 ment of an independent temporary special prosecutor,

1       “(f) If, in the course of any Federal criminal investiga-  
2       tion, the Attorney General determines that the continuation  
3       of the investigation or of a resulting prosecution or the out-  
4       come of such investigation or prosecution may so directly  
5       and substantially affect the political interests of the President,  
6       of the President’s political party, or of the Attorney Gen-  
7       eral as to make it inappropriate in the interest of the admin-  
8       istration of justice for the Department of Justice to conduct  
9       such investigation, then the Attorney General shall apply  
10      to the special panel of the court for the appointment of an  
11      independent temporary special prosecutor.

12      “(g) The determination by the Attorney General under  
13      this section whether or not the specific information received  
14      under subsection (a) of this section warrants further investi-  
15      gation or prosecution is committed to the discretion of the  
16      Attorney General, and is not judicially reviewable.

17      “(h) Any memorandum or application filed under this  
18      section with the special panel of the court shall not be  
19      revealed to any third party without leave of the court. In  
20      the case of any such application, the application shall con-  
21      tain sufficient information to assist the special panel of the  
22      court to select an independent temporary special prosecutor  
23      and to define that prosecutor’s prosecutorial jurisdiction.

24      “(i) Upon the receipt of an application under this sec-  
25      tion, the special panel of the court shall appoint an appropri-



1 ate independent temporary special prosecutor and shall in-  
2 form the Attorney General of, and in its discretion make  
3 public the name and prosecutorial jurisdiction of such inde-  
4 pendent temporary special prosecutor.

5 “(j) The Attorney General may request that the court  
6 assign new matters to an existing independent temporary  
7 special prosecutor or that the prosecutorial jurisdiction of  
8 such a prosecutor be expanded, and the special panel of the  
9 court may make appropriate orders for such assignment or  
10 expansion. An independent temporary special prosecutor  
11 may accept a referral of a matter by the Attorney General,  
12 if the matter relates to a matter within the prosecutorial  
13 jurisdiction established by the special panel of the court.

14 [“(k) (1) Upon application of a judiciary committee  
15 of either House of the Congress, the United States District  
16 Court for the District of Columbia may issue an order in  
17 the nature of a writ of mandamus commanding the Attorney  
18 General to comply with any provision of this section.”]

19 [“(2) A judiciary committee of either House of the  
20 Congress may request that the Attorney General apply for  
21 the appointment of an independent temporary special prose-  
22 cutor under this section. Not later than thirty days after  
23 the receipt of such a request, the Attorney General shall  
24 notify the committee making the request in writing of any  
25 action the Attorney General has taken under this section,

1 and, if no application has been made to the special panel  
2 of the court under this section, why such application was  
3 not made. Such written notification shall not be revealed  
4 to any third party except that the committee may, either  
5 on its own initiative or upon the request of the Attorney  
6 General, make public such portion or portions of such notifi-  
7 cation as will not in the committee's judgment prejudice  
8 the rights of any individual.】

9 **“§ 592. Prosecutorial jurisdiction; authority**

10 “(a) An independent temporary special prosecutor  
11 appointed under this chapter shall have, with respect to all  
12 matters in such special prosecutor's prosecutorial jurisdiction  
13 established under this chapter, all the investigative and  
14 prosecutorial functions and powers of the Department of  
15 Justice, the Attorney General, and any other officer or  
16 employee of the Department of Justice.

17 “(b) An independent temporary special prosecutor  
18 appointed under this chapter shall receive compensation at  
19 a per diem rate equal to the rate of basic pay for level IV  
20 of the Executive Schedule under section 5315 of title 5 of  
21 the United States Code. For the purposes of carrying out the  
22 duties of the office of independent temporary special prose-  
23 cutor, such special prosecutor shall have power to appoint,  
24 fix the compensation, and assign the duties of such employees  
25 as such special prosecutor deems necessary (including in-



1 vestigators, attorneys, and part-time consultants). The posi-  
2 tions of all such employees are exempted from the competi-  
3 tive service. No such employee may be compensated at a  
4 rate exceeding the maximum rate provided for GS-18 of  
5 of the General Schedule under section 5332 of title 5 of the  
6 United States Code.

7 “(c) An independent temporary special prosecutor ap-  
8 pointed under this chapter may make public from time to  
9 time such statements or reports as such special prosecutor  
10 deems appropriate.

11 “(d) There are authorized to be appropriated for each  
12 fiscal year such sums as may be necessary, to be held by  
13 the Department of Justice as a contingent fund for the use  
14 of any independent temporary special prosecutors in the  
15 carrying out of this chapter.

16 **“§ 593. Removal or termination**

17 “(a) An independent temporary special prosecutor  
18 appointed under this chapter may be removed from office,  
19 other than by impeachment and conviction, only by the  
20 [President] [the special panel of the court] and only for  
21 extraordinary impropriety or permanent incapacitation.  
22 [An action may be brought in the United States District  
23 Court for the District of Columbia for reinstatement of an  
24 independent temporary special prosecutor improperly re-  
25 moved from office or other appropriate relief, and the court

1 may grant such reinstatement or any other appropriate relief.  
 2 Upon any removal of an independent temporary special  
 3 prosecutor, the President shall promptly submit to the Con-  
 4 gress a report describing with particularity the grounds for  
 5 such removal.]

6 “(b) The office of an independent temporary special  
 7 prosecutor shall terminate upon the submission by such  
 8 special prosecutor of notification to the Attorney General  
 9 that the investigation of all matters within the prosecutorial  
 10 jurisdiction of such special prosecutor, and any resulting  
 11 prosecutions, have been [completed] [or so substantially  
 12 completed that it would be appropriate for the Department  
 13 of Justice to complete such matters]. No such submission  
 14 shall be effective to terminate such office until after the com-  
 15 pletion and filing of the report required under section 594 of  
 16 this title.

17 **“§ 594. Final report; congressional oversight**

18 “(a) In addition to any reports made under section  
 19 592 of this title, an independent temporary special prose-  
 20 cutor appointed under this chapter shall, at the conclusion  
 21 of such prosecutor’s duties, submit to the Congress and the  
 22 President a final report setting forth the disposition of all  
 23 cases brought and the reasons for not prosecuting any mat-  
 24 ter within the prosecutorial jurisdiction of such special pros-  
 25 ecutor which was not prosecuted.





1       “(b) The appropriate committees of the Congress shall  
 2 have oversight jurisdiction with respect to the official con-  
 3 duct of any independent temporary special prosecutor  
 4 appointed under this chapter, and such special prosecutor  
 5 shall have the duty to facilitate the exercise of such over-  
 6 sight jurisdiction.

7       **“§ 595. Presentations by Attorney General and Solicitor**  
 8               **General**

9       “Nothing in this chapter shall prevent the making by  
 10 the Attorney General or the Solicitor General of a presen-  
 11 tation to any court as to issues of law raised by any case  
 12 or appeal.

13       **“§ 596. Special panel of the court**

14       “The special panel of the court to which functions are  
 15 given by this chapter is the division established under section  
 16 49 of this title.”.

17       (b) The tables of chapters for title 28 of the United  
 18 States Code and for part II of such title 28 are each  
 19 amended by inserting immediately after the item relating  
 20 to chapter 37 the following new item:

      “39. Independent temporary special prosecutor.”.

21       **ASSIGNMENT OF JUDGES TO DIVISION TO APPOINT INDE-**  
 22               **PENDENT TEMPORARY SPECIAL PROSECUTORS**

23       **SEC. 3. (a)** Chapter 3 of title 28 of the United States  
 24 Code is amended by adding at the end the following new  
 25 section;

1   “§ 49. Assignment of judges to division to appoint inde-  
2                   pendent temporary special prosecutors

3       “(a) Beginning with the two-year period commencing  
4   on the date this section takes effect, the chief judge of the  
5   United States Court of Appeals for the District of Columbia  
6   shall assign three persons who are judges or justices for  
7   each successive two-year period to a division of the United  
8   States Court of Appeals for the District of Columbia to be  
9   the special panel of the court for the purposes of chapter 39  
10  of this title.

11       “(b) Except as provided under subsection (f) of this  
12  section, assignment to the division established in subsection  
13  (a) of this section shall not be a bar to other judicial assign-  
14  ments during the term of such division.

15       “(c) In assigning judges or justices to sit on the divi-  
16  sion established in subsection (a) of this section, priority  
17  shall be given to senior retired circuit judges and senior  
18  retired justices.

19       “(d) The chief judge of the United States Court of  
20  Appeals for the District of Columbia may make a request  
21  to the Chief Justice of the United States, without presenting  
22  a certificate of necessity, to designate and assign, in accord-  
23  ance with section 294 of this title, retired circuit court judges  
24  of another circuit or retired justices to the division established  
25  under subsection (a) of this section.



1       “(e) Any vacancy in the division established under  
2 subsection (a) of this section shall be filled only for the  
3 remainder of the two-year period in which such vacancy  
4 occurs and in the same manner as initial assignments to the  
5 division were made.

6       “(f) No judge or justice who as a member of the di-  
7 vision established in subsection (a) of this section partici-  
8 pated in a function conferred on the division under chapter  
9 39 of this title involving an independent temporary special  
10 prosecutor shall be eligible to participate in any judicial  
11 proceeding involving a matter which involves such special  
12 prosecutor while such special prosecutor is serving in that  
13 office or which involves the exercise of such special prose-  
14 cutor’s official duties, regardless of whether such special  
15 prosecutor is still serving in that office.”.

16       (b) The table of sections for chapter 3 of title 28 of  
17 the United States Code is amended by adding at the end  
18 the following item:

“49. Assignment of judges to division to appoint independent temporary  
special prosecutors.”.

19 OFFICE OF GOVERNMENT CRIMES AND RELATED MATTERS

20 SEC. 4. (a) Chapter 31 of title 28 of the United States  
21 Code is amended by adding at the end the following:

22 “§ 528. Office of Government Crimes

23       “(a) There is established within the Department of



1 Justice an Office of Government Crimes (hereinafter in  
2 this section referred to as the 'Office'), which shall be,  
3 headed by a Director appointed by the President, by and  
4 with the advice and consent of the Senate. The Director shall  
5 report directly to the Attorney General on a regular basis  
6 and when the Attorney General deems it appropriate shall  
7 report to any other person. The Attorney General shall  
8 determine the organizational placement of the office within  
9 the department.

10 **["(b) A person shall not be appointed director of the**  
11 **Office of Government Crimes if such person has at any time**  
12 **during the five years preceding such appointment held a**  
13 **high level position of trust and responsibility on the personal**  
14 **campaign staff of, or in an organization or political party**  
15 **working on behalf of, a candidate for any elective Federal**  
16 **office. The confirmation by the Senate of a Presidential**  
17 **nomination of a director shall constitute a final determination**  
18 **that such officer meets the requirements of this subsection.】**

19 **"(c) The Attorney General shall, except as to matters**  
20 **referred to an independent temporary special prosecutor**  
21 **under chapter 39 of this title, delegate to the Office prosecu-**  
22 **tional jurisdiction of (1) criminal violations of Federal law**  
23 **related directly or indirectly to his Government position,**  
24 **employment, or compensation, by any individual who holds**  
25 **or who at the time of such possible violation held a position**



1 as an elected or appointed Federal Government officer,  
2 employee, or special employee; (2) criminal violations of  
3 Federal laws relating to lobbying, conflicts of interest, cam-  
4 paigns, and election to public office committed by any per-  
5 son except insofar as such violations relate to matters  
6 involving discrimination or intimidation on the grounds  
7 of race, color, religion, or national origin; (3) the supervision  
8 of investigations and prosecutions of criminal violations  
9 (other than violations of chapter 13 of title 18 or conspiracies  
10 to violate such chapter) of Federal law involving State or  
11 local government officials or employees; and (4) such other  
12 matters as the Attorney General may deem appropriate.

13       “(d) Prosecutorial jurisdiction delegated to the Office  
14 under subsection (c) of this section may be concurrently  
15 delegated by the Attorney General to the United States  
16 attorneys or other units of the Department of Justice. In the  
17 event of such concurrent delegation, the Director shall super-  
18 vise the United States attorneys or other units in the per-  
19 formance of such duties. This section shall not limit any  
20 authority conferred upon the Attorney General, the Federal  
21 Bureau of Investigation, or any other department or agency  
22 of government to investigate any matter.

23       “(e) In each report under section 522 of this title, the  
24 Attorney General shall report to the Congress on the activi-  
25 ties and operation of the Office for the preceding fiscal year.

1   **“§ 529. Disqualification of officers and employees of the**  
2           **Department of Justice**

3           “The Attorney General shall promulgate rules and regu-  
4 lations which require any officer or employee of the Depart-  
5 ment of Justice, including a United States attorney or a  
6 member of his staff, to disqualify himself from participation  
7 in a particular investigation or prosecution if such partici-  
8 pation may result in a personal, financial, or political conflict  
9 of interest, or the appearance thereof. Such rules and regula-  
10 tions may provide that a willful violation of any provision  
11 thereof shall result in removal from office.

12   **“§ 530. Office of Professional Responsibility**

13           “(a) There is established within the Department of  
14 Justice an Office of Professional Responsibility, which shall  
15 be headed by a Counsel on Special Responsibility appointed  
16 by the Attorney General. Such Counsel shall be subject to  
17 the general supervision and direction of the Attorney Gen-  
18 eral, and shall report directly to the Attorney General or,  
19 in appropriate cases, to the Deputy Attorney General or  
20 the Solicitor General.

21           “(b) Except as to matters which are to be referred  
22 to an independent temporary special prosecutor under  
23 chapter 39 of this title, the Counsel on Professional Respon-  
24 sibility shall be responsible for reviewing any information  
25 or allegation presented to such Counsel concerning conduct



1 by an employee of the Department of Justice that may be in  
2 violation of law, or department regulations or orders, or of  
3 applicable standards of conduct, and shall undertake a pre-  
4 liminary investigation to determine what further steps should  
5 be taken. On basis of such investigation such Counsel shall  
6 refer the matter to the appropriate unit within the Depart-  
7 ment or shall recommend to the Attorney General or, in  
8 appropriate cases, to the Deputy Attorney General or Solic-  
9 tor General, what other action, if any, should be taken. Such  
10 Counsel shall undertake such other responsibilities as the  
11 Attorney General may direct.

12 “(c) Nothing in this section shall derogate from the  
13 authority of internal inspection units of the Department of  
14 Justice and the heads of other units to receive, investigate  
15 and act upon information or allegations concerning unlawful  
16 or improper conduct.”.

17 (b) The table of sections for chapter 31 of title 28 of  
18 the United States Code is amended by adding at the end the  
19 following:

“528. Office of Government Crimes.

“529. Disqualification of officers and employees of the Department of  
Justice.

“530. Office of Professional Responsibility.”.

20 (c) Section 5315 of title 5 of the United States Code is  
21 amended by adding at the end the following:

22 “(108) Director of Office of Government Crimes.”.

[SUBCOMMITTEE PRINT]

SEPTEMBER 13, 1976

94TH CONGRESS  
2D SESSION

H. R.

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## A BILL

To amend title 28 of the United States Code  
to provide for the appointment of an inde-  
pendent temporary special prosecutor in  
appropriate cases, and for other purposes.

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By Mr. -----

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SEPTEMBER , 1976

Referred to the Committee on -----