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PROVISIONS IN THE UNITED STATES CODE  
RELATING TO CAMPAIGN PRACTICES, ELECTION  
OFFENSES, AND MISCONDUCT BY PUBLIC  
OFFICIALS AS TO THE RECEIPT OF FUNDS,  
GIFTS, OR CONTRIBUTIONS . 1973.

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December 11, 1973



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A. Elections

1. Campaign Financing

a) Reporting and Disclosure

Title 2, U.S.C. - The Congress

§ 431. Definitions.

When used in this subchapter—

(a) "election" means (a) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(b) "candidate" means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, to Federal office, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(c) "Federal office" means the office of President or Vice President of the United States; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

(d) "political committee" means any committee, association, or organization which accepts contributions or makes expenditures during a calendar year in an aggregate amount exceeding \$1,000;

(e) "contribution" means—

(1) a gift, subscription, loan, advance, or deposit of money or anything of value, made for the purpose of influencing the nomination for

## Reporting and Disclosure, Title 2 U.S.C. (contd).

election, or election, of any person to Federal office or as a presidential or vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(2) a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose;

(3) a transfer of funds between political committees;

(4) the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or committee without charge for any such purpose; and

(5) notwithstanding the foregoing meanings of "contribution", the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee;

(f) "expenditure" means—

(1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to Federal office, or as a presidential and vice-presidential elector, or for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(2) a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure, and

(3) a transfer of funds between political committees;

(g) "supervisory officer" means the Secretary of the Senate with respect to candidates for Senator; the Clerk of the House of Representatives with respect to candidates for Representative in, or Delegate or Resident Commissioner to, the Congress of the United States; and the Comptroller General of the United States in any other case;

(h) "person" means an individual, partnership committee, association, corporation, labor organization, and any other organization or group of persons; and

(i) "State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(Pub. L. 92-225, title III, § 301, Feb. 7, 1972, 86 Stat. 11.)

## EFFECTIVE DATE

Section 406 of Pub. L. 92-225 provided that: "Except as provided in section 401 of this Act [classified to section 451 of this title], the provisions of this Act [see Short Title note under this section] shall become effective on December 31, 1971, or sixty days after the date of enactment of this Act [Feb. 7, 1972], whichever is later."

## SHORT TITLE

Section 1 of Pub. L. 92-225 provided: "That this Act [which enacted this chapter and chapter 7 of Title 47, amended sections 591, 600, 608, 610, and 611 of Title 18 and sections 312 and 315 of Title 47, repealed sections 241-256 of this title and section 609 of Title 18, and enacted provisions set out as notes under this section and section 801 of Title 47] may be cited as the 'Federal Election Campaign Act of 1971'."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 45, 452, 453 of this title.

## § 432. Organization of political committees.

(a) Chairman; treasurer; vacancies; official authorizations.

Every political committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of chairman or treasurer thereof. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

(b) Account of contributions; segregated funds.

Every person who receives a contribution in excess of \$10 for a political committee shall, on demand of the treasurer, and in any event within five days after receipt of such contribution, render to the treasurer a detailed account thereof, including the amount, the name and address (occupation and the principal place of business, if any) of the person making such contribution, and the date on which received. All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

(c) Recordkeeping.

It shall be the duty of the treasurer of a political committee to keep a detailed and exact account of—

(1) all contributions made to or for such committee;

(2) the full name and mailing address (occupation and the principal place of business, if any) of every person making a contribution in excess of \$10, and the date and amount thereof;

(3) all expenditures made by or on behalf of such committee; and

(4) the full name and mailing address (occupation and the principal place of business, if any) of every person to whom any expenditure is made, the date and amount thereof and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.

(d) Receipts; preservation.

It shall be the duty of the treasurer to obtain and keep a receipted bill, stating the particulars, for every expenditure made by or on behalf of a political committee in excess of \$100 in amount, and for any such expenditure in a lesser amount, if the aggregate amount of such expenditures to the same person

## Reporting and Disclosure, Title 2 U.S.C. (contd)

during a calendar year exceeds \$100. The treasurer shall preserve all receipted bills and accounts required to be kept by this section for periods of time to be determined by the supervisory officer.

## (c) Unauthorized activities; notice.

Any political committee which solicits or receives contributions or makes expenditures on behalf of any candidate that is not authorized in writing by such candidate to do so shall include a notice on the face or front page of all literature and advertisements published in connection with such candidate's campaign by such committee or on its behalf stating that the committee is not authorized by such candidate and that such candidate is not responsible for the activities of such committee.

## (f) Funds solicitation, notice; annual report, copies.

(1) Any political committee shall include on the face or front page of all literature and advertisements soliciting funds the following notice:

"A copy of our report filed with the appropriate supervisory officer is (or will be) available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402."

(2) (A) The supervisory officer shall compile and furnish to the Public Printer, not later than the last day of March of each year, an annual report for each political committee which has filed a report with him under this subchapter during the period from March 10 of the preceding calendar year through January 31 of the year in which such annual report is made available to the Public Printer. Each such annual report shall contain—

(i) a copy of the statement of organization of the political Committee required under section 433 of this title, together with any amendments thereto; and

(ii) a copy of each report filed by such committee under section 434 of this title from March 10 of the preceding year through January 31 of the year in which the annual report is so furnished to the Public Printer.

(B) The Public Printer shall make copies of such annual reports available for sale to the public by the Superintendent of Documents as soon as practicable after they are received from the supervisory officer. (Pub. L. 92-225, title III, § 302, Feb. 7, 1972, 86 Stat. 12.)

## EFFECTIVE DATE

Section effective on Dec. 31, 1971, or 60 days after Feb. 7, 1972, whichever is later, see section 406 of Pub. L. 92-225, set out as a note under section 431 of this title.

## § 433. Registration of political committees.

## (a) Statements of organization.

Each political committee which anticipates receiving contributions or making expenditures during the calendar year in an aggregate amount exceeding \$1,000 shall file with the supervisory officer a statement of organization, within ten days after its organization or, if later, ten days after the date on which it has information which causes the committee to anticipate it will receive contributions or make expenditures in excess of \$1,000. Each such committee in existence at the date of enactment of

this Act shall file a statement of organization with the supervisory officer at such time as he prescribes.

## (b) Contents of statements.

The statement of organization shall include—

(1) the name and address of the committee;

(2) the names, addresses, and relationships of affiliated or connected organizations;

(3) the area, scope, or jurisdiction of the committee;

(4) the name, address, and position of the custodian of books and accounts;

(5) the name, address, and position of other principal officers, including officers and members of the finance committee, if any;

(6) the name, address, office sought, and party affiliation of (A) each candidate whom the committee is supporting, and (B) any other individual, if any, whom the committee is supporting for nomination for election, or election, to any public office whatever; or, if the committee is supporting the entire ticket of any party, the name of the party;

(7) a statement whether the committee is a continuing one;

(8) the disposition of residual funds which will be made in the event of dissolution;

(9) a listing of all banks, safety deposit boxes, or other repositories used;

(10) a statement of the reports required to be filed by the committee with State or local officers, and, if so, the names, addresses, and positions of such persons; and

(11) such other information as shall be required by the supervisory officer.

## (c) Information changes; report.

Any change in information previously submitted in a statement of organization shall be reported to the supervisory officer within a ten-day period following the change.

## (d) Disbanding of political committees or contributions and expenditures below prescribed ceiling; notice.

Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding \$1,000 shall so notify the supervisory officer. (Pub. L. 92-225, title III, § 303, Feb. 7, 1972, 86 Stat. 14.)

## REFERENCES IN TEXT

Date of enactment of this Act, referred to in subsec. (a), means Feb. 7, 1972, the date on which Pub. L. 92-225 was enacted into law.

## EFFECTIVE DATE

Section effective on Dec. 31, 1971, or 60 days after Feb. 7, 1972, whichever is later, see section 406 of Pub. L. 92-225, set out as a note under section 431 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 432 of this title.

## § 434. Reports by political committees and candidates.

## (a) Receipts and expenditures; completion date, exception.

Each treasurer of a political committee supporting a candidate or candidates for election to Federal office, and each candidate for election to such office,

## Reporting and Disclosure, Title 2 U.S.C. (contd).

shall file with the appropriate supervisory officer reports of receipts and expenditures on forms to be prescribed or approved by him. Such reports shall be filed on the tenth day of March, June, and September, in each year, and on the fifteenth and fifth days next preceding the date on which an election is held, and also by the thirty-first day of January. Such reports shall be complete as of such date as the supervisory officer may prescribe, which shall not be less than five days before the date of filing, except that any contribution of \$5,000 or more received after the last report is filed prior to the election shall be reported within forty-eight hours after its receipt.

**(b) Contents of reports.**

Each report under this section shall disclose—

- (1) the amount of cash on hand at the beginning of the reporting period;
- (2) the full name and mailing address (occupation and the principal place of business, if any) of each person who has made one or more contributions to or for such committee or candidate (including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events) within the calendar year in an aggregate amount or value in excess of \$100, together with the amount and date of such contributions;
- (3) the total sum of individual contributions made to or for such committee or candidate during the reporting period and not reported under paragraph (2);
- (4) the name and address of each political committee or candidate from which the reporting committee or the candidate received, or to which that committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers;
- (5) each loan to or from any person within the calendar year in an aggregate amount or value in excess of \$100, together with the full names and mailing addresses (occupations and the principal places of business, if any) of the lender and endorsers, if any, and the date and amount of such loans;
- (6) the total amount of proceeds from (A) the sale of tickets to each dinner, luncheon, rally, and other fundraising event; (B) mass collections made at such events; and (C) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;
- (7) each contribution, rebate, refund, or other receipt in excess of \$100 not otherwise listed under paragraphs (2) through (6);
- (8) the total sum of all receipts by or for such committee or candidate during the reporting period;
- (9) the full name and mailing address (occupation and the principal place of business, if any) of each person to whom expenditures have been made by such committee or on behalf of such committee or candidate within the calendar year in an aggregate amount or value in excess of \$100, the amount, date, and purpose of each such expenditure and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made;

(10) the full name and mailing address (occupation and the principal place of business, if any) of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of \$100 has been made, and which is not otherwise reported, including the amount, date, and purpose of such expenditure;

(11) the total sum of expenditures made by such committee or candidate during the calendar year;

(12) the amount and nature of debts and obligations owed by or to the committee, in such form as the supervisory officer may prescribe and a continuous reporting of their debts and obligations after the election at such periods as the supervisory officer may require until such debts and obligations are extinguished; and

(13) such other information as shall be required by the supervisory officer.

**(c) Cumulative reports for calendar year; amounts for unchanged items carried forward; statement of inactive status.**

The reports required to be filed by subsection (a) of this section shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward. If no contributions or expenditures have been accepted or expended during a calendar year, the treasurer of the political committee or candidate shall file a statement to that effect. (Pub. L. 92-225, title III, § 304, Feb. 7, 1972, 86 Stat. 14.)

**EFFECTIVE DATE**

Section effective on Dec. 31, 1971, or 60 days after Feb. 7, 1972, whichever is later, see section 406 of Pub. L. 92-225, set out as a note under section 431 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 432, 436 of this title.

**§ 435. Reports by others than political committees.**

Every person (other than a political committee or candidate) who makes contributions or expenditures, other than by contribution to a political committee or candidate, in an aggregate amount in excess of \$100 within a calendar year shall file with the supervisory officer a statement containing the information required by section 434 of this title. Statements required by this section shall be filed on the dates on which reports by political committees are filed, but need not be cumulative. (Pub. L. 92-225, title III, § 305, Feb. 7, 1972, 86 Stat. 16.)

**EFFECTIVE DATE**

Section effective on Dec. 31, 1971, or 60 days after Feb. 7, 1972, whichever is later, see section 405 of Pub. L. 92-225, set out as a note under section 431 of this title.

**§ 436. Formal requirements respecting reports and statements.****(a) Verification.**

A report or statement required by this subchapter to be filed by a treasurer of a political committee, a candidate, or by any other person, shall be verified by the oath or affirmation of the person filing such report or statement, taken before any officer authorized to administer oaths.



## Reporting and Disclosure, Title 2 U.S.C. (contd).

**(b) Copy; preservation.**

A copy of a report or statement shall be preserved by the person filing it for a period of time to be designated by the supervisory officer in a published regulation.

**(c) Noncompliance relief.**

The supervisory officer may, by published regulation of general applicability, relieve any category of political committees of the obligation to comply with section 434 of this title if such committee (1) primarily supports persons seeking State or local office, and does not substantially support candidates, and (2) does not operate in more than one State or on a statewide basis.

**(d) Debts, pledges, etc.; separate schedules; aggregate amounts based upon actual payment.**

The supervisory officer shall, by published regulations of general applicability, prescribe the manner in which contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures shall be reported. Such regulations shall provide that they be reported in separate schedules. In determining aggregate amounts of contributions and expenditures, amounts reported as provided in such regulations shall not be considered until actual payment is made. (Pub. L. 92-225, title III, § 306, Feb. 7, 1972, 86 Stat. 16.)

**EFFECTIVE DATE**

Section effective on Dec. 31, 1971, or 60 days after Feb. 7, 1972, whichever is later, see section 406 of Pub. L. 92-225, set out as a note under section 431 of this title.

**§ 437. Reports on convention financing.**

Each committee or other organization which—

(1) represents a State, or a political subdivision thereof, or any group of persons, in dealing with officials of a national political party with respect to matters involving a convention held in such State or political subdivision to nominate a candidate for the office of President or Vice President, or

(2) represents a national political party in making arrangements for the convention of such party held to nominate a candidate for the office of President or Vice President,

shall, within sixty days following the end of the convention (but not later than twenty days prior to the date on which presidential and vice-presidential electors are chosen), file with the Comptroller General of the United States a full and complete financial statement, in such form and detail as he may prescribe, of the sources from which it derived its funds, and the purposes for which such funds were expended. (Pub. L. 92-225, title III, § 307, Feb. 7, 1972, 86 Stat. 16.)

**EFFECTIVE DATE**

Section effective on Dec. 31, 1971, or 60 days after Feb. 7, 1972, whichever is later, see section 406 of Pub. L. 92-225, set out as a note under section 431 of this title.

**§ 438. Administrative and judicial provisions.****(a) Supervisory officers; duties.**

It shall be the duty of the supervisory officer—

**(1) Forms.**

to develop and furnish to the person required by the provisions of this Act prescribed forms for the making of the reports and statements required to be filed with him under this subchapter;

**(2) Manual for uniform bookkeeping and reporting methods.**

to prepare, publish, and furnish to the person required to file such reports and statements a manual setting forth recommended uniform methods of bookkeeping and reporting;

**(3) Filing, coding, and cross-indexing system.**

to develop a filing, coding, and cross-indexing system consonant with the purposes of this subchapter;

**(4) Public inspection; copies; sale or use restrictions.**

to make the reports and statements filed with him available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit copying of any such report of statement by hand or by duplicating machine, as requested by any person, at the expense of such person: *Provided*, That any information copied from such reports and statements shall not be sold or utilized by any person for the purpose of soliciting contributions or for any commercial purpose;

**(5) Preservation of reports and statements.**

to preserve such reports and statements for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;

**(6) Current list of candidate statements; compilation and maintenance.**

to compile and maintain a current list of all statements or parts of statements pertaining to each candidate;

**(7) Annual report; compilations of data.**

to prepare and publish an annual report including compilations of (A) total reported contributions and expenditures for all candidates, political committees, and other persons during the year; (B) total amounts expended according to such categories as he shall determine and broken down into candidate, party, and nonparty expenditures on the national, State, and local levels; (C) total amounts expended for influencing nominations and elections stated separately; (D) total amounts contributed according to such categories of amounts as he shall determine and broken down into contributions on the national, State, and local levels for candidates and political committees; and (E) aggregate amounts contributed by any contributor shown to have contributed in excess of \$100;

**(8) Special reports; comparisons.**

to prepare and publish from time to time special reports comparing the various totals and categories of contributions and expenditures made with respect to preceding elections;

## Reporting and Disclosure, Title 2 U.S.C. (contd)

- (9) Other reports.  
to prepare and publish such other reports as he may deem appropriate;
- (10) Dissemination of information.  
to assure wide dissemination of statistics, summaries, and reports prepared under this subchapter;
- (11) Audits; investigations.  
to make from time to time audits and field investigations with respect to reports and statements filed under the provisions of this subchapter, and with respect to alleged failures to file any report or statement required under the provisions of this subchapter;
- (12) Enforcement authorities; reports of violations.  
to report apparent violations of law to the appropriate law enforcement authorities; and
- (13) Rules and regulations.  
to prescribe suitable rules and regulations to carry out the provisions of this subchapter.
- (b) Federal and State filing of reports; procedures for Federal copies in satisfaction of State requirements to eliminate multiple filings.  
The supervisory officer shall encourage, and cooperate with, the election officials in the several States to develop procedures which will eliminate the necessity of multiple filings by permitting the filing of copies of Federal reports to satisfy the State requirements.
- (c) Comptroller General; duties: national clearinghouse for information; studies, scope, publication, copies to general public at cost.  
It shall be the duty of the Comptroller General to serve as a national clearinghouse for information in respect to the administration of elections. In carrying out his duties under this subsection, the Comptroller General shall enter into contracts for the purpose of conducting independent studies of the administration of elections. Such studies shall include, but shall not be limited to, studies of—
- (1) the method of selection of, and the type of duties assigned to, officials and personnel working on boards of elections;
  - (2) practices relating to the registration of voters; and
  - (3) voting and counting methods.
- Studies made under this subsection shall be published by the Comptroller General and copies thereof shall be made available to the general public upon the payment of the cost thereof. Nothing in this subsection shall be construed to authorize the Comptroller General to require the inclusion of any comment or recommendation of the Comptroller General in any such study.
- (d) (1) Violations; complaint; investigation; notice and hearing; Federal civil action for injunction, restraining order, or other appropriate order; venue; bond.  
Any person who believes a violation of this subchapter has occurred may file a complaint with the supervisory officer. If the supervisory officer determines there is substantial reason to believe such a violation has occurred, he shall expeditiously make an investigation, which shall also include an investigation of reports and statements filed by the com-

plainant if he is a candidate, of the matter complained of. Whenever in the judgment of the supervisory officer, after affording due notice and an opportunity for a hearing, any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this subchapter or any regulation or order issued thereunder, the Attorney General on behalf of the United States shall institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which the person is found, resides, or transacts business. Upon a proper showing that such person has engaged or is about to engage in such acts or practices, a permanent or temporary injunction, restraining order, or other order shall be granted without bond by such court.

## (2) Subpenas.

In any action brought under paragraph (1) of this subsection, subpoenas for witnesses who are required to attend a United States district court may run into any other district.

## (3) Court of appeals; time for petition for review.

Any party aggrieved by an order granted under paragraph (1) of this subsection may, at any time within sixty days after the date of entry thereof, file a petition with the United States court of appeals for the circuit in which such person is found, resides, or transacts business, for judicial review of such order.

## (4) Finality of appellate judgment; review by Supreme Court.

The judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of Title 28.

## (5) Docket; advancement and priorities.

Any action brought under this subsection shall be advanced on the docket of the court in which filed, and put ahead of all other actions (other than other actions brought under this subsection). (Pub. L. 92-225, title III, § 308, Feb. 7, 1972, 86 Stat. 16.)

## REFERENCES IN TEXT

This Act, referred to in subsec. (a) (1), means the Federal Election Campaign Act of 1971, Pub. L. 92-225. For classification of the Act in this Code, see Short Title note set out under section 431 of this title.

## EFFECTIVE DATE

Section effective on Dec. 31, 1971, or 60 days after Feb. 7, 1972, whichever is later, see section 406 of Pub. L. 92-225, set out as a note under section 431 of this title.

## § 439. Statements filed with State officers.

## (a) "Appropriate State" defined.

A copy of each statement required to be filed with a supervisory officer by this subchapter shall be filed with the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer) of the appropriate State. For purposes of this subsection, the term "appropriate State" means—

- (1) for reports relating to expenditures and contributions in connection with the campaign for nomination for election, or election, of a candidate to the office of President or Vice

## Reporting and Disclosure, Title 2 U.S.C. (contd).

President of the United States, each State in which an expenditure is made by him or on his behalf, and

(2) for reports relating to expenditures and contributions in connection with the campaign for nomination for election, or election, of a candidate to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, the State in which he seeks election.

## (b) Duties of State officers.

It shall be the duty of the Secretary of State, or the equivalent State officer, under subsection (a) of this section—

(1) to receive and maintain in an orderly manner all reports and statements required by this subchapter to be filed with him;

(2) to preserve such reports and statements for a period of ten years from date of receipt, except that reports and statements relating solely to candidates for the House of Representatives shall be preserved for only five years from the date of receipt;

(3) to make the reports and statements filed with him available for public inspection and copying during regular office hours, commencing as soon as practicable but not later than the end of the day during which it was received, and to permit copying of any such report or statement by hand or by duplicating machine, requested by any person, at the expense of such person; and

(4) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate.

(Pub. L. 92-225, title III, § 309, Feb. 7, 1972, 86 Stat. 18.)

## EFFECTIVE DATE

Section effective on Dec. 31, 1971, or 60 days after Feb. 7, 1972, whichever is later, see section 406 of Pub. L. 92-225, set out as a note under section 431 of this title.

## § 440. Prohibition of contributions in name of another.

No person shall make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person. (Pub. L. 92-225, title III, § 310, Feb. 7, 1972, 86 Stat. 19.)

## EFFECTIVE DATE

Section effective on Dec. 31, 1971, or 60 days after Feb. 7, 1972, whichever is later, see section 406 of Pub. L. 92-225, set out as a note under section 431 of this title.

## § 441. Penalties for violations.

(a) Any person who violates any of the provisions of this subchapter shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) In case of any conviction under this subchapter, where the punishment inflicted does not include imprisonment, such conviction shall be deemed a misdemeanor conviction only. (Pub. L. 92-225, title III, § 311, Feb. 7, 1972, 86 Stat. 19.)

## EFFECTIVE DATE

Section effective on Dec. 31, 1971, or 60 days after Feb. 7, 1972, whichever is later, see section 406 of Pub. L. 92-225, set out as a note under section 431 of this title.

## FEDERAL ELECTION CRIMINAL PROVISIONS

Campaign communications reform, penalties for violations, see section 805 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

Definitions, promise of employment or other benefit for political activity, limitations on contributions and expenditures, contributions or expenditures by national banks, corporations or labor organizations, and contributions by Government contractors, see sections 591, 600, 608, 610, and 611 of Title 18, Crimes and Criminal Procedure.

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

For the purpose of carrying out his duties under the Federal Election Campaign Act of 1971, the Secretary of the Senate is authorized, from and after July 1, 1972, (1) to procure technical support services, (2) to procure the temporary or intermittent services of individual technicians, experts, or consultants, or organizations thereof, in the same manner and under the same conditions, to the extent applicable, as a standing committee of the Senate may procure such services under section 72(a) (i) of this title, (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency, and (4) to incur official travel expenses. Payments to carry out the provisions of this paragraph shall be made from funds included in the appropriation "Miscellaneous Items" under the heading "Contingent Expenses of the Senate" upon vouchers approved by the Secretary of the Senate. All sums received by the Secretary under authority of the Federal Election Campaign Act of 1971 shall be covered into the Treasury as miscellaneous receipts. (Pub. L. 92-342, § 101, July 10, 1972, 86 Stat. 435.)

## REFERENCES IN TEXT

The Federal Election Campaign Act of 1971, referred to in text, is Pub. L. 92-225. For classification of Pub. L. 92-225 in the Code, see short title note under section 431 of this title.

## CODIFICATION

Section was enacted as part of Legislative Branch Appropriation Act, 1973, Pub. L. 92-342, and not as a part of Federal Election Campaign Act of 1971, which comprises this chapter.

## SUBCHAPTER II—GENERAL PROVISIONS

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

The Civil Aeronautics Board, the Federal Communications Commission, and the Interstate Commerce Commission shall each promulgate, within ninety days after February 7, 1972, its own regulations with respect to the extension of credit, without security, by any person regulated by such Board or Commission to any candidate for Federal office (as such term is defined in section 431(c) of this title), or to any person on behalf of such a candidate, for goods furnished or services rendered in connection with the campaign of such candidate for nomination for election, or election, to such office. (Pub. L. 92-225, title IV, § 491, Feb. 7, 1972, 86 Stat. 19.)

## Reporting and Disclosure, Title 2 U.S.C. (contd).

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

No part of any funds appropriated to carry out the Economic Opportunity Act of 1964 shall be used to finance, directly or indirectly, any activity designed to influence the outcome of any election to Federal office, or any voter registration activity, or to pay the salary of any officer or employee of the Office of Economic Opportunity who, in his official capacity as such an officer or employee, engages in any such activity. As used in this section, the term "election" has the same meaning given such term by section 431(a) of this title, and the term "Federal office" has the same meaning given such term by section 431(c) of this title. (Pub. L. 92-225, title IV, § 402, Feb. 7, 1972, 86 Stat. 19.)

## REFERENCES IN TEXT

The Office of Economic Opportunity Act of 1964, referred to in the text, is classified to chapter 34 of Title 42, The Public Health and Welfare.

## EFFECTIVE DATE

Section effective on Dec. 31, 1971, or 60 days after Feb. 7, 1972, whichever is later, see section 406 of Pub. L. 92-225, set out as a note under section 431 of this title.

§ 453. State laws not affected.

(a) Nothing in this Act shall be deemed to invalidate or make inapplicable any provision of any State law, except where compliance with such provision of law would result in a violation of a provision of this Act.

(b) Notwithstanding subsection (a) of this section, no provision of State law shall be construed to prohibit any person from taking any action authorized by this Act or from making any expenditure (as such term is defined in section 431(f) of this title) which he could lawfully make under this Act. (Pub. L. 92-225, title IV, § 403, Feb. 7, 1972, 86 Stat. 20.)

## REFERENCES IN TEXT

This Act, referred to in the text, means the Federal Election Campaign Act of 1971, Pub. L. 92-225. For classification of the Act in this Code, see Short Title note set out under section 431 of this title.

## EFFECTIVE DATE

Section effective on Dec. 31, 1971, or 60 days after Feb. 7, 1972, whichever is later, see section 406 of Pub. L. 92-225, set out as a note under section 431 of this title.



b) Criminal Code Provisions

Title 18 U.S.C. - Crimes and Criminal Procedure

§ 591. Definitions.

When used in sections 597, 599, 600, 602, 608, 610, and 611 of this title—

(a) "election" means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party held to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (5) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(b) "candidate" means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal office, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(c) "Federal office" means the office of President or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

(d) "political committee" means any individual, committee, association, or organization which accepts contributions or makes expenditures during a calendar year in an aggregate amount exceeding \$1,000;

(e) "contribution" means—

(1) a gift, subscription, loan, advance, or deposit of money or anything of value (except a loan of money by a national or State bank made

## Criminal Code Provisions, Title 18 U.S.C. (contd)

in accordance with the applicable banking laws and regulations and in the ordinary course of business) made for the purpose of influencing the nomination for election, or election, of any person to Federal office, for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(2) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for such purposes;

(3) a transfer of funds between political committees;

(4) the payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or political committee without charge for any such purpose; and

(5) notwithstanding the foregoing meanings of "contribution", the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee;

(f) "expenditure" means—

(1) a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business), made for the purpose of influencing the nomination for election, or election, of any person to Federal office, for the purpose of influencing the result of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President, or for the purpose of influencing the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States;

(2) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure; and

(3) a transfer of funds between political committees;

(g) "person" and "whoever" mean an individual, partnership, committee, association, corporation, or any other organization or group of persons; and

(h) "State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(As amended Feb. 7, 1972, Pub. L. 92-225, title II, § 201, 86 Stat. 8.)

## Criminal Code Provisions, Title 18 U.S.C. (contd)

**§ 602. Solicitation of political contributions.**

Whoever, being a Senator or Representative in, or Delegate or Resident Commissioner to, or a candidate for Congress, or individual elected as Senator, Representative, Delegate, or Resident Commissioner, or an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, directly or indirectly solicits, receives, or is in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political purpose whatever, from any other such officer, employee, or person, shall be fined not more than \$5,000 or imprisoned not more than three years or both. (June 25, 1948, ch. 645, 62 Stat. 722.)

**LEGISLATIVE HISTORY**

*Reviser's Note.*—Based on title 18, U. S. C., 1940 ed., §§ 208, 212 (Mar. 4, 1909, ch. 321, §§ 118, 122, 35 Stat. 1110; Feb. 28, 1925, ch. 368, § 312, 43 Stat. 1073).

This section consolidates sections 208 and 212 of title 18, U. S. C., 1940 ed.

This section, like section 201 of this title, was expanded to embrace all officers or persons acting on behalf of any independent agencies or Government-owned or controlled corporations by inserting words "or any department or agency thereof." (See definitive section 6 of this title.)

The punishment provision was taken from section 212 of title 18, U. S. C., 1940 ed., which, by reference, made the punishment applicable to the crime described in this section.

Changes were made in phraseology.

**DELEGATE FROM DISTRICT OF COLUMBIA; EFFECTIVE DATE**

Provisions of Federal Corrupt Practices Act applicable, effective Sept. 22, 1970, with respect to Delegate to House of Representatives from District of Columbia in same manner and to same extent as applicable with respect to a Representative, see sections 204(a), 206(b) of Pub. L. 91-405, title II, Sept. 22, 1970, 84 Stat. 852, set out as notes under section 25 of Title 2, The Congress.

**CROSS REFERENCES**

Definitions of terms applicable to this section, see section 591 of this title.

Place of solicitation, see section 603 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 591, 603, 606 of this title; title 5 section 3374; title 12 section 1457.

**§ 603. Place of solicitation.**

Whoever, in any room or building occupied in the discharge of official duties by any person mentioned in section 602 of this title, or in any navy yard, fort, or arsenal, solicits or receives any contribution of money or other thing of value for any political purpose, shall be fined not more than \$5,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, 62 Stat. 722; Oct. 31, 1951, ch. 655, § 20 (b), 65 Stat. 718.)

**LEGISLATIVE HISTORY**

*Reviser's Note.*—Based on title 18, U. S. C., 1940 ed., §§ 209, 212 (Mar. 4, 1909, ch. 321, §§ 119, 123, 35 Stat. 1110).

This section consolidates sections 209 and 212 of title 18, U. S. C., 1940 ed., without change of substance.

To eliminate ambiguity resulting from use of identical words in reference "officer or employee of the United States mentioned in section 208 of this title" as those appearing in section 208 of title 18, U. S. C., 1940 ed., now section 602 of this title, words "person mentioned in section 602 of this title" were inserted.

Words "from any such person" were inserted after "purpose", so as to make it clear that the section does not embrace State employees in its provisions. Some Federal agencies are located in State buildings occupied by State employees.

The punishment provision was derived from section 212 of title 18, U. S. C., 1940 ed. (See reviser's note under section 602 of this title.)

Minor changes were made in phraseology.

**AMENDMENTS**

1951—Act Oct. 31, 1951, struck out "from any such person" which followed "purpose".

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in title 5 section 3374; title 12 section 1457.

**§ 604. Solicitation from persons on relief.**

Whoever solicits or receives or is in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political purpose from any person known by him to be entitled to, or receiving compensation, employment, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 722.)

**LEGISLATIVE HISTORY**

*Reviser's Note.*—Based on title 18, U. S. C., 1940 ed., §§ 61d, 61g (Aug. 2, 1939, 11: 50 a. m., E. S. T., ch. 410, § 5, 8, 53 Stat. 1148).

This section consolidates sections 61d and 61g of title 18, U. S. C., 1940 ed.

Minor changes were made in phraseology.

**CANAL ZONE**

Applicability of section to Canal Zone, see section 14 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 14 of this title.

**§ 605. Disclosure of names of persons on relief.**

Whoever, for political purposes, furnishes or discloses any list or names of persons receiving compensation, employment or benefits provided for or made possible by any Act of Congress appropriating, or authorizing the appropriation of funds for work relief or relief purposes, to a political candidate, committee, campaign manager, or to any person for delivery to a political candidate, committee, or campaign manager; and

Whoever receives any such list or names for political purposes—

Shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 722.)

**LEGISLATIVE HISTORY**

*Reviser's Note.*—Based on title 18, U. S. C., 1940 ed., §§ 61e, 61g (Aug. 2, 1939, 11: 50 a. m., E. S. T., ch. 410, §§ 6, 8, 53 Stat. 1148).

This section consolidates sections 61e and 61g of title 18, U. S. C., 1940 ed.

Reference to persons aiding or assisting, contained in words "or to aid or assist in furnishing or disclosing" was omitted as unnecessary as such persons are made principals by section 2 of this title.

Changes were made in phraseology.

## Criminal Code Provisions, Title 18 U.S.C. (contd)

## § 606. Intimidation to secure political contributions.

Whoever, being one of the officers or employees of the United States mentioned in section 602 of this title, discharges, or promotes, or degrades, or in any manner changes the official rank or compensation of any other officer or employee, or promises or threatens so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose, shall be fined not more than \$5,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, 62 Stat. 722.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—Based on title 18, U. S. C., 1940 ed., §§ 210, 212 (Mar. 4, 1909, ch. 321, §§ 120, 122, 35 Stat. 1110).

This section consolidates sections 210 and 212 of title 18, U. S. C., 1940 ed.

Changes were made in phraseology.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 3374; title 12 section 1457.

## § 607. Making political contributions.

Whoever, being an officer, clerk, or other person in the service of the United States or any department or agency thereof, directly or indirectly gives or hands over to any other officer, clerk, or person in the service of the United States, or to any Senator or Member of or Delegate to Congress, or Resident Commissioner, any money or other valuable thing on account of or to be applied to the promotion of any political object, shall be fined not more than \$5,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, 62 Stat. 722.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—Based on title 18, U. S. C., 1940 ed., §§ 211, 212 (Mar. 4, 1909, ch. 321, §§ 121, 122, 35 Stat. 1110).

This section consolidates sections 211 and 212 of title 18, U. S. C., 1940 ed.

This section was expanded to embrace all officers or persons acting on behalf of any independent agencies or Government-owned or controlled corporations by inserting words "or any department or agency thereof." (See definitive section 6, and reviser's note under section 201 of this title.)

Changes were made in phraseology.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 3374; title 12 section 1457.



Criminal Code Provisions, Title 18 U.S.C. (contd).

§ 608. Limitations on contributions and expenditures.

(a) (1) No candidate may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaign for nomination for election, or election, to Federal office in excess of—

(A) \$50,000, in the case of a candidate for the office of President or Vice President;

(B) \$35,000, in the case of a candidate for the office of Senator; or

(C) \$25,000, in the case of a candidate for the office of Representative, or Delegate or Resident Commissioner to the Congress.

(2) For purposes of this subsection, "immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

(b) No candidate or political committee shall knowingly accept any contribution or authorize any expenditure in violation of the provisions of this section.

(c) Violation of the provisions of this section is punishable by a fine not to exceed \$1,000, imprisonment for not to exceed one year, or both. (As amended Feb. 7, 1972, Pub. L. 92-225, title II, § 203, 86 Stat. 9.)

§ 609. Repealed. Pub. L. 92-225, title II, § 204, Feb. 7, 1972, 86 Stat. 10.

Section, act June 25, 1948, ch. 645, 62 Stat. 723, prescribed maximum contributions and expenditures limitation of \$3,000,000 for any calendar year.

EFFECTIVE DATE OF REPEAL

Section repealed effective on Dec. 31, 1971, or sixty days after Feb. 7, 1972, whichever is later, see section 406 of Pub. L. 92-225, set out as a note under section 431 of Title 2, The Congress.

§ 610. Contributions or expenditures by national banks, corporations or labor organizations.

It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted

## Criminal Code Provisions, Title 18 U.S.C. (contd).

for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section.

Every corporation or labor organization which makes any contribution or expenditure in violation of this section shall be fined not more than \$5,000; 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 \$1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

For the purposes of this section "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work. (June 25, 1948, ch. 645, 62 Stat. 723; May 24, 1949, ch. 139, § 10, 63 Stat. 90; Oct. 31, 1951, ch. 655, § 20 (c), 65 Stat. 718.)

As used in this section, the phrase "contribution or expenditure" shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and their families or by a labor organization to its members and their families on any subject; nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or by a labor organization aimed at its members and their families; the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization: *Provided*, That it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, or by monies obtained in any commercial transaction. (As amended Feb. 7, 1972, Pub. L. 92-225, title II, § 205, 86 Stat. 10.)

## Criminal Code Provisions, Title 18 U.S.C. (contd)

## § 611. Contributions by Government contractors.

Whoever—

(a) entering into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of (1) the completion of performance under, or (2) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land or buildings, directly or indirectly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use: or

(b) knowingly solicits any such contribution from any such person for any such purpose during any such period;

shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (As amended Feb. 7, 1972, Pub. L. 92-225, title II, § 206, 86 Stat. 10.)

## § 612. Publication or distribution of political statements.

Whoever willfully publishes or distributes or causes to be published or distributed, or for the purpose of publishing or distributing the same, knowingly deposits for mailing or delivery or causes to be deposited for mailing or delivery, or, except in cases of employees of the Postal Service in the official discharge of their duties, knowingly transports or causes to be transported in interstate commerce any card, pamphlet, circular, poster, dodger, advertisement, writing, or other statement relating to or concerning any person who has publicly declared his intention to seek the office of President, or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to Congress, in a primary, general, or special election, or convention of a political party, or has caused or permitted his intention to do so to be publicly declared, which does not contain the names of the persons, associations, committees, or corporations responsible for the publication or distribution of the same, and the names of the officers of each such association, committee, or corporation, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 724; Aug. 25, 1950, ch. 784, § 2, 64 Stat. 475; Aug. 12, 1970, Pub. L. 91-375, § 6(j)(7), 84 Stat. 777.)

Criminal Code Provisions, Title 18 U.S.C. (contd)

§ 613. Contributions by agents of foreign principals.

Whoever, being an agent of a foreign principal, directly or through any other person, either for or on behalf of such foreign principal or otherwise in his capacity as agent of such foreign principal, knowingly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or

Whoever knowingly solicits, accepts, or receives any such contribution from any such agent of a foreign principal or from such foreign principal—

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

As used in this section—

(1) The term "foreign principal" has the same meaning as when used in the Foreign Agents Registration Act of 1938, as amended, except that such term does not include any person who is a citizen of the United States.

(2) The term "agent of a foreign principal" means any person who acts as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal or of a person any substantial portion of whose activities are directly or indirectly supervised, directed, or controlled by a foreign principal. (Added Pub. L. 89-486, § 8(a), July 4, 1966, 80 Stat. 248.)

c.) Contributions by Public Utility Holding Companies

Title 15 U.S.C. - Commerce and Trade

Sec. 79L

(b) Political contributions forbidden.

It shall be unlawful for any registered holding company, or any subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly—

(1) to make any contribution whatsoever in connection with the candidacy, nomination, election or appointment of any person for or to any office or position in the Government of the United States, a State, or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing; or

(2) to make any contribution to or in support of any political party or any committee or agency thereof.

The term "contribution" as used in this subsection includes any gift, subscription, loan, advance, or deposit of money or anything of value, and includes any contract, agreement, or promise, whether or not legally enforceable, to make a contribution.

d.) Contributions by Ambassadors and Ministers

Public Law 93-126, October 18, 1973.

AMBASSADORS AND MINISTERS

SEC. 6. From and after the date of enactment of this Act, each person appointed by the President as ambassador or minister shall, at the time of his nomination, file with the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a report of contributions made by such person and by members of his immediate family during the period beginning on the first day of the fourth calendar year preceding the calendar year of his nomination and ending on the date of his nomination, which report shall be verified by the oath or affirmation of such person, taken before any officer authorized to administer oaths. As used in this section, the term "contribution" has the same meaning given such term by section 301(e) of the Federal Election Campaign Act of 1971, and the term "immediate family" means a person's spouse, and any child, parent, grandparent, brother, or sister of such person and the spouses of any of them.



e.) Use of Communications Media

Title 47 U.S.C. - Telegraphs, Telephones and Radiotelegraphs

§ 312. Administrative sanctions.

(a) Revocation of station license or construction permit.

The Commission may revoke any station license or construction permit—

(1) for false statements knowingly made either in the application or in any statement of fact which may be required pursuant to section 308 of this title;

(2) because of conditions coming to the attention of the Commission which would warrant it in refusing to grant a license or permit on an original application;

(3) for willful or repeated failure to operate substantially as set forth in the license;

(4) for willful or repeated violation of, or willful or repeated failure to observe any provision of this chapter or any rule or regulation of the Commission authorized by this chapter or by a treaty ratified by the United States;

(5) for violation of or failure to observe any final cease and desist order issued by the Commission under this section;

(6) for violation of section 1304, 1343, or 1464 of Title 18; or

(7) for willful or repeated failure to allow reasonable access to or to permit purchase of reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for Federal elective office on behalf of his candidacy.

(As amended Feb. 7, 1972, Pub. L. 92-225, title I, § 103(a) (2) (A), 86 Stat. 4.)

§ 315. Candidates for public office.

(a) Equal opportunities requirement; censorship prohibition; allowance of station use; news appearances exception; public interest; public issues discussion opportunities.

If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: *Provided*, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is imposed under this subsection upon any licensee to allow the use of its station by any such candidate. Appearance by a legally qualified candidate on any—

Use of Communications Media, Title 47 U.S.C. (contd).

Sec. 315

- (1) bona fide newscast,
- (2) bona fide news interview,
- (3) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or
- (4) on-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto),

shall not be deemed to be use of a broadcasting station within the meaning of this subsection. Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this chapter to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

(b) Broadcast media rates.

The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election to such office shall not exceed—

- (1) during the forty-five days preceding the date of a primary or primary runoff election and during the sixty days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period; and
- (2) at any other time, the charges made for comparable use of such station by other users thereof.

(c) Station use charges upon certification of nonviolation of Federal limitations of expenditures for use of communications media.

No station licensee may make any charge for the use of such station by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not violate any limitation specified in paragraph (1), (2), or (3) of section 803(a) of this title, whichever paragraph is applicable.

Use of Communications Media, Title 47 U.S.C. (contd)  
Sec. 315

(d) Station use charges upon certification of nonviolation of State limitations of expenditures for use of communications media; conditions for application of State limitations.

If a State by law and expressly—

(1) has provided that a primary or other election for any office of such State or of a political subdivision thereof is subject to this subsection,

(2) has specified a limitation upon total expenditures for the use of broadcasting stations on behalf of the candidacy of each legally qualified candidate in such election,

(3) has provided in any such law an unequivocal expression of intent to be bound by the provisions of this subsection, and

(4) has stipulated that the amount of such limitation shall not exceed the amount which would be determined for such election under section 803(a)(1)(B) or 803(a)(2)(B) of this title (whichever is applicable) had such election been an election for a Federal elective office or nomination thereto;

then no station licensee may make any charge for the use of such station by or on behalf of any legally qualified candidate in such election unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not violate such State limitation.

(e) Penalties for violations; provisions of sections 501 through 503 of this title inapplicable.

Whoever willfully and knowingly violates the provisions of subsection (c) or (d) of this section shall be punished by a fine not to exceed \$5,000 or imprisonment for a period not to exceed five years, or both. The provisions of sections 501 through 503 of this title shall not apply to violations of either such subsection.

(f) Definitions.

(1) For the purposes of this section:

(A) The term "broadcasting station" includes a community antenna television system.

(B) The terms "licensee" and "station licensee" when used with respect to a community antenna television system, means the operator of such system.

(C) The term "Federal elective office" means the office of President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States.

(2) For purposes of subsections (c) and (d) of this section, the term "legally qualified candidate" means any person who (A) meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate and (B) is eligible under applicable State law to be voted for by the electorate directly or by means of delegates or electors.

(g) Rules and regulations.

The Commission shall prescribe appropriate rules and regulations to carry out the provisions of this section. (As amended Feb. 7, 1972, Pub. L. 92-225, title I, §§ 103(a)(1), (2)(B), 104(c), 86 Stat. 4, 7.)

Use of Communications Media, Title 47 U.S.C. (cont.)

Chapter 7 - Campaign Communications

§ 801. Definitions.

For purposes of this chapter:

(1) The term "communications media" means broadcasting stations, newspapers, magazines, outdoor advertising facilities, and telephones; but, with respect to telephones, spending or an expenditure shall be deemed to be spending or an expenditure for the use of communications media only if such spending or expenditure is for the costs of telephones, paid telephonists, and automatic telephone equipment, used by a candidate for Federal elective office to communicate with potential voters (excluding any costs of telephones incurred by a volunteer for use of telephones by him).

(2) The term "broadcasting station" has the same meaning as such term has under section 315 (f) of this title.

(3) The term "Federal elective office" means the office of President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States (and for purposes of section 802 of this title such term includes the office of Vice President).

(4) The term "legally qualified candidate" means any person who (A) meets the qualifications prescribed by the applicable laws to hold the Federal elective office for which he is a candidate, and (B) is eligible under applicable State law to be voted for by the electorate directly or by means of delegates or electors.

(5) The term "voting age population" means resident population, eighteen years of age and older.

(6) The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico. (Pub. L. 92-225, title I, § 102, Feb. 7, 1972, 86 Stat. 3.)

REFERENCES IN TEXT

"This chapter", referred to in the introductory text, read in the original "this title", meaning Title I of Pub. L. 92-225, which enacted this chapter and amended sections 312 and 315 of this title.

EFFECTIVE DATE

Section effective on Dec. 31, 1971, or sixty days after Feb. 7, 1972, whichever is later, see section 406 of Pub. L. 92-225, set out as a note under section 431 of Title 2, The Congress.

SHORT TITLE

Section 101 of Pub. L. 92-225 provided that: "This title [which enacted this chapter and amended sections 312 and 315 of this title] may be cited as the 'Campaign Communications Reform Act'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 804 of this title.

§ 802. Nonbroadcast media rates.

To the extent that any person sells space in any newspaper or magazine to a legally qualified candi-

## Use of Communications Media, Title 47 U.S.C. (contd).

date for Federal elective office, or nomination there-to, in connection with such candidate's campaign for nomination for, or election to, such office, the charges made for the use of such space in connection with his campaign shall not exceed the charges made for comparable use of such space for other purposes. (Pub. L. 92-225, title I, § 103(b), Feb. 7, 1972, 86 Stat. 4.)

**EFFECTIVE DATE**

Section effective on Dec. 31, 1971, or sixty days after Feb. 7, 1972, whichever is later, see section 406 of Pub. L. 92-225, set out as a note under section 431 of Title 2, The Congress.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 801, 804, 805 of this title.

§ 803. Limitations of expenditures for use of communications media.

(a) Elections; primaries; Presidential primaries, regulations; "price index" and "base period" defined; publication in Federal Register; price index and voting age population estimate; spending by candidates; agents' commissions; charge of expenditures against applicable expenditure limitations.

(1) Subject to paragraph (4), no legally qualified candidate in an election (other than a primary or primary runoff election) for a Federal elective office may—

(A) spend for the use of communications media on behalf of his candidacy in such election a total amount in excess of the greater of—

- (i) 10 cents multiplied by the voting age population (as certified under paragraph (5)) of the geographical area in which the election for such office is held, or
- (ii) \$50,000, or

(B) spend for the use of broadcast stations on behalf of his candidacy in such election a total amount in excess of 60 per centum of the amount determined under subparagraph (A) with respect to such election.

(2) No legally qualified candidate in a primary election for nomination to a Federal elective office, other than President, may spend—

- (A) for the use of communications media, or
- (B) for the use of broadcast stations,

on behalf of his candidacy in such election a total amount in excess of the amounts determined under paragraph (1) (A) or (B), respectively, with respect to the general election for such office. For purposes of this subsection a primary runoff election shall be treated as a separate primary election.

(3) (A) No person who is a candidate for presidential nomination may spend—

- (i) for the use in a State of communications media, or
- (ii) for the use in a State of broadcast stations, on behalf of his candidacy for presidential nomination a total amount in excess of the amounts which would have been determined under paragraph (1) (A) or (B), respectively, had he been a candidate for election for the office of Senator from such State (or for the office of Delegate or Resident Commissioner in the case of the District of Columbia or the Commonwealth of Puerto Rico).

(B) For purposes of this paragraph (3), a person is a candidate for presidential nomination if he makes (or any other person makes on his behalf) an expenditure for the use of any communications medium on behalf of his candidacy for any political party's nomination for election to the office of President. He shall be considered to be such a candidate during the period—

(i) beginning on the date on which he (or such other person) first makes such an expenditure (or, if later, January 1 of the year in which the election for the office of President is held), and

(ii) ending on the date on which such political party nominates a candidate for the office of President.

For purposes of this chapter and of section 315 of this title, a candidate for presidential nomination shall be considered a legally qualified candidate for public office.

(C) The Comptroller General shall prescribe regulations under which any expenditure by a candidate for presidential nomination for the use in two or more States of a communications medium shall be attributed to such candidate's expenditure limitation in each such State, based on the number of persons in such State who can reasonably be expected to be reached by such communications medium.

(4) (A) For purposes of subparagraph (B):

(i) The term "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

(ii) The term "base period" means the calendar year 1970.

(B) At the beginning of each calendar year (commencing in 1972), as there becomes available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Comptroller General and publish in the Federal Register the per centum difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each amount determined under paragraph (1) (A) (i) and (ii) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

(5) Within 60 days after February 7, 1972, and during the first week of January in 1973 and every subsequent year, the Secretary of Commerce shall certify to the Comptroller General and publish in the Federal Register an estimate of the voting age population of each State and congressional district for the last calendar year ending before the date of certification.

(6) Amounts spent for the use of communications media on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) shall, for the purposes of this subsection, be deemed to have been spent by such candidate. Amounts spent for the use of communications media by or on behalf of any legally qualified candidate for the office of Vice President of the United States shall, for the purposes of this section, be deemed to have been spent by the candidate for the office of President of the United States with whom he is running.



## Use of Communications Media, Title 47 U.S.C. (contd)

(7) For purposes of this section and section 315(c) of this title—

(A) spending and charges for the use of communications media include not only the direct charges of the media but also agents' commissions allowed the agent by the media, and

(B) any expenditure for the use of any communications medium by or on behalf of the candidacy of a candidate for Federal elective office (or nomination thereto) shall be charged against the expenditure limitation under this subsection applicable to the election in which such medium is used.

(b) Charges upon certification of nonviolation of Federal limitations of expenditures for use of communications media.

No person may make any charge for the use by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) of any newspaper, magazine, or outdoor advertising facility, unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies in writing to the person making such charge that the payment of such charge will not violate paragraph (1), (2), or (3) of subsection (a) of this section, whichever is applicable. (Pub. L. 92-225, title I, § 104 (a), (b), Feb. 7, 1972, 86 Stat. 5.)

## REFERENCES IN TEXT

"This chapter", referred to in subsec. (a) (3) (B), read in the original "this title", meaning Title I of Pub. L. 92-225 which enacted this chapter and amended sections 312 and 315 of this title.

## EFFECTIVE DATE

Section effective on Dec. 31, 1971, or sixty days after Feb. 7, 1972, whichever is later, see section 406 of Pub. L. 92-225, set out as a note under section 431 of Title 2, The Congress.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 315, 804, 805 of this title.

## § 804. Regulations.

The Comptroller General shall prescribe such regulations as may be necessary or appropriate to carry out sections 801, 802, 803(a), and 803(b) of this title. (Pub. L. 92-255, title I, § 105, Feb. 7, 1972, 86 Stat. 7.)

## EFFECTIVE DATE

Section effective on Dec. 31, 1971, or sixty days after Feb. 7, 1972, whichever is later, see section 406 of Pub. L. 92-225, set out as a note under section 431 of Title 2, The Congress.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 805 of this title.

## § 805. Penalties for violations.

Whoever willfully and knowingly violates any provision of section 802, 803(a), or 803(b) of this title or any regulation under section 804 of this title shall be punished by a fine of not more than \$5,000 or by imprisonment of not more than five years, or both. (Pub. L. 92-225, title I, § 106, Feb. 7, 1972, 86 Stat. 8.)

## EFFECTIVE DATE

Section effective on Dec. 31, 1971, or sixty days after Feb. 7, 1972, whichever is later, see section 406 of Pub. L. 92-225, set out as a note under section 431 of Title 2, The Congress.

## FEDERAL ELECTION CRIMINAL PROVISIONS

Definitions, promise of employment or other benefit for political activity, limitations on contributions and expenditures, contributions or expenditures by national banks, corporations or labor organizations, and contributions by Government contractors, see sections 591, 600, 608, 610, and 611 of Title 18, Crimes and Criminal Procedure.

Disclosure of Federal campaign funds, penalties for violations, see section 441 of Title 2, The Congress.

f). Presidential Election Campaign Fund

Title 26 U.S.C. - Internal Revenue Code

§ 9002. Definitions.

For purposes of this chapter—

(1) The term "authorized committee" means, with respect to the candidates of a political party for President and Vice President of the United States, any political committee which is authorized in writing by such candidates to incur expenses to further the election of such candidates. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidates with the Comptroller General. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

(2) The term "candidate" means with respect to any presidential election, an individual who (A) has been nominated for election to the office of President of the United States or the office of Vice President of the United States by a major party, or (B) has qualified to have his name on the election ballot (or to have the names of electors pledged to him on the election ballot) as the candidate of a political party for election to either such office in 10 or more States. For purposes of paragraphs (6) and (7) of this section and purposes of section 9004(a)(2), the term "candidate" means, with respect to any preceding presidential election, an individual who received popular votes for the office of President in such election.

(3) The term "Comptroller General" means the Comptroller General of the United States.

(4) The term "eligible candidates" means the candidates of a political party for President and Vice President of the United States who have met all applicable conditions for eligibility to receive payments under this chapter set forth in section 9003.

(5) The term "fund" means the Presidential Election Campaign Fund established by section 9006(a).

(6) The term "major party" means, with respect to any presidential election, a political party whose candidate for the office of President in the preceding presidential election received, as the candidate of such party, 25 percent or more of the total number of popular votes received by all candidates for such office.

(7) The term "minor party" means, with respect to any presidential election, a political party whose

## Presidential Election Campaign Fund, Title 26 U.S.C. (contd.).

candidate for the office of President in the preceding presidential election received, as the candidate of such party, 5 percent or more but less than 25 percent of the total number of popular votes received by all candidates for such office.

(8) The term "new party" means with respect to any presidential election, a political party which is neither a major party nor a minor party.

(9) The term "political committee" means any committee, association, or organization (whether or not incorporated) which accepts contributions or makes expenditures for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals to Federal, State, or local elective public office.

(10) The term "presidential election" means the election of presidential and vice-presidential electors.

(11) The term "qualified campaign expense" means an expense—

(A) incurred (i) by the candidate of a political party for the office of President to further his election to such office or to further the election of the candidate of such political party for the office of Vice President, or both (ii) by the candidate of a political party for the office of Vice President to further his election to such office or to further the election of the candidate of such political party for the office of President, or both, or (iii) by an authorized committee of the candidates of a political party for the offices of President and Vice President to further the election of either or both of such candidates to such offices,

(B) incurred within the expenditure report period (as defined in paragraph (12)), or incurred before the beginning of such period to the extent such expense is for property, services, or facilities used during such period, and

(C) neither the incurring nor payment of which constitutes a violation of any law of the United States or of the State in which such expense is incurred or paid.

An expense shall be considered as incurred by a candidate or an authorized committee if it is incurred by a person authorized by such candidate or such committee, as the case may be, to incur such expense on behalf of such candidate or such committee. If an authorized committee of the candidates of a political party for President and Vice President of the United States also incurs expenses to further the election of one or more other individuals to Federal, State, or local elective public office, expenses incurred by such committee which are not specifically to further the election of such other individual or individuals shall be considered as incurred to further the election of such candidates for President and Vice President in such proportion as the Comptroller General prescribes by rules or regulations.

(12) The term "expenditure report period" with respect to any presidential election means—

(A) in the case of a major party, the period beginning with the first day of September before the election, or, if, earlier, with the date on which such major party at its national conven-

tion nominated its candidate for election to the office of President of the United States, and ending 30 days after the date of the presidential election; and

(B) in the case of a party which is not a major party, the same period as the expenditure report period of the major party which has the shortest expenditure report period for such presidential election under subparagraph (A).

(Added Pub. L. 92-178, title VIII, § 801, Dec. 10, 1971, 85 Stat. 563.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9003, 9012, 9021 of this title.

## § 9003. Condition for eligibility for payments.

(a) In general.

In order to be eligible to receive any payments under section 9006, the candidates of a political party in a presidential election shall, in writing—

(1) agree to obtain and furnish to the Comptroller General such evidence as he may request of the qualified campaign expenses with respect to which payment is sought,

(2) agree to keep and furnish to the Comptroller General such records, books, and other information as he may request.

(3) agree to an audit and examination by the Comptroller General under section 9007 and to pay any amounts required to be paid under such section, and

(4) agree to furnish statements of qualified campaign expenses and proposed qualified campaign expenses required under section 9008.

(b) Major parties.

In order to be eligible to receive any payments under section 9006, the candidates of a major party in a presidential election shall certify to the Comptroller General, under penalty of perjury, that—

(1) such candidates and their authorized committees will not incur qualified campaign expenses in excess of the aggregate payments to which they will be entitled under section 9004, and

(2) no contributions to defray qualified campaign expenses have been or will be accepted by such candidates or any of their authorized committees except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of section 9006(c), and no contributions to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 9002(11) have been or will be accepted by such candidates or any of their authorized committees.

Such certification shall be made within such time prior to the day of the presidential election as the Comptroller General shall prescribe by rules or regulations.

(c) Minor and new parties.

In order to be eligible to receive any payments under section 9006, the candidates of a minor or new party in a presidential election shall certify to the Comptroller General, under penalty of perjury, that—

(1) such candidates and their authorized committees will not incur qualified campaign expenses

## Presidential Election Campaign Fund, Title 26 U.S.C. (contd).

in excess of the aggregate payments to which the eligible candidates of a major party are entitled under section 9004, and

(2) such candidates and their authorized committees will accept and expend or retain contributions to defray qualified campaign expenses only to the extent that the qualified campaign expenses incurred by such candidates and their authorized committees certified to under paragraph (1) exceed the aggregate payments received by such candidates out of the fund pursuant to section 9006.

Such certification shall be made within such time prior to the day of the presidential election as the Comptroller General shall prescribe by rules or regulations. (Added Pub. L. 92-178, title VIII, § 801, Dec. 10, 1971, 85 Stat. 564.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9002, 9004 of this title.

## § 9004. Entitlement of eligible candidates to payments.

## (a) In general.

Subject to the provisions of this chapter—

(1) The eligible candidates of a major party in a presidential election shall be entitled to payments under section 9006 equal in the aggregate to 15 cents multiplied by the total number of residents within the United States who have attained the age of 18, as determined by the Bureau of the Census, as of the first day of June of the year preceding the year of the presidential election.

(2) (A) The eligible candidates of a minor party in a presidential election shall be entitled to payments under section 9006 equal in the aggregate to an amount which bears the same ratio to the amount computed under paragraph (1) for a major party as the number of popular votes received by the candidate for President of the minor party, as such candidate, in the preceding presidential election bears to the average number of popular votes received by the candidates for President of the major parties in the preceding presidential election.

(B) If the candidate of one or more political parties not including a major party for the office of President was a candidate for such office in the preceding presidential election and received 5 percent or more but less than 25 percent of the total number of popular votes received by all candidates for such office, such candidate and his running mate for the office of Vice President, upon compliance with the provisions of section 9003 (a) and (c), shall be treated as eligible candidates entitled to payments under section 9006 in an amount computed as provided in subparagraph (A) by taking into account all the popular votes received by such candidate for the office of President in the preceding presidential election. If eligible candidates of a minor party are entitled to payments under this subparagraph, such entitlement shall be reduced by the amount of the entitlement allowed under subparagraph (A).

(3) The eligible candidates of a minor party or a new party in a presidential election whose can-

didate for President in such election receives, as such candidate, 5 percent or more of the total number of popular votes cast for the office of President in such election shall be entitled to payments under section 9006 equal in the aggregate to an amount which bears the same ratio to the amount computed under paragraph (1) for a major party as the number of popular votes received by such candidate in such election bears to the average number of popular votes received in such election by the candidates for President of the major parties. In the case of eligible candidates entitled to payments under paragraph (2), the amount allowable under this paragraph shall be limited to the amount, if any, by which the entitlement under the preceding sentence exceeds the amount of the entitlement under paragraph (2).

## (b) Limitations.

The aggregate payments to which the eligible candidates of a political party shall be entitled under subsections (a) (2) and (3) with respect to a presidential election shall not exceed an amount equal to the lower of—

(1) the amount of qualified campaign expenses incurred by such eligible candidates and their authorized committees, reduced by the amount of contributions to defray qualified campaign expenses received and expended or retained by such eligible candidates and such committees, or

(2) the aggregate payments to which the eligible candidates of a major party are entitled under subsection (a) (1), reduced by the amount of contributions described in paragraph (1) of this subsection.

## (c) Restrictions.

The eligible candidates of a political party shall be entitled to payments under subsection (a) only—

(1) to defray qualified campaign expenses incurred by such eligible candidates or their authorized committees, or

(2) to repay loans the proceeds of which were used to defray such qualified campaign expenses, or otherwise to restore funds (other than contributions to defray qualified campaign expenses received and expended by such candidates or such committees) used to defray such qualified campaign expenses.

(Added Pub. L. 92-178, title VIII, § 801, Dec. 10, 1971, 85 Stat. 565.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9002, 9003, 9005, 9006, 9007, 9012 of this title.

## § 9005. Certification by Comptroller General.

## (a) Initial certifications.

On the basis of the evidence, books, records, and information furnished by the eligible candidates of a political party and prior to examination and audit under section 9007, the Comptroller General shall certify from time to time to the Secretary for payment to such candidates under section 9006 the payments to which such candidates are entitled under section 9004.

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**(b) Finality of certifications and determinations.**

Initial certifications by the Comptroller General under subsection (a), and all determinations made by him under this chapter, shall be final and conclusive, except to the extent that they are subject to examination and audit by the Comptroller General under section 9007 and judicial review under section 9011. (Added Pub. L. 92-178, title VIII, § 801, Dec. 10, 1971, 85 Stat. 566.)

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 9005, 9006, 9009 of this title.

**§ 9006. Payments to eligible candidates.****(a) Establishment of campaign fund.**

There is hereby established on the books of the Treasury of the United States a special fund to be known as the "Presidential Election Campaign Fund". The Secretary shall maintain in the fund (1) a separate account for the candidates of each major party, each minor party, and each new party for which a specific designation is made under section 6096 for payment into an account in the fund and (2) a general account for which no specific designation is made. The Secretary shall, as provided by appropriation Acts, transfer to each account in the fund an amount not in excess of the sum of the amounts designated (subsequent to the previous presidential election) to such account by individuals under section 6096 for payment into such account of the fund.

**(b) Transfer to the general fund.**

If, after a presidential election and after all eligible candidates have been paid the amount which they are entitled to receive under this chapter, there are moneys remaining in any account in the fund, the Secretary shall transfer the moneys so remaining to the general fund of the Treasury.

**(c) Payments from the fund.**

Upon receipt of a certification from the Comptroller General under section 9005 for payment to the eligible candidates of a political party, the Secretary shall pay to such candidates out of the specific account in the fund for such candidates the amount certified by the Comptroller General. Payments to eligible candidates from the account designated for them shall be limited to the amounts in such account at the time of payment. Amounts paid to any such candidates shall be under the control of such candidates.

**(d) Transfers from general account to separate accounts.**

(1) If, on the 60th day prior to the presidential election, the moneys in any separate account in the fund are less than the aggregate entitlement under section 9004(a)(1) or (2) of the eligible candidates to which such account relates, 80 percent of the amount in the general account shall be transferred to the separate accounts (whether or not all the candidates to which such separate accounts relate are eligible candidates) in the ratio of the entitlement under section 9004(a)(1) or (2) of the candidates to which such accounts relate. No amount shall be transferred to any

separate account under the preceding sentence which, when added to the moneys in that separate account prior to any payment out of that account during the calendar year, would be in excess of the aggregate entitlement under section 9004(a)(1) or (2) of the candidates to whom such account relates.

(2) If, at the close of the expenditure report period, the moneys in any separate account in the fund are not sufficient to satisfy any unpaid entitlement of the eligible candidates to which such account relates, the balance in the general account shall be transferred to the separate accounts in the following manner:

(A) For the separate account of the candidates of a major party, compute the percentage which the average number of popular votes received by the candidates for President of the major parties is of the total number of popular votes cast for the office of President in the election.

(B) For the separate account of the candidates of a minor or new party, compute the percentage which the popular votes received for President by the candidate to which such account relates is of the total number of popular votes cast for the office of President in the election.

(C) In the case of each separate account, multiply the applicable percentage obtained under subparagraph (A) or (B) for such account by the amount of the money in the general account prior to any distribution made under paragraph (1), and transfer to such separate account an amount equal to the excess of the product of such multiplication over the amount of any distribution made under such paragraph to such account.

(Added Pub. L. 92-178, title VIII, § 801, Dec. 10, 1971, 85 Stat. 567.)

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 6086, 9002, 9003, 9004, 9005, 9007, 9012 of this title.

**§ 9007. Examinations and audits; repayments.****(a) Examinations and audits.**

After each presidential election, the Comptroller General shall conduct a thorough examination and audit of the qualified campaign expenses of the candidates of each political party for President and Vice President.

**(b) Repayments.**

(1) If the Comptroller General determines that any portion of the payments made to the eligible candidates of a political party under section 9006 was in excess of the aggregate payments to which candidates were entitled under section 9004, he shall so notify such candidates, and such candidates shall pay to the Secretary an amount equal to such portion.

(2) If the Comptroller General determines that the eligible candidates of a political party and their authorized committees incurred qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major



## Presidential Election Campaign Fund, Title 26 U.S.C. (contd)

party were entitled under section 9004, he shall notify such candidates of the amount of such excess and such candidates shall pay to the Secretary an amount equal to such amount.

(3) If the Comptroller General determines that the eligible candidates of a major party or any authorized committee of such candidates accepted contributions (other than contributions to make up deficiencies in payments out of the fund on account of the application of section 9006(c)) to defray qualified campaign expenses (other than qualified campaign expenses with respect to which payment is required under paragraph (2)), he shall notify such candidates of the amount of the contributions so accepted, and such candidates shall pay to the Secretary an amount equal to such amount.

(4) If the Comptroller General determines that any amount of any payment made to the eligible candidates of a political party under section 9006 was used for any purpose other than—

(A) to defray the qualified campaign expenses with respect to which such payment was made, or

(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used to defray such qualified campaign expenses,

he shall notify such candidates of the amount so used, and such candidates shall pay to the Secretary an amount equal to such amount.

(5) No payment shall be required from the eligible candidates of a political party under this subsection to the extent that such payment, when added to other payments required from such candidates under this subsection, exceeds the amount of payments received by such candidates under section 9006.

(c) Notification.

No notification shall be made by the Comptroller General under subsection (b) with respect to a presidential election more than 3 years after the day of such election.

(d) Deposit of repayments.

All payments received by the Secretary under subsection (b) shall be deposited by him in the general fund of the Treasury. (Added Pub. L. 92-178, title VIII, § 801, Dec. 10, 1971, 85 Stat. 568.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9003, 9005, 9009, 9019 of this title.

§ 9008. Information on proposed expenses.

(a) Reports by candidates.

The candidates of a political party for President and Vice President in a presidential election shall, from time to time as the Comptroller General may require, furnish to the Comptroller General a detailed statement, in such form as the Comptroller General may prescribe, of—

(1) the qualified campaign expenses incurred by them and their authorized committees prior to the date of such statement (whether or not evi-

dence of such expenses has been furnished for purposes of section 9005), and

(2) the qualified campaign expenses which they and their authorized committees propose to incur on or after the date of such statement.

The Comptroller General shall require a statement under this subsection from such candidates of each political party at least once each week during the second, third, and fourth weeks preceding the day of the presidential election and at least twice during the week preceding such day.

(b) Publication.

The Comptroller General shall, as soon as possible after he receives each statement under subsection (a), prepare and publish a summary of such statement, together with any other data or information which he deems advisable, in the Federal Register. Such summary shall not include any information which identifies any individual who made a designation under section 6069. (Added Pub. L. 92-178, title VIII, § 801, Dec. 10, 1971, 85 Stat. 569.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9003 of this title.

§ 9009. Reports to Congress; regulations.

(a) Reports.

The Comptroller General shall, as soon as practicable after each presidential election, submit a full report to the Senate and House of Representatives setting forth—

(1) the qualified campaign expenses (shown in such detail as the Comptroller General determines necessary) incurred by the candidates of each political party and their authorized committees;

(2) the amounts certified by him under section 9005 for payment to the eligible candidates of each political party; and

(3) the amount of payments, if any, required from such candidates under section 9007, and the reasons for each payment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

(b) Regulations, etc.

The Comptroller General is authorized to prescribe such rules and regulations, to conduct such examinations and audits (in addition to the examinations and audits required by section 9007(a)), to conduct such investigations, and to require the keeping and submission of such books, records, and information, as he deems necessary to carry out the functions and duties imposed on him by this chapter. (Added Pub. L. 92-178, title VIII, § 801, Dec. 10, 1971, 85 Stat. 569.)

§ 9010. Participation by Comptroller General in judicial proceedings.

(a) Appearance by counsel.

The Comptroller General is authorized to appear in and defend against any action filed under section 9011, either by attorneys employed in his office or by counsel whom he may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and

## Presidential Election Campaign Fund, Title 26 U.S.C. (contd)

whose compensation he may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b) Recovery of certain payments.

The Comptroller General is authorized through attorneys and counsel described in subsection (a) to appear in the district courts of the United States to seek recovery of any amounts determined to be payable to the Secretary as a result of examination and audit made pursuant to section 9007.

(c) Declaratory and injunctive relief.

The Comptroller General is authorized through attorneys and counsel described in subsection (a) to petition the courts of the United States for declaratory or injunctive relief concerning any civil matter covered by the provisions of this subtitle or section 6096. Upon application of the Comptroller General, an action brought pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

(d) Appeal.

The Comptroller General is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which he appears pursuant to the authority provided in this section. (Added Pub. L. 92-178, title VIII, § 801, Dec. 10, 1971, 85 Stat. 569.)

§ 9011. Judicial review.

(a) Review of certification, determination, or other action by the Comptroller General.

Any certification, determination, or other action by the Comptroller General made or taken pursuant to the provisions of this chapter shall be subject to review by the United States Court of Appeals for the District of Columbia upon petition filed in such Court by any interested person. Any petition filed pursuant to this section shall be filed within thirty days after the certification, determination, or other action by the Comptroller General for which review is sought.

(b) Suits to implement chapter.

(1) The Comptroller General, the national committee of any political party, and individuals eligible to vote for President are authorized to institute such actions, including actions for declaratory judgment or injunctive relief, as may be appropriate to implement or contravene any provision of this chapter.

(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subsection and shall exercise the same without regard to whether a person asserting rights under provisions of this subsection shall have exhausted any administrative or other remedies that may be provided at law. Such proceedings shall be heard and determined by a court

of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

(Added Pub. L. 98-178, title VIII, § 801, Dec. 10, 1971, 85 Stat. 570.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 9005, 9310 of this title.

§ 9012. Criminal penalties.

(a) Excess campaign expenses.

(1) It shall be unlawful for an eligible candidate of a political party for President and Vice President in a presidential election or any of his authorized committees knowingly and willfully to incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under section 9004 with respect to such election.

(2) Any person who violates paragraph (1) shall be fined not more than \$5,000, or imprisoned not more than one year or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(b) Contributions.

(1) It shall be unlawful for an eligible candidate of a major party in a presidential election or any of his authorized committees knowingly and willfully to accept any contribution to defray qualified campaign expenses, except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of section 9006(c), or to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 9002(11).

(2) It shall be unlawful for an eligible candidate of a political party (other than a major party) in a presidential election or any of his authorized committees knowingly and willfully to accept and expend or retain contributions to defray qualified campaign expenses in an amount which exceeds the qualified campaign expenses incurred with respect to such election by such eligible candidate and his authorized committees.

(3) Any person who violates paragraph (1) or (2) shall be fined not more than \$5,000, or imprisoned not more than one year, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(c) Unlawful use of payments.

(1) It shall be unlawful for any person who receives any payment under section 9006, or to whom any portion of any payment received under such section is transferred, knowingly and willfully to

## Presidential Election Campaign Fund, Title 26 U.S.C. (contd).

use, or authorize the use of, such payment or such portion for any purpose other than—

(A) to defray the qualified campaign expenses with respect to which such payment was made, or

(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses.

(2) Any person who violates paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

(d) False statements, etc.

(1) It shall be unlawful for any person knowingly and willfully—

(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Comptroller General under this subtitle, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Comptroller General or an examination and audit by the Comptroller General under this chapter; or

(B) to fail to furnish to the Comptroller General any records, books, or information requested by him for purposes of this chapter.

(2) Any person who violates paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

(e) Kickbacks and illegal payments.

(1) It shall be unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expense of eligible candidates or their authorized committees.

(2) Any person who violates paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal payment in connection with any qualified campaign expense of eligible candidates or their authorized committees shall pay to the Secretary, for deposit in the general fund of the Treasury, an amount equal to 125 percent of the kickback or payment received.

(f) Unauthorized expenditures and contributions.

(1) Except as provided in paragraph (2), it shall be unlawful for any political committee which is not an authorized committee with respect to the eligible candidates of a political party for President and Vice President in a presidential election knowingly and willfully to incur expenditures to further the election of such candidates, which would constitute qualified campaign expenses if incurred by an authorized committee of such candidates, in an aggregate amount exceeding \$1,000.

(2) This subsection shall not apply to (A) expenditures by a broadcaster regulated by the Federal Communications Commission, or by a periodi-

cal publication, in reporting the news or in taking editorial positions, or (B) expenditures by any organization described in section 501(c) which is exempt from tax under section 501(a) in communicating to its members the views of that organization.

(3) Any political committee which violates paragraph (1) shall be fined not more than \$5,000, and any officer or member of such committee who knowingly and willfully consents to such violation and any other individual who knowingly and willfully violates paragraph (1) shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(g) Unauthorized disclosure of information.

(1) It shall be unlawful for any individual to disclose any information obtained under the provisions of this chapter except as may be required by law.

(2) Any person who violates paragraph (1) shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(Added Pub. L. 92-178, title VIII, § 801, Dec. 10, 1971, 85 Stat. 570.)

§ 9013. Effective date of chapter.

The provisions of this chapter shall take effect on January 1, 1973. (Added Pub. L. 92-178, title VIII, § 801, Dec. 10, 1971, 85 Stat. 572.)

Chapter 96.—PRESIDENTIAL ELECTION CAMPAIGN FUND ADVISORY BOARD

§ 9021. Establishment of Advisory Board.

(a) Establishment of Board.

There is hereby established an advisory board to be known as the Presidential Election Campaign Fund Advisory Board (hereinafter in this section referred to as the "Board"). It shall be the duty and function of the Board to counsel and assist the Comptroller General of the United States in the performance of the duties and functions imposed on him under the Presidential Election Campaign Fund Act.

(b) Composition of Board.

The Board shall be composed of the following members:

(1) the majority leader and minority leader of the Senate and the Speaker and minority leader of the House of Representatives, who shall serve ex officio;

(2) two members representing each political party which is a major party (as defined in section 9002(6)), which members shall be appointed by the Comptroller General from recommendations submitted by such political party; and

(3) three members representing the general public, which members shall be selected by the members described in paragraphs (1) and (2).

The terms of the first members of the Board described in paragraphs (2) and (3) shall expire on the sixtieth day after the date of the first presidential election following January 1, 1973, and the terms of subsequent members described in paragraphs (2) and (3) shall begin on the sixty-first day after the

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date of a presidential election and expire on the sixtieth day following the date of the subsequent presidential election. The Board shall elect a Chairman from its members.

(c) Compensation.

Members of the Board (other than members described in subsection (b) (1) ) shall receive compensation at the rate of \$75 a day for each day they are engaged in performing duties and functions as such members, including traveltime, and, while away from

their homes or regular places of business, shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons in the Government service employed intermittently.

(d) Status.

Service by an individual as a member of the Board shall not, for purposes of any other law of the United States be considered as service as an officer or employee of the United States. (Added Pub. L. 92-178, title VIII, § 801, Dec. 10, 1971, 85 Stat. 572.)

**g. Income Tax Provisions**  
**Title 26 U.S.C. - Internal Revenue Code**

**§ 218. Contributions to candidates for public office.**

**(a) Allowance of deduction.**

In the case of an individual, there shall be allowed as a deduction any political contribution (as defined in section 41(c)(1)) payment of which is made by such individual within the taxable year.

**(b) Limitations.**

**(1) Amount.**

The deduction under subsection (a) shall not exceed \$50 (\$100 in the case of a joint return under section 6013).

**(2) Verification.**

The deduction under subsection (a) shall be allowed, with respect to any political contribution, only if such political contribution is verified in such manner as the Secretary or his delegate shall prescribe by regulations.

**(c) Election to take credit in lieu of deduction.**

This section shall not apply in the case of any taxpayer who, for the taxable year, elects to take the credit against tax provided by section 41 (relating to credit against tax for contributions to candidates for public office). Such election shall be made in such manner and at such time as the Secretary or his delegate shall prescribe by regulations.

**(d) Cross reference.**

For disallowance of deduction to estates and trusts, see section 642(i).

(Added Pub. L. 92-178, title VII, § 702(a), Dec. 10, 1971, 85 Stat. 561.)

**EFFECTIVE DATE**

Section applicable to taxable years ending after Dec. 31, 1971, but only with respect to political contributions, payment of which is made after such date, see section 703 of Pub. L. 92-178, set out as a note under section 41 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 642 of this title.



## Income Tax Provisions, Title 26 U.S.C. (contd)

## § 271. Debts owed by political parties, etc.

## (a) General rule.

In the case of a taxpayer (other than a bank as defined in section 581) no deduction shall be allowed under section 166 (relating to bad debts) or under section 165 (g) (relating to worthlessness of securities) by reason of the worthlessness of any debt owed by a political party.

## (b) Definitions.

## (1) Political party.

For purposes of subsection (a), the term "political party" means—

(A) a political party;

(B) a national, State, or local committee of a political party; or

(C) a committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of presidential or vice-presidential electors or of any individual whose name is presented for election to any Federal, State, or local elective public office, whether or not such individual is elected.

## (2) Contributions.

For purposes of paragraph (1) (C), the term "contributions" includes a gift, subscription, loan, advance, or deposit, of money, or anything of value, and includes a contract, promise, or agreement to make a contribution, whether or not legally enforceable.

## (3) Expenditures.

For purposes of paragraph (1) (C), the term "expenditures" includes a payment, distribution, loan, advance, deposit, or gift, of money, or anything of value, and includes a contract, promise, or agreement to make an expenditure, whether or not legally enforceable.

(Aug. 16, 1954, ch. 736, 68A Stat. 82.)

## Income Tax Provisions, Title 26 U.S.C. (contd)

**§276. Certain indirect contributions to political parties.****(a) Disallowance of deduction.**

No deduction otherwise allowable under this chapter shall be allowed for any amount paid or incurred for—

(1) advertising in a convention program of a political party, or in any other publication if any part of the proceeds of such publication directly or indirectly inures (or is intended to inure) to or for the use of a political party or a political candidate,

(2) admission to any dinner or program, if any part of the proceeds of such dinner or program directly or indirectly inures (or is intended to inure) to or for the use of a political party or a political candidate, or

(3) admission to an inaugural ball, inaugural gala, inaugural parade, or inaugural concert, or to any similar event which is identified with a political party or a political candidate.

**(b) Definitions.**

For purposes of this section—

**(1) Political party.**

The term "political party" means—

(A) a political party;

(B) a National, State, or local committee of a political party; or

(C) a committee, association, or organization, whether incorporated or not, which directly or indirectly accepts contributions (as defined in section 271(b)(2)) or make expenditures (as defined in section 271(b)(3)) for the purpose of influencing or attempting to influence the selection, nomination, or election of any individual to any Federal, State, or local elective public office, or the election of presidential and vice-presidential electors, whether or not such individual or electors are selected, nominated, or elected.

**(2) Proceeds inuring to or for the use of political candidates.**

Proceeds shall be treated as inuring to or for the use of a political candidate only if—

(A) such proceeds may be used directly or indirectly for the purpose of furthering his candidacy for selection, nomination, or election to any elective public office, and

(B) such proceeds are not received by such candidate in the ordinary course of a trade or business (other than the trade or business of holding elective public office).

**(c) Advertising in a convention program of a national political convention.**

Subsection (a) shall not apply to any amount paid or incurred for advertising in a convention program of a political party distributed in connection with a convention held for the purpose of nominating candidates for the offices of President and Vice President of the United States, if the proceeds from such program are used solely to defray the costs of conducting such convention (or a subsequent convention of such party held for such purpose) and the amount paid or incurred for such advertising is reasonable in light of the business the taxpayer may expect to receive—

(1) directly as a result of such advertising, or

(2) as a result of the convention being held in an area in which the taxpayer has a principal place of business.

**(d) Cross reference.**

For disallowance of certain entertainment, etc., expenses, see section 274.

(Added Pub. L. 89-368, title III, § 301(a), Mar. 15, 1966, 80 Stat. 66, and amended Pub. L. 90-384, title I, § 108(a), June 28, 1968, 82 Stat. 289.)

## Income Tax Provisions, (contd).

## TAXABILITY OF POLITICAL CONTRIBUTIONS

(Reprinted from IR Bulletin No. 1968-17)

Dated April 22, 1968

Rev. Proc. 68-19.

26 CFR 601.105. Examination of returns and claims for refund, credit or abatement: determination of correct tax liability.

(Also Part I, Section 61:1.61-1.)

Factors considered by the Internal Revenue Service in determining the taxability of political funds.

## SECTION 1. PURPOSE.

.01 The purpose of this Revenue Procedure is to set forth the factors considered by the Internal Revenue Service in determining the taxability of political funds such as campaign contributions, political gifts, and proceeds derived from fundraising dinners (sometimes referred to as "testimonial dinners") received and disposed of by or on behalf of political candidates.

.02 For purposes of this Revenue Procedure, the term "political candidates" includes any political figure who receives or has received political funds, whether or not he has announced his candidacy for nomination or election or reelection to any elective public office.

## SEC. 2. BACKGROUND.

Political funds are not taxable to the political candidate by or for whom they are collected if they are used for expenses of a political campaign or some similar purpose. However, any amount diverted from the channel of campaign activity and used by the political candidate for any personal purpose is income taxable to such candidate for the year in which the funds are so diverted. See I.T. 3276, C.B. 1939-1 (Part 1), 108, and Rev. Rul. 54-80 C.B. 1954-1, 11, cited with approval in *William O'Dwyer, et ux. v. Commissioner*, 266 F. 2d 575 (4th Cir. 1959), certiorari denied, 361 U.S. 862 (1959), and *United States v. Leslie E. Jett*, 352 F. 2d 179 (6th Cir. 1965), certiorari denied, 383 U.S. 935 (1966).

## Income Tax Provisions (contd)

## SEC. 3. EXPENDITURES OF POLITICAL FUNDS.

.01 Political funds expended by a political candidate, or by a political organization or committee which accepts contributions on behalf of such candidate will be considered to be used for campaign or similar purposes if they are (1) utilized for generally recognized campaign expenses (see, for example, Cal. Elections Code, sec. 11504; N.Y. Penal Law, sec. 767), regardless of when such expenses were incurred; (2) contributed to the national, state or local committee of the candidate's party; or (3) used to reimburse the political candidate for out-of-pocket campaign expenses paid by him during a current campaign, or, if he is not currently campaigning, during his last previous campaign.

.02 The expenditure of political funds by a political candidate for other than campaign or similar purposes will be considered a diversion of such funds requiring the funds so expended to be included in his income. However, deductions will be allowed for those expenditures which qualify as deductible under the applicable provisions of the Internal Revenue Code of 1954. For example, depending on the facts and circumstances present, an expenditure could qualify as an ordinary and necessary business expense deductible under section 162 of the Code or as a charitable contribution deductible under section 170 of the Code.

.03 Unexpended balances of political funds which are repaid to known contributors are not considered to be either expended or diverted for the purposes of this section.

## SEC. 4. ACCOUNTING FOR POLITICAL FUNDS.

.01 Detailed substantiating records should be kept by the political candidate or other custodian so as to enable the candidate to account accurately for the receipt and disbursement of political funds if he wishes to have political funds treated as such by the Service or to take advantage of allowable deductions. Disbursements will be included in the income of the political candidate in the absence of a showing that the funds were used for campaign or similar purposes or repaid to known contributors. If political funds are commingled with the personal funds of the political candidate so as to render tracing or identification impracticable, the political funds will be presumed to have been diverted to personal use at the time so commingled.

.02 If an unexpended balance of political funds is set aside in a separate bank account, the political candidate, committee, or organization holding such funds may report any income credited to the account on a U.S. Fiduciary Income Tax Return, Form 1041, for the taxable year in which such income is so credited, and pay any tax shown by such return to be payable.

## SEC. 5. PRESUMPTION AGAINST UNRESTRICTED GIFTS.

The Service will presume in the absence of evidence to the contrary that contributions to a political candidate are political funds which are not intended for the unrestricted personal use of such recipient. If it can be shown that the funds were intended for the unrestricted personal use of the political candidate, then the Service will apply the principles set forth in *Commissioner v. Mose Duberstein, et al.*, 363 U.S. 278 (1960), Ct. D. 1850, C.B. 1960-2, 428, and *Max Kralstein, et ux.*, 38 T.C. 810 (1962) acquiescence, C.B. 1963-2, 4, to determine whether or not the funds may be excluded from his gross income under section 102 of the Code.

## 2. Elections Generally

## a). Criminal Code Provisions

## Title 18 U.S.C. Crimes and Criminal Procedure

## § 241 Conspiracy against rights or citizens

If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

They shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to imprisonment for any term of years or for life. (June 25, 1948, ch. 645, 62 Stat. 696; Apr. 11, 1968, Pub. L. 90-284, title I, § 103(a), 82 Stat. 75.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—Based on title 18, U. S. C., 1940 ed., § 51 (Mar. 4, 1909, ch. 321, § 19, 35 Stat. 1092).

Clause making conspirator ineligible to hold office was omitted as incongruous because it attaches ineligibility to hold office to a person who may be a private citizen and who was convicted of conspiracy to violate a specific statute. There seems to be no reason for imposing such a penalty in the case of one individual crime, in view of the fact that other crimes do not carry such a severe consequence. The experience of the Department of Justice is that this unusual penalty has been an obstacle to successful prosecutions for violations of the act.

Mandatory punishment provision was rephrased in the alternative.

Minor changes in phraseology were made.

## AMENDMENTS

1968—Pub. L. 90-284 increased limitation on fines from \$5,000 to \$10,000 and provided for imprisonment for any term of years or for life when death results.

## CROSS REFERENCES

Action for neglect to prevent, see section 1986 of Title 42, The Public Health and Welfare.

Conspiracy to commit offense or to defraud United States, see section 371 of this title.

Conspiracy to interfere with civil rights, see section 1985 of Title 42, The Public Health and Welfare.

Proceedings in vindication of civil rights, see section 1988 of Title 42, The Public Health and Welfare.

## § 242. Deprivation of rights under color of law.

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if death results shall be sub-

ject to imprisonment for any term of years or for life. (June 25, 1948, ch. 645, 62 Stat. 696; Apr. 11, 1968, Pub. L. 90-284, title I, § 103(b), 82 Stat. 75.)



## Criminal Code Provisions, Title 18 U.S.C. (contd).

From: Department of Justice Memorandum, for the Subcommittee on **Criminal Laws and Procedures**, Committee on the Judiciary, U.S. Senate, September 27, 1973. :

A. Election Fraud

Section 241 of Title 18. The principal federal statute for prosecuting election fraud is Section 241, which was enacted May 31, 1870, to enforce the guarantees of the Fourteenth and Fifteenth Amendments to the Constitution.<sup>1/</sup> The penalty is a fine of \$10,000 or imprisonment for ten years, or both. Under this section the Government has successfully prosecuted conspiracies to stuff a ballot box with forged ballots,<sup>2/</sup> to impersonate qualified voters,<sup>3/</sup> to alter legal ballots,<sup>4/</sup> to prevent voters from voting,<sup>5/</sup> to fail to count votes and to alter the votes counted,<sup>6/</sup> to discriminate on account of race,<sup>7/</sup> and to cast illegal absentee ballots.<sup>8/</sup> Section 241 reaches fraud even when the result does not affect the outcome of the election, or when the number of fraudulent ballots represents an infinitesimal fraction of the number of votes cast.<sup>9/</sup> Under the doctrine in United States v. Price, 383 U.S. 787, at 805, Section 241 protects "rights under the entire Constitution, including the Thirteenth, Fourteenth and Fifteenth Amendments, and not merely under part of it."

Nevertheless, there are important limitations to Section 241. A conspiracy between two candidates for the Pennsylvania State Legislature to obtain a recount of boxes and to stuff them in their favor did not constitute an offense under this statute. Here the offense, if any, was against the State and not against the right to vote protected by the United States Constitution.<sup>10/</sup> Because of the reach of the Fifteenth Amendment, Section 241 is interpreted to prohibit racial discrimination in voting at any election, but it does not reach fraud in State and local elections.

A second limitation upon Section 241 is that it does not, according

## Criminal Code Provisions, Title 18 U.S.C. (contd).

to the Supreme Court, cover bribery of voters, <sup>11/</sup> an offense that also could not be prosecuted under the general conspiracy statute as a fraud against the Government. <sup>12/</sup> Bribery of voters, or vote buying was made a separate offense by the Federal Corrupt Practices Act of 1925 and is now prohibited by Section 597 of Title 18. <sup>13/</sup>

<sup>1/</sup> 18 Stat. 141.

<sup>2/</sup> United States v. Saylor, 322 U.S. 385 (1944); United States v. Nathan, 238 F. 2d 401, cert. den., 353 U.S. 910; United States v. Skurla, 126 F. Supp. 713 (W.D. Pa. 1954).

<sup>3/</sup> Crolich v. United States, 196 F. 2d 879 (5th Cir., 1952), cert. den., 344 U.S. 830.

<sup>4/</sup> United States v. Powell, 81 F. Supp. 288 (E.D. Mo. 1948).

<sup>5/</sup> United States v. Wilson, 72 F. Supp. 812 (W.D. Mo. 1947).

<sup>6/</sup> United States v. Ryan, 23 F. Supp. 513 (W.D. Mo. 1938); Walker v. United States, 93 F. 2d 383 (8th Cir., 1937), cert. den., 303 U.S. 644.

<sup>7/</sup> Ex parte Yarbrough, 110 U.S. 651 (1884); Guinn v. United States, 238 U.S. 383 (1915); United States v. Classic, 313 U.S. 299 (1941).

<sup>8/</sup> United States v. Chandler, 157 F. Supp. 753 (S.D.W. Va. 1957); Fields v. United States, 228 F. 2d 544 (4th Cir., 1955), cert. den., 350 U.S. 982; United States v. Weston, 417 F. 2d 181 (4th Cir., 1969), cert. den., 396 U.S. 1062.

<sup>9/</sup> Prichard v. United States, 181 F. 2d 326 (6th Cir., 1950). At page 331, the Court points out:

"The deposit of forged ballots in the ballot boxes, no matter how small or great their number, dilutes the influence of honest votes in an election, and whether in greater or less degree, is immaterial."

<sup>10/</sup> Steedle v. United States, 85 F. 2d 867 (3rd. Cir., 1936).

## Criminal Code Provisions, Title 18 U.S.C. (contd).

11/ United States v. Bathgate, 246 U.S. 220 (1918). The Court held that conspiracy to bribe voters at an election for a United States Senator and a Representative to Congress lay beyond Section 241. The Court pointed out that Section 241 was first enacted as Section 6 of the Enforcement Act of 1870 and that Section 19 of the Act punished bribery of voters. In 1894 Congress repealed large portions of the Enforcement Act, including the bribery section, but left what is now Section 241. Accordingly, the Court concluded that repeal of the bribery provision did not have the effect of enlarging the coverage of Section 241 (246 U.S. at 226):

"Bribery, expressly denounced in another section of the original act, is not clearly within the words used; and the reasoning relied on to extend them thereto would apply in respect of almost any act reprehensible in itself, or forbidden by state statutes, and supposed injuriously to affect freedom, honesty, or integrity of an election."

12/ United States v. Gradwell, 243 U.S. 476 (1917).

13/ Conspiracy to bribe voters in violation of the general conspiracy statute is thus cognizable as a conspiracy to commit an offense against the United States, i.e., to violate Section 597. United States v. Blanton, 77 F. Supp. (D. Mo. 1948). See also, United States v. Foote, 42 F. Supp. 17 (D. Del. 1942).

## Criminal Code Provisions, Title 18 U.S.C. (contd).

## § 592. Troops at polls.

Whoever, being an officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than \$5,000 or imprisoned not more than five years, or both; and be disqualified from holding any office of honor, profit, or trust under the United States.

This section shall not prevent any officer or member of the armed forces of the United States from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the State in which he offers to vote. (June 25, 1948, ch. 645, 62 Stat. 719.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—Based on title 18, U. S. C., 1940 ed., §§ 55 and 59 (Mar. 4, 1909, ch. 321, §§ 22, 26, 35 Stat. 1092, 1093).

This section consolidates sections 55 and 59 of title 18, U. S. C., 1940 ed.

Mandatory punishment provision was rephrased in the alternative.

In second paragraph, words "or member of the Armed Forces of the United States" were substituted for "soldier, sailor, or marine" so as to cover those auxiliaries which are now component parts of the Army and Navy.

Changes in phraseology were also made.

## CROSS REFERENCES

Disqualification from holding any office of honor, trust, or profit, additional grounds for, see sections 204, 592, 1901, 2071, 2381, 2385, and 2387 of this title.

## § 593. Interference by armed forces.

Whoever, being an officer or member of the Armed Forces of the United States, prescribes or fixes or at-

tempts to prescribe or fix, whether by proclamation, order or otherwise, the qualifications of voters at any election in any State; or

Whoever, being such officer or member, prevents or attempts to prevent by force, threat, intimidation, advice or otherwise any qualified voter of any State from fully exercising the right of suffrage at any general or special election; or

Whoever, being such officer or member, orders or compels or attempts to compel any election officer in any State to receive a vote from a person not legally qualified to vote; or

Whoever, being such officer or member, imposes or attempts to impose any regulations for conducting any general or special election in a State, different from those prescribed by law; or

Whoever, being such officer or member, interferes in any manner with an election officer's discharge of his duties—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both; and disqualified from holding any office of honor, profit or trust under the United States.

This section shall not prevent any officer or member of the Armed Forces from exercising the right of suffrage in any district to which he may belong, if otherwise qualified according to the laws of the State of such district. (June 25, 1948, ch. 645, 62 Stat. 719.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—Based on title 18, U. S. C., 1940 ed., §§ 56—59 (Mar. 4, 1909, ch. 321, §§ 23—26, 35 Stat. 1092, 1093).

Four sections were consolidated with only such changes of phraseology as were necessary to effect the consolidation.

## CROSS REFERENCES

Disqualification from holding any office of honor, trust, or profit, additional grounds for, see sections 204, 592, 1901, 2071, 2381, 2385, and 2387 of this title.

Interference by Army or Navy officers with freedom of elections, see section 1972 of Title 42, The Public Health and Welfare.

## § 594. Intimidation of voters.

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, at any election held solely or in part for the purpose of electing such candidate, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 720; Sept. 22, 1970, Pub. L. 91-405, title II, § 204(d) (5), 84 Stat. 853.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—Based on title 18, U. S. C., 1940 ed., §§ 61, 61g (Aug. 2, 1939, 11:50 a. m. E. S. T., ch. 410, §§ 1, 8, 53 Stat. 1147, 1148).

This section consolidates sections 61 and 61g of title 18, U. S. C., 1940 ed., with changes in phraseology only.

## AMENDMENTS

1970—Pub. L. 91-405 substituted "Delegate from the District of Columbia, or Resident Commissioner" for "Delegates or Commissioners from the Territories and possessions".

## Criminal Code Provisions, Title 18 U.S.C. (contd)

## EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-405 effective on Sept. 22, 1970, see section 206(b) of Pub. L. 91-405, summarized in a note set out under section 25 of Title 2, The Congress.

## CANAL ZONE

Applicability of section to Canal Zone, see section 14 of this title.

## CROSS REFERENCES

Minor offenses tried by United States magistrates as excluding offenses punishable under this section, see section 3401 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title.

## § 595. Interference by administrative employees of Federal, State, or Territorial Governments.

Whoever, being a person employed in any administrative position by the United States, or by any department or agency thereof, or by the District of Columbia or any agency or instrumentality thereof, or by any State, Territory, or Possession of the United States, or any political subdivision, municipality, or agency thereof, or agency of such political subdivision or municipality (including any corporation owned or controlled by any State, Territory, or Possession of the United States or by any such political subdivision, municipality, or agency), in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, uses his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

This section shall not prohibit or make unlawful any act by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any state or political subdivision thereof, or by the District of Columbia or by any Territory or Possession of the United States; or by any recognized religious, philanthropic or cultural organization. (June 25, 1948, ch. 645, 62 Stat. 720; Sept. 22, 1970, Pub. L. 91-405, title II, § 204(d) (6), 84 Stat. 853.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—Based on title 18, U. S. C., 1940 ed., §§ 61a, 61g, 61n, 61s, 61u (Aug. 2, 1939, 11:50 a. m., E. S. T., ch. 410, §§ 2, 8, 53 Stat. 1147, 1148; July 19, 1940, ch. 640, § 1, 54 Stat. 767; Aug. 2, 1939, ch. 410, §§ 14, 19, as added July 19, 1940, ch. 640, § 4, 54 Stat. 767; Aug. 2, 1939, ch. 410, § 21, as added Oct. 24, 1942, ch. 620, 56 Stat. 986).

This section consolidates sections 61s, 61n, and 61g with 61a, all of title 18, U. S. C., 1940 ed., in first paragraph, and incorporates section 61u as second paragraph.

Words "or agency thereof" and words "or any department or agency thereof" were inserted to remove any possible ambiguity as to scope of section. (See definitions of department and agency in section 6 of this title.)

Words "or by the District of Columbia or any agency or instrumentality thereof" were inserted upon authority of section 61n of title 18, U. S. C., 1940 ed., which provided that for the purposes of this section, "persons employed in the government of the District of Columbia shall be deemed to be employed in the executive branch of the Government of the United States."

After "State" the words "Territory, or Possession of the United States" were inserted in two places upon authority of section 61s of title 18, U. S. C., 1940 ed., which

defined "State," as used in this section, as "any State, Territory, or possession of the United States."

The punishment provision was derived from section 61g of title 18, U. S. C., 1940 ed., which, by reference, made this punishment applicable to this section.

The second paragraph was derived from section 61u of title 18, U. S. C., 1940 ed., which made its provisions applicable to this section by reference.

Changes were made in phraseology.

## AMENDMENTS

1970—Pub. L. 91-405 substituted reference to Delegate from District of Columbia or Resident Commissioner for Delegate or Resident Commissioner from any Territory or Possession.

## EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-405 effective on Sept. 22, 1970, see section 206(b) of Pub. L. 91-405, summarized in a note set out under section 25 of Title 2, The Congress.

## CANAL ZONE

Applicability of section to Canal Zone, see section 14 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 12 section 1457.

## § 596. Polling armed forces.

Whoever, within or without the Armed Forces of the United States, polls any member of such forces, either within or without the United States, either before or after he executes any ballot under any Federal or State law, with reference to his choice of or his vote for any candidate, or states, publishes, or releases any result of any purported poll taken from or among the members of the Armed Forces of the United States or including within it the statement of choice for such candidate or of such votes cast by any member of the Armed Forces of the United States, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

The word "poll" means any request for information, verbal or written, which by its language or form of expression requires or implies the necessity of an answer, where the request is made with the intent of compiling the result of the answers obtained, either for the personal use of the person making the request, or for the purpose of reporting the same to any other person, persons, political party, unincorporated association or corporation, or for the purpose of publishing the same orally, by radio, or in written or printed form. (June 25, 1948, ch. 645, 62 Stat. 720.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—Based on section 344 of title 50, U. S. C., 1940 ed., War and National Defense (Sept. 16, 1942, ch. 561, title III, § 314, as added Apr. 1, 1944, ch. 150, 58 Stat. 146).

Changes in phraseology were made.

## § 597. Expenditures to influence voting.

Whoever makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate; and

Whoever solicits, accepts, or receives any such expenditure in consideration of his vote or the withholding of his vote—

Shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than \$10,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, 62 Stat. 721.)



## Criminal Code Provisions, Title 18 U.S.C. (contd).

## LEGISLATIVE HISTORY

*Reviser's Note.*—Based on sections 250, 252, of title 2, U. S. C., 1940 ed., The Congress (Feb. 28, 1925, ch. 364, title III, §§ 311, 314, 43 Stat. 1073, 1074).

This section consolidates the provisions of sections 250 and 252 of title 2, U. S. C., 1940 ed., The Congress.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

The punishment provisions of section 252 of title 2, U. S. C., 1940 ed., The Congress, were incorporated at end of section upon authority of reference in such section making them applicable to this section.

Words "or both" were added to conform to the almost universal formula of the punishment provisions of this title.

Changes were made in phraseology.

## CROSS REFERENCES

Definitions of terms applicable to this section, see section 591 of this title.

Minor offenses tried by United States magistrates as excluding offenses punishable under this section, see section 3401 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 591 of this title.

## §598. Coercion by means of relief appropriations.

Whoever uses any part of any appropriation made by Congress for work relief, relief, or for increasing employment by providing loans and grants for public-works projects, or exercises or administers any authority conferred by any Appropriation Act for the purpose of interfering with, restraining, or coercing any individual in the exercise of his right to vote at any election, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 721.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—Based on title 18, U. S. C., 1940 ed., §§ 61f, 61g (Aug. 2, 1939, 11:50 a. m., E. S. T., ch. 410, §§ 7, 8, 53 Stat. 1148).

This section consolidates sections 61f and 61g of title 18, U. S. C., 1940 ed., with changes of phraseology necessary to effect consolidation.

The punishment provision was derived from section 61g of title 18, U. S. C., 1940 ed., which, by reference, was made applicable to this section.

## CANAL ZONE

Applicability of section to Canal Zone, see section 14 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title.

## §599. Promise of appointment by candidate.

Whoever, being a candidate, directly or indirectly promises or pledges the appointment, or the use of his influence or support for the appointment of any person to any public or private position or employment, for the purpose of procuring support in his candidacy shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than \$10,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, 62 Stat. 721.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—Based on sections 249, 252, of title 2, U. S. C., 1940 ed., The Congress (Feb. 28, 1925, ch. 368, title III, §§ 310, 314, 43 Stat. 1073, 1074).

This section consolidates the provisions of sections 249 and 252 of title 2, U. S. C., 1940 ed., The Congress, with changes in arrangement and phraseology necessary to effect consolidation.

Words "or both" were added to conform to the almost universal formula of the punishment provisions of this title.

## CROSS REFERENCES

Definitions of terms applicable to this section, see section 591 of this title.

Minor offenses tried by United States magistrates as excluding offenses punishable under this section, see 3401 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 591 of this title.

## §600. Promise of employment or other benefit for political activity.

Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (As amended Feb. 7, 1972, Pub. L. 92-225, title II, § 202, 86 Stat. 9.)

## AMENDMENTS

1972—Pub. L. 92-225 deleted reference to "work," following "position," inserted reference to "contract, appointment," following "compensation," and to "or any special consideration in obtaining any such benefit," following "Act of Congress," and substituted "in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office" for "in any election".

## §601. Deprivation of employment or other benefit for political activity.

Whoever, except as required by law, directly or indirectly, deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, on account of race, creed, color, or any political activity, support of, or opposition to any candidate or any political party in any election, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 721.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—Based on title 18, U. S. C., 1940 ed., §§ 61c, 61g (Aug. 2, 1939, 11:50 a. m., E. S. T., ch. 410, §§ 4, 8, 53 Stat. 1147, 1148).

This section consolidates sections 61c and 61g of title 18, U. S. C., 1940 ed.

The words "except as required by law" were used as sufficient to cover the reference to the exception made to the provisions of subsection (b), section 61h of title 18, U. S. C., 1940 ed., which expressly prescribes the circumstances under which a person may be lawfully deprived of his employment and compensation therefor.

Changes were made in phraseology.

## CANAL ZONE

Applicability of section to Canal Zone, see section 14 of this title.



## Title 42 U.S.C. The Public Health and Welfare

## b). Voting Rights Title 42 U.S.C.

## § 1971. Voting rights.

(a) Race, color, or previous condition not to affect right to vote; uniform standards for voting qualifications; errors or omissions from papers; literacy tests; agreements between Attorney General and State or local authorities; definitions.

(1) All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

(2) No person acting under color of law shall—

(A) in determining whether any individual is qualified under State law or laws to vote in any election, apply any standard, practice, or procedure different from the standards, practices, or procedures applied under such law or laws to other individuals within the same county, parish, or similar political subdivision who have been found by State officials to be qualified to vote;

(B) deny the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election; or

(C) employ any literacy test as a qualification for voting in any election unless (i) such test is administered to each individual and is conducted wholly in writing, and (ii) a certified copy of the test and of the answers given by the individual is furnished to him within twenty-five days of the submission of his request made within the period of time during which records and papers are required to be retained and preserved pursuant to sections 1974 to 1974e of this title: *Provided, however*, That the Attorney General may enter into agreements with appropriate State or local authorities that preparation, conduct, and maintenance of such tests in accordance with the provisions of applicable State or local law, including such special provisions as are necessary in the preparation, conduct, and maintenance of such tests for persons who are blind or otherwise physically handicapped, meet the purposes of this subparagraph and constitute compliance therewith.

(3) For purposes of this subsection—

(A) the term "vote" shall have the same meaning as in subsection (e) of this section;

(B) the phrase "literacy test" includes any test of the ability to read, write, understand, or interpret any matter.

(b) Intimidation, threats, or coercion.

No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

## Voting Rights, Title 42 U.S.C. (contd)

(c) Preventive relief; injunction; rebuttable literacy presumption; liability of United States for costs; State as party defendant.

Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, a civil action of other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. If in any such proceeding literacy is a relevant fact there shall be a rebuttable presumption that any person who has not been adjudged an incompetent and who has completed the sixth grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico where instruction is carried on predominantly in the English language, possesses sufficient literacy, comprehension, and intelligence to vote in any election. In any proceeding hereunder the United States shall be liable for costs the same as a private person. Whenever, in a proceeding instituted under this subsection any official of a State or subdivision thereof is alleged to have committed any act or practice constituting a deprivation of any right or privilege secured by subsection (a) of this section, the act or practice shall also be deemed that of the State and the State may be joined as a party defendant and, if, prior to the institution of such proceeding, such official has resigned or has been relieved of his office and no successor has assumed such office, the proceeding may be instituted against the State.

(d) Jurisdiction; exhaustion of other remedies.

The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

(e) Order qualifying person to vote; application; hearing; voting referees; transmittal of report and order; certificate of qualification; definitions.

In any proceeding instituted pursuant to subsection (c) of this section in the event the court finds that any person has been deprived on account of race or color of any right or privilege secured by subsection (a) of this section, the court shall upon request of the Attorney General and after each party has been given notice and the opportunity to be heard make a finding whether such deprivation was or is pursuant to a pattern or practice. If the court finds such pattern or practice, any person of such race or color resident within the affected area shall, for one year and thereafter until the court subsequently finds that such pattern or practice has ceased, be entitled, upon his application therefor, to an order declaring him qualified to vote, upon proof that at any election or elections (1) he is qualified under State law to vote, and (2) he has since such finding by the court been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not

qualified to vote by any person acting under color of law. Such order shall be effective as to any election held within the longest period for which such applicant could have been registered or otherwise qualified under State law at which the applicant's qualifications would under State law entitle him to vote.

Notwithstanding any inconsistent provision of State law or the action of any State officer or court, an applicant so declared qualified to vote shall be permitted to vote in any such election. The Attorney General shall cause to be transmitted certified copies of such order to the appropriate election officers. The refusal by any such officer with notice of such order to permit any person so declared qualified to vote to vote at an appropriate election shall constitute contempt of court.

An application for an order pursuant to this subsection shall be heard within ten days, and the execution of any order disposing of such application shall not be stayed if the effect of such stay would be to delay the effectiveness of the order beyond the date of any election at which the applicant would otherwise be enabled to vote.

The court may appoint one or more persons who are qualified voters in the judicial district, to be known as voting referees, who shall subscribe to the oath of office required by Revised Statutes, section 1757; to serve for such period as the court shall determine, to receive such applications and to take evidence and report to the court findings as to whether or not any election or elections (1) any such applicant is qualified under State law to vote, and (2) he has since the finding by the court heretofore specified been (a) deprived of or denied under color of law the opportunity to register to vote or otherwise to qualify to vote, or (b) found not qualified to vote by any person acting under color of law. In a proceeding before a voting referee, the applicant shall be heard ex parte at such times and places as the court shall direct. His statement under oath shall be prima facie evidence as to his age, residence, and his prior efforts to register or otherwise qualify to vote. Where proof of literacy or an understanding of other subjects is required by valid provisions of State law, the answer of the applicant, if written, shall be included in such report to the court; if oral, it shall be taken down stenographically and a transcription included in such report to the court.

Upon receipt of such report, the court shall cause the Attorney General to transmit a copy thereof to the State attorney general and to each party to such proceeding together with an order to show cause within ten days, or such shorter time as the court may fix, why an order of the court should not be entered in accordance with such report. Upon the expiration of such period, such order shall be entered unless prior to that time there has been filed with the court and served upon all parties a statement of exceptions to such report. Exceptions as to matters of fact shall be considered only if supported by a duly verified copy of a public record or by affidavit of persons having personal knowledge of such facts or by statements or matters contained in such report; those relating to matters of law shall be supported by an appropriate memorandum of law. The

## Voting Rights, Title 42 U.S.C. (contd).

issues of fact and law raised by such exceptions shall be determined by the court or, if the due and speedy administration of justice requires, they may be referred to the voting referee to determine in accordance with procedures prescribed by the court. A hearing as to an issue of fact shall be held only in the event that the proof in support of the exception disclose the existence of a genuine issue of material fact. The applicant's literacy and understanding of other subjects shall be determined solely on the basis of answers included in the report of the voting referee.

The court, or at its direction the voting referee, shall issue to each applicant so declared qualified a certificate identifying the holder thereof as a person so qualified.

Any voting referee appointed by the court pursuant to this subsection shall to the extent not inconsistent herewith have all the powers conferred upon a master by rule 53(c) of the Federal Rules of Civil Procedure. The compensation to be allowed to any persons appointed by the court pursuant to this subsection shall be fixed by the court and shall be payable by the United States.

Applications pursuant to this subsection shall be determined expeditiously. In the case of any application filed twenty or more days prior to an election which is undetermined by the time of such election, the court shall issue an order authorizing the applicant to vote provisionally: *Provided, however,* That such applicant shall be qualified to vote under State law. In the case of an application filed within twenty days prior to an election, the court, in its discretion, may make such an order. In either case the order shall make appropriate provision for the impounding of the applicant's ballot pending determination of the application. The court may take any other action, and may authorize such referee or such other person as it may designate to take any other action, appropriate or necessary to carry out the provisions of this subsection and to enforce its decrees. This subsection shall in no way be construed as a limitation upon the existing powers of the court.

When used in the subsection, the word "vote" includes all action necessary to make a vote effective including, but not limited to, registration or other action required by State law prerequisite to voting, casting a ballot, and having such ballot counted and included in the appropriate totals of votes cast with respect to candidates for public office and propositions for which votes are received in an election; the words "affected area" shall mean any subdivision of the State in which the laws of the State relating to voting are or have been to any extent administered by a person found in the proceeding to have violated subsection (a) of this section; and the words "qualified under State law" shall mean qualified according to the laws, customs, or usages of the State, and shall not, in any event, imply qualifications more stringent than those used by the persons found in the proceeding to have violated subsection (a) in qualifying persons other than those of the race or color against which the pattern or practice of discrimination was found to exist.

(f) Contempt; assignment of counsel; witnesses.

Any person cited for an alleged contempt under this Act shall be allowed to make his full defense by counsel learned in the law; and the court before which he is cited or tried, or some judge thereof, shall immediately, upon his request, assign to him such counsel, not exceeding two, as he may desire, who shall have free access to him at all reasonable hours. He shall be allowed, in his defense to make any proof that he can produce by lawful witnesses, and shall have the like process of the court to compel his witnesses to appear at his trial or hearing, as is usually granted to compel witnesses to appear on behalf of the prosecution. If such person shall be found by the court to be financially unable to provide for such counsel, it shall be the duty of the court to provide such counsel.

(g) Three-judge district court: hearing, determination, expedition of action, review by Supreme Court; single-judge district court: hearing, determination, expedition of action.

In any proceeding instituted by the United States in any district court of the United States under this section in which the Attorney General requests a finding of a pattern or practice of discrimination pursuant to subsection (e) of this section the Attorney General, at the time he files the complaint, or any defendant in the proceeding, within twenty days after service upon him of the complaint, may file with the clerk of such court a request that a court of three judges be convened to hear and determine the entire case. A copy of the request for a three-judge court shall be immediately furnished by such clerk to the chief judge of the circuit (or in his absence, the presiding circuit judge of the circuit) in which the case is pending. Upon receipt of the copy of such request it shall be the duty of the chief judge of the circuit or the presiding circuit judge, as the case may be, to designate immediately three judges in such circuit, of whom at least one shall be a circuit judge and another of whom shall be a district judge of the court in which the proceeding was instituted, to hear and determine such case, and it shall be the duty of the judges so designated to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited. An appeal from the final judgment of such court will lie to the Supreme Court.

In any proceeding brought under subsection (c) of this section to enforce subsection (b) of this section, or in the event neither the Attorney General nor any defendant files a request for a three-judge court in any proceeding authorized by this subsection, it shall be the duty of the chief judge of the district (or in his absence, the acting chief judge) in which the case is pending immediately to designate a judge in such district to hear and determine the case. In the event that no judge in the district is available to hear and determine the case, the chief of the circuit (or, in his absence, the acting chief judge of the district, or the acting chief judge, as the case may be, shall certify this fact to the chief judge judge) who shall then designate a district or circuit judge of the circuit to hear and determine the case.

## Voting Rights, Title 42 U.S.C. (contd.).

It shall be the duty of the judge designated pursuant to this section to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited. (R.S. § 2004; Sept. 9, 1957, Pub. L. 85-315, pt. IV, § 131, 71 Stat. 637; May 6, 1960, Pub. L. 86-449, title VI, § 501, 74 Stat. 90; July 2, 1964, Pub. L. 88-352, title I, § 101, 78 Stat. 241; Aug. 6, 1965, Pub. L. 89-110, § 15, 79 Stat. 445.)

## DERIVATION

Act May 31, 1870, ch. 114, § 1, 16 Stat. 140.

## REFERENCES IN TEXT

Revised Statutes, section 1757, referred to in subsec. (e), was repealed in the general revision of Title 5, and the provisions are now covered by section 3331 of Title 5, Government Organization and Employees.

This Act, referred to in subsec. (f), means Pub. L. 85-315, which is classified to this section and sections 1975-1975e and 1995 of this title, former section 295-1 of Title 5, and sections 1343 and 1861 of Title 28, Judiciary and Judicial Procedure.

## AMENDMENTS

1965—Subsecs. (a) and (c). Pub. L. 89-110, § 15(a), struck out "Federal" before "election" wherever appearing.

Subsec. (f). Pub. L. 89-110, § 15(b), redesignated former subsec. (g) as subsec. (f) and repealed former subsec. (f) which defined "Federal elections."

Subsec. (g). Pub. L. 89-110, § 15(b), redesignated former subsec. (h) as subsec. (g). Former subsec. (g) redesignated as (f).

Subsec. (h). Pub. L. 89-110, § 15(b), redesignated former subsec. (h) as subsec. (g). Former subsec. (g) redesignated as (f).

1964—Subsec. (a). Pub. L. 88-352, § 101(a) designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (c). Pub. L. 88-352, § 101(b), provided for a rebuttable literacy presumption when a person has not been adjudged an incompetent and has completed the sixth grade of his schooling.

Subsec. (f). Pub. L. 88-352, § 101(c), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 88-352, § 101(c), redesignated former subsec. (f) as (g).

Subsec. (h). Pub. L. 88-352, § 101(d), added subsec. (h).

1960—Subsec. (c). Pub. L. 86-449, § 501(b), permitted the State to be joined as a party defendant in cases where officials of a State or subdivision thereof are alleged to have committed acts or practices constituting a deprivation of any rights or privileges secured by subsection (a) of this section, and authorized commencement of the proceeding against the State where an official has resigned or has been relieved of his office and no successor has assumed such office.

Subsec. (e). Pub. L. 86-449, § 501(a), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 86-449, § 501(a), redesignated former subsec. (e) as (f).

1957—Pub. L. 85-315, § 131(a), substituted in catchline "Young rights" for "Race, color, or previous condition not to affect right to vote".

Subsec. (a). Pub. L. 85-315, § 131(b) designated existing provisions as subsec. (a).

Subsecs. (b)-(e). Pub. L. 85-315, § 131(c) added subsecs (b)-(e).

## SHORT TITLE

Section 1 of Pub. L. 86-449 provided that Pub. L. 86-449, which enacted sections 1974-1974e of this title and sections 837, 1074, and 1509 of Title 18, Crimes and Criminal Procedure, and amended this section and sections 241 and 640 of Title 20, Education, may be cited as the "Civil Rights Act of 1960."

## SEPARABILITY OF PROVISIONS

Section 701 of Pub. L. 86-449 provided that: "If any provision of this Act [adding sections 1974-1974e of this title and sections 837, 1074, and 1509 of Title 18, Crimes

and Criminal Procedure, and amending this section and sections 241 and 640 of Title 20, Education] is held invalid, the remainder of this Act shall not be affected thereby."

## § 1972. Interference with freedom of elections.

No officer of the Army, Navy, or Air Force of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State, or in any manner interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State. (R. S. § 2003.)

## DERIVATION

Act Feb. 25, 1865, ch. 52, § 1, 13 Stat. 437.

## CODIFICATION

Air Force was inserted to conform to section 207 (a), (f) of act July 26, 1947, ch. 343, title II, 61 Stat. 502, which established a separate Department of the Air Force, and Secretary of Defense Transfer Order No. 40 [App. A(10)], July 22, 1949, which transferred certain functions to the Air Force. Section 207 (a), (f) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 8011-8013 continued the military Department of the Air Force under the administrative supervision of a Secretary of the Air Force.

## SUBCHAPTER I-A.—ENFORCEMENT OF VOTING RIGHTS

## SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1973aa-4 of this title.

## § 1973. Denial or abridgement of right to vote on account of race or color through voting qualifications or prerequisites.

No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color. (Pub. L. 89-110, title I, § 2, Aug. 6, 1965, 79 Stat. 437.)

## SHORT TITLE

Section 1 of Pub. L. 91-285, June 22, 1970, 84 Stat. 314, provided: "That this Act [which designated existing provisions as Title I of Pub. L. 89-110 (classified to this subchapter), enacted subchapters I-B and I-C of this chapter, and amended sections 1973b(a), (b) and 1973c of this title] may be cited as the 'Voting Rights Act—Amendments of 1970'."

Section 1 of Pub. L. 89-110 provided that Pub. L. 89-110, comprising this subchapter and amending section 1971 of this title, shall be known as the "Voting Rights Act of 1965."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973j of this title.

## § 1973a. Proceeding to enforce the right to vote.

(a) Authorization by court for appointment of federal examiners.

Whenever the Attorney General institutes a proceeding under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court shall authorize the appointment of Federal examiners by the United States Civil Service Commission in accordance with section 1973d of this title to serve for such period of time and for such political subdivisions as the court shall determine is appropriate to enforce the guarantees of the fifteenth amendment (1) as part of

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any interlocutory order if the court determines that the appointment of such examiners is necessary to enforce such guarantees or (2) as part of any final judgment if the court finds that violations of the fifteenth amendment justifying equitable relief have occurred in such State or subdivision: *Provided*, That the court need not authorize the appointment of examiners if any incidents of denial or abridgement of the right to vote on account of race or color (1) have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

(b) Suspension of use of tests and devices which deny or abridge the right to vote.

If in a proceeding instituted by the Attorney General under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court finds that a test or device has been used for the purpose or with the effect of denying or abridging the right of any citizen of the United States to vote on account of race or color, it shall suspend the use of tests and devices in such State or political subdivisions as the court shall determine is appropriate and for such period as it deems necessary.

(c) Retention of jurisdiction to prevent commencement of new devices to deny or abridge the right to vote.

If in any proceeding instituted by the Attorney General under any statute to enforce the guarantees of the fifteenth amendment in any State or political subdivision the court finds that violations of the fifteenth amendment justifying equitable relief have occurred within the territory of such State or political subdivision, the court, in addition to such relief as it may grant, shall retain jurisdiction for such period as it may deem appropriate and during such period no voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect at the time the proceeding was commenced shall be enforced unless and until the court finds that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color: *Provided*, That such qualification, prerequisite, standard, practice, or procedure may be enforced if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the court's finding nor the Attorney General's failure to object shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. (Pub. L. 89-110, title I, § 3, Aug. 6, 1965, 79 Stat. 437.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973d, 1973f, 1973i, 1973j, 1973k of this title.

§ 1973b. Suspension of the use of tests or devices in determining eligibility to vote.

(a) Action by state or political subdivision for declaratory judgment of no denial or abridgement; three-judge district court; appeal to Supreme Court; retention of jurisdiction by three-judge court.

To assure that the right of citizens of the United States to vote is not denied or abridged on account of race or color, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under subsection (b) of this section or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the ten years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color: *Provided*, That no such declaratory judgment shall issue with respect to any plaintiff for a period of ten years after the entry of a final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the enactment of this subchapter, determining that denials or abridgments of the right to vote on account of race or color through the use of such tests or devices have occurred anywhere in the territory of such plaintiff.

An action pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of Title 28 and any appeal shall lie to the Supreme Court. The court shall retain jurisdiction of any action pursuant to this subsection for five years after judgment and shall reopen the action upon motion of the Attorney General alleging that a test or device has been used for the purpose or with the effect of denying or abridging the right to vote on account of race or color.

If the Attorney General determines that he has no reason to believe that any such test or device has been used during the ten years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color, he shall consent to the entry of such judgment.

(b) Required factual determinations necessary to allow suspension of compliance with tests and devices; publication in Federal Register.

The provisions of subsection (a) of this section shall apply in any State or in any political subdivision of a state which (1) the Attorney General determines maintained on November 1, 1964, any test or device, and with respect to which (2) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per centum of such persons voted in the presidential election of November 1964. On and after August 6, 1970, in addition to any State or political subdivision of a State determined to be subject to subsection (a) of this section pursuant to the



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previous sentence, the provisions of subsection (a) of this section shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1968, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1968, or that less than 50 per centum of such persons voted in the presidential election of November 1968.

A determination or certification of the Attorney General or of the Director of the Census under this section or under section 1973d or 1973k of this title shall not be reviewable in any court and shall be effective upon publication in the Federal Register.

## (c) Definition of test or device.

The phrase "test or device" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

## (d) Required frequency, continuation and probable recurrence of incidents of denial or abridgement to constitute forbidden use of tests or devices.

For purposes of this section no State or political subdivision shall be determined to have engaged in the use of tests or devices for the purpose or with the effect of denying or abridging the right to vote on account of race or color if (1) incidents of such use have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

## (e) Completion of requisite grade level of education in American-flag schools in which the predominant classroom language was other than English.

(1) Congress hereby declares that to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language.

(2) No person who demonstrates that he has successfully completed the sixth primary grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or interpret any matter in the English language, except that in States in which State law provides that a different level of education is presumptive of literacy, he shall demonstrate that he has successfully completed an equivalent level of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language

was other than English. (Pub. L. 89-110, title I, § 4, Aug. 6, 1965, 79 Stat. 438; Pub. L. 91-285, §§ 3, 4, June 22, 1970, 84 Stat. 315.)

## REFERENCES IN TEXT

The enactment of this subchapter, referred to in subsec. (a), means the enactment of Pub. L. 89-110, which was approved on Aug. 6, 1965.

## AMENDMENTS

1970—Subsec. (a). Pub. L. 91-285, § 3, substituted "ten" for "five" years in the first and third paragraphs.

Subsec. (b). Pub. L. 91-285, § 4, added provision respecting the making of factual determinations concerning maintenance of any test or device on Nov. 1, 1968, registration of less than 50 per centum of persons of voting age on Nov. 1, 1968, and voting by less than 50 per centum of such persons in the presidential election of November 1968.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973c, 1973d, 1973h, 1973j, 1973l, 1973aa of this title.

§ 1973c. Alteration of voting qualifications and procedures; action by state or political subdivision for declaratory judgment of no denial or abridgement of voting rights; three-judge district court; appeal to Supreme Court.

Whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) based upon determinations made under the first sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the second sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968, such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: *Provided*, That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, except that neither the Attorney General's failure to object nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of Title 28 and any appeal

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shall lie to the Supreme Court. (Pub. L. 89-110, title I, § 5, Aug. 6, 1965, 79 Stat. 439; Pub. L. 91-285, § 5, June 22, 1970, 84 Stat. 315.)

## AMENDMENTS

1970—Pub. L. 91-285 inserted "based upon determinations made under the first sentence of section 1973b(b) of this title" following "section 1973b(a) of this title" and "or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b(a) of this title based upon determinations made under the second sentence of section 1973b(b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968," after "1964."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973j, 1973l of this title.

## § 1973d. Federal voting examiners; appointment.

Whenever (a) a court has authorized the appointment of examiners pursuant to the provisions of section 1973a(a) of this title, or (b) unless a declaratory judgment has been rendered under section 1973b(a) of this title, the Attorney General certifies with respect to any political subdivision named in, or included within the scope of, determinations made under section 1973b(b) of this title that (1) he has received complaints in writing from twenty or more residents of such political subdivision alleging that they have been denied the right to vote under color of law on account of race or color, and that he believes such complaints to be meritorious, or (2) that in his judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to him to be reasonably attributable to violations of the fifteenth amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the fifteenth amendment), the appointment of examiners is otherwise necessary to enforce the guarantees of the fifteenth amendment, the Civil Service Commission shall appoint as many examiners for such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such examiners, hearing officers provided for in section 1973g(a) of this title and other persons deemed necessary by the Commission to carry out the provisions and purposes of this subchapter shall be appointed, compensated, and separated without regard to the provisions of any statute administered by the Civil Service Commission, and service under this subchapter shall not be considered employment for the purposes of any statute administered by the Civil Service Commission, except the provisions of section 9 of the Act of August 2, 1939, as amended, prohibiting partisan political activity: *Provided*, That the Commission is authorized, after consulting the head of the appropriate department or agency, to designate suitable persons in the official service of the United States, with their consent, to serve in these positions. Examiners and hearing officers shall have the power to administer oaths. (Pub. L. 89-110, title I, § 6, Aug. 6, 1965, 79 Stat. 439.)

## REFERENCES IN TEXT

Section 9 of the Act of August 2, 1939, as amended, referred to in the text, was repealed in the general revision of Title 5 and the provisions are now covered by sections 7324 and 7325 of Title 5, Government Organization and Employees.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973a, 1973b, 1973i, 1973k of this title.

## § 1973e. Examination of applicants for registration.

(a) Form of application; requisite allegation of non-registration.

The examiners for each political subdivision shall, at such places as the Civil Service Commission shall by regulation designate, examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote.

(b) Placement of eligible voters on official lists; transmittal of lists.

Any person whom the examiner finds, in accordance with instructions received under section 1973g(b) of this title, to have the qualifications prescribed by State law not inconsistent with the Constitution and laws of the United States shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 1973g(a) of this title and shall not be the basis for a prosecution under section 1973j of this title. The examiner shall certify and transmit such list, and any supplements as appropriate, at least once a month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State, and any such lists and supplements thereto transmitted during the month shall be available for public inspection on the last business day of the month and in any event not later than the forty-fifth day prior to any election. The appropriate State or local election official shall place such names on the official voting list. Any person whose name appears on the examiner's list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d) of this section: *Provided*, That no person shall be entitled to vote in any election by virtue of this subchapter unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) Certificate of eligibility.

The examiner shall issue to each person whose name appears on such a list a certificate evidencing his eligibility to vote.

(d) Removal of names from list by examiners.

A person whose name appears on such a list shall be removed therefrom by an examiner if (1) such person has been successfully challenged in accordance with the procedure prescribed in section 1973g of this title, or (2) he has been determined by an examiner to have lost his eligibility to vote under



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State law not inconsistent with the Constitution and the laws of the United States. (Pub. L. 89-110, title I, § 7, Aug. 6, 1965, 79 Stat. 440.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973j of this title.

§ 1973f. Observers at elections; assignment; duties; reports.

Whenever an examiner is serving under this subchapter in any political subdivision, the Civil Service Commission may assign, at the request of the Attorney General, one or more persons, who may be officers of the United States, (1) to enter and attend at any place for holding an election in such subdivision for the purpose of observing whether persons who are entitled to vote are being permitted to vote, and (2) to enter and attend at any place for tabulating the votes cast at any election held in such subdivision for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated. Such persons so assigned shall report to an examiner appointed for such political subdivision, to the Attorney General, and if the appointment of examiners has been authorized pursuant to section 1973a(a) of this title, to the court. (Pub. L. 89-110, title I, § 8, Aug. 6, 1965, 79 Stat. 441.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973i of this title.

§ 1973g. Challenges to eligibility listings.

(a) Filing of challenge; supplementary affidavits; service upon person challenged; hearing; review.

Any challenge to a listing on an eligibility list prepared by an examiner shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if filed at such office within the State as the Civil Service Commission shall by regulation designate, and within ten days after the listing of the challenged person is made available for public inspection, and if supported by (1) the affidavits of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and (2) a certification that a copy of the challenge and affidavits have been served by mail or in person upon the person challenged at his place of residence set out in the application. Such challenge shall be determined within fifteen days after it has been filed. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the person petitioning for review but no decision of a hearing officer shall be reversed unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

(b) Rules and regulations by Civil Service Commission.

The times, places, procedures, and form for application and listing pursuant to this subchapter and removals from the eligibility lists shall be prescribed by regulations promulgated by the Civil

Service Commission and the Commission shall, after consultation with the Attorney General, instruct examiners concerning applicable State law not inconsistent with the Constitution and laws of the United States with respect to (1) the qualifications required for listing, and (2) loss of eligibility to vote.

(c) Subpena power of Civil Service Commission; contempt.

Upon the request of the applicant or the challenger or on its own motion the Civil Service Commission shall have the power to require by subpena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter pending before it under the authority of this section. In case of contumacy or refusal to obey a subpena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a hearing officer, there to produce pertinent, relevant, and non-privileged documentary evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof. (Pub. L. 89-110, title I, § 9, Aug. 6, 1965, 79 Stat. 441.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973d, 1973e, 1973i, 1973j of this title.

§ 1973h. Poll taxes.

(a) Congressional finding and declaration of policy against enforced payment of poll taxes as a device to impair voting rights.

The Congress finds that the requirement of the payment of a poll tax as a precondition to voting (i) precludes persons of limited means from voting or imposes unreasonable financial hardship upon such persons as a precondition to their exercise of the franchise, (ii) does not bear a reasonable relationship to any legitimate State interest in the conduct of elections, and (iii) in some areas has the purpose or effect of denying persons the right to vote because of race or color. Upon the basis of these findings, Congress declares that the constitutional right of citizens to vote is denied or abridged in some areas by the requirement of the payment of a poll tax as a precondition to voting.

(b) Authority of Attorney General to institute actions for relief against enforcement of poll tax requirement.

In the exercise of the powers of Congress under section 5 of the fourteenth amendment and section 2 of the fifteenth amendment, the Attorney General is authorized and directed to institute forthwith in the name of the United States such actions, including actions against States or political subdivisions, for declaratory judgment or injunctive relief against the enforcement of any requirement of the payment

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of a poll tax as a precondition to voting, or substitute therefor enacted after November 1, 1964, as will be necessary to implement the declaration of subsection (a) of this section and the purposes of this section.

(c) Jurisdiction of three-judge district courts; appeal to Supreme Court.

The district courts of the United States shall have jurisdiction of such actions which shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of Title 28 and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

(d) Post-payment of poll taxes in the event of a judicial declaration of constitutionality.

During the pendency of such actions, and thereafter if the courts, notwithstanding this action by the Congress, should declare the requirement of the payment of a poll tax to be constitutional, no citizen of the United States who is a resident of a State or political subdivision with respect to which determinations have been made under section 1973b(b) of this title and a declaratory judgment has not been entered under section 1973b(a) of this title, during the first year he becomes otherwise entitled to vote by reason of registration by State or local officials or listing by an examiner, shall be denied the right to vote for failure to pay a poll tax if he tenders payment of such tax for the current year to an examiner or to the appropriate State or local official at least forty-five days prior to election, whether or not such tender would be timely or adequate under State law. An examiner shall have authority to accept such payment from any person authorized by this subchapter to make an application for listing, and shall issue a receipt for such payment. The examiner shall transmit promptly any such poll tax payment to the office of the State or local official authorized to receive such payment under State law, together with the name and address of the applicant. (Pub. L. 89-110, title I, § 10, Aug. 6, 1965, 79 Stat. 442.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1973j of this title.

## § 1973i. Prohibited acts.

(a) Failure or refusal to permit casting or tabulation of vote.

No person acting under color of law shall fail or refuse to permit any person to vote who is entitled to vote under any provision of this subchapter or is otherwise qualified to vote, or willfully fail or refuse to tabulate, count, and report such person's vote.

(b) Intimidation, threats, or coercion.

No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for urging or aiding any person to vote or attempt to vote, or intimidate, threaten, or coerce any person for exercising any

powers or duties under section 1973a(a), 1973d, 1973f, 1973g, 1973h or 1973j(e) of this title.

(c) False information in registering or voting; penalties.

Whoever knowingly or willfully gives false information as to his name, address or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than \$10,000 or imprisoned not more than five years, or both: *Provided, however*, That this provision shall be applicable only to general, special, or primary elections held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, or Resident Commissioner of the Commonwealth of Puerto Rico.

(d) Falsification or concealment of material facts or giving of false statements in matters within jurisdiction of examiners or hearing officers; penalties.

Whoever, in any matter within the jurisdiction of an examiner or hearing officer knowingly and willfully falsifies or conceals a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both. (Pub. L. 89-110, title I, § 11, Aug. 6, 1965, 79 Stat. 443; Pub. L. 91-405, title II, § 204(e), Sept. 22, 1970, 84 Stat. 853.)

## AMENDMENTS

1970—Subsec. (c). Pub. L. 91-405 substituted reference to Delegate from District of Columbia for Delegates or Commissioners from territories or possessions.

## EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-405 effective Sept. 22, 1970, see section 206(b) of Pub. L. 91-405, summarized in a note set out under section 25 of Title 2, The Congress.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973j, 1973aa-1 of this title.

§ 1973j. Same; civil and criminal sanctions.

(a) Depriving or attempting to deprive persons of secured rights.

Whoever shall deprive or attempt to deprive any person of any right secured by section 1973; 1973a, 1973b, 1973c, 1973e, or 1973h of this title or shall violate section 1973i(a) of this title, shall be fined not more than \$5,000, or imprisoned not more than five years, or both.

(b) Destroying, defacing, mutilating, or altering ballots or official voting records.

Whoever, within a year following an election in a political subdivision in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot which has been cast in such election, or (2) alters any official record of voting in such election tabulated

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from a voting machine or otherwise, shall be fined not more than \$5,000, or imprisoned not more than five years, or both.

(c) Conspiring to violate or interfere with secured rights.

Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 1973, 1973a, 1973b, 1973c, 1973e, 1973h, or 1973i(a) of this title shall be fined not more than \$5,000, or imprisoned not more than five years, or both.

(d) Civil action by Attorney General for preventive relief; injunctive and other relief.

Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 1973, 1973a, 1973b, 1973c, 1973e, 1973h, 1973i, or subsection (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, an action for preventive relief, including an application for a temporary or permanent injunction, restraining order, or other order, and including an order directed to the State and State or local election officials to require them (1) to permit persons listed under this subchapter to vote and (2) to count such votes.

(e) Proceeding by Attorney General to enforce the counting of ballots of registered and eligible persons who are prevented from voting.

Whenever in any political subdivision in which there are examiners appointed pursuant to this subchapter any persons allege to such an examiner within forty-eight hours after the closing of the polls that notwithstanding (1) their listing under this subchapter or registration by an appropriate election official and (2) their eligibility to vote, they have not been permitted to vote in such election, the examiner shall forthwith notify the Attorney General if such allegations in his opinion appear to be well founded. Upon receipt of such notification, the Attorney General may forthwith file with the district court an application for an order providing for the marking, casting, and counting of the ballots of such persons and requiring the inclusion of their votes in the total vote before the results of such election shall be deemed final and any force or effect given thereto. The district court shall hear and determine such matters immediately after the filing of such application. The remedy provided in this subsection shall not preclude any remedy available under State or Federal law.

(f) Jurisdiction of district courts; exhaustion of administrative or other remedies unnecessary.

The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether a person asserting rights under the provisions of this subchapter shall have exhausted any administrative or other remedies that may be provided by law. (Pub. L. 89-110, title I, § 12, Aug. 6, 1965, 79 Stat. 443; Pub. L. 90-284, title I, § 103(c), Apr. 11, 1968, 82 Stat. 75.)

## AMENDMENTS

1968—Subsecs. (a), (c). Pub. L. 90-284 struck out reference to violation of section 1973i(b) of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973e, 1973i of this title.

§ 1973k. Termination of listing procedures; basis for termination; survey or census by Director of the Census.

Listing procedures shall be terminated in any political subdivision of any State (a) with respect to examiners appointed pursuant to clause (b) of section 1973d of this title whenever the Attorney General notifies the Civil Service Commission, or whenever the District Court for the District of Columbia determines in an action for declaratory judgment brought by any political subdivision with respect to which the Director of the Census has determined that more than 50 per centum of the nonwhite persons of voting age residing therein are registered to vote, (1) that all persons listed by an examiner for such subdivision have been placed on the appropriate voting registration roll, and (2) that there is no longer reasonable cause to believe that persons will be deprived of or denied the right to vote on account of race or color in such subdivision, and (b), with respect to examiners appointed pursuant to section 1973a(a) of this title, upon order of the authorizing court. A political subdivision may petition the Attorney General for the termination of listing procedures under clause (a) of this section, and may petition the Attorney General to request the Director of the Census to take such survey or census as may be appropriate for the making of the determination provided for in this section. The District Court for the District of Columbia shall have jurisdiction to require such survey or census to be made by the Director of the Census and it shall require him to do so if it deems the Attorney General's refusal to request such survey or census to be arbitrary or unreasonable. (Pub. L. 89-110, title I, § 13, Aug. 6, 1965, 79 Stat. 444.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973b, 1973i of this title.

§ 1973l. Enforcement proceedings.

(a) Criminal contempt.

All cases of criminal contempt arising under the provisions of this subchapter shall be governed by section 1995 of this title.

(b) Jurisdiction of courts for declaratory judgment, restraining orders, or temporary or permanent injunction.

No court other than the District Court for the District of Columbia or a court of appeals in any proceeding under section 1973g of this title shall have jurisdiction to issue any declaratory judgment pursuant to section 1973b or 1973c of this title or any restraining order or temporary or permanent injunction against the execution or enforcement of any provision of this subchapter or any action of any Federal officer or employee pursuant hereto.

(c) Definitions.

(1) The terms "vote" or "voting" shall include all action necessary to make a vote effective in any primary, special, or general election, including, but not limited to, registration, listing pursuant to this

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subchapter, or other action required by law prerequisite to voting, casting a ballot, and having such ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public or party office and propositions for which votes are received in an election.

(2) The term "political subdivision" shall mean any county or parish, except that where registration for voting is not conducted under the supervision of a county or parish, the term shall include any other subdivision of a State which conducts registration for voting.

## (d) Subpenas.

In any action for a declaratory judgment brought pursuant to section 1973b or 1973c of this title, subpenas for witnesses who are required to attend the District Court for the District of Columbia may be served in any judicial district of the United States: *Provided*, That no writ of subpoena shall issue for witnesses without the District of Columbia at a greater distance than one hundred miles from the place of holding court without the permission of the District Court for the District of Columbia being first had upon proper application and cause shown. (Pub. L. 89-110, title I, § 14, Aug. 6, 1965, 79 Stat. 445.)

§ 1973m. Study by Attorney General and Secretary of Defense of discriminatory practices affecting voting rights of Armed Forces personnel.

## CODIFICATION

Section, Pub. L. 89-110, title I, § 16, Aug. 6, 1965, 79 Stat. 445, authorizing the Attorney General and the Secretary of Defense, jointly, to make a study to determine whether the laws or practices of any State or States impose preconditions to voting resulting in discrimination against Armed Forces personnel seeking to vote and to make a report to Congress not later than June 30, 1966, with the results of such study and recommendations for legislation, has been omitted as executed.

§ 1973n. Impairment of voting rights of persons holding current registration.

Nothing in this subchapter shall be construed to deny, impair, or otherwise adversely affect the right to vote of any person registered to vote under the law of any State or political subdivision. (Pub. L. 89-110, title I, § 17, Aug. 6, 1965, 79 Stat. 446.)

§ 1973o. Authorization of appropriations.

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this subchapter. (Pub. L. 89-110, title I, § 18, Aug. 6, 1965, 79 Stat. 446.)

§ 1973p. Separability of provisions.

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the remainder of the subchapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby. (Pub. L. 89-110, title I, § 19, Aug. 6, 1965, 79 Stat. 446.)

SUBCHAPTER I-B.—SUPPLEMENTAL PROVISIONS

§ 1973aa. Application of prohibition to other States; definition of "test or device".

(a) Prior to August 8, 1975, no citizen shall be denied, because of his failure to comply with any

test or device, the right to vote in any Federal, State, or local election conducted in an State or political subdivision of a State as to which the provisions of section 1973b(a) of this title are not in effect by reason of determinations made under section 1973b(b) of this title.

(b) As used in this section, the term "test or device" means any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class. (Pub. L. 89-110, title II, § 201, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 315.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973aa-2, 1973aa-3 of this title.

§ 1973aa-1. Residence requirements for voting.

(a) Congressional findings.

The Congress hereby finds that the imposition and application of the durational residency requirement as a precondition to voting for the offices of President and Vice President, and the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections—

(1) denies or abridges the inherent constitutional right of citizens to vote for their President and Vice President;

(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines;

(3) denies or abridges the privileges and immunities guaranteed to the citizens of each State under article IV, section 2, clause 1, of the Constitution;

(4) in some instances has the impermissible purpose or effect of denying citizens the right to vote for such officers because of the way they may vote;

(5) has the effect of denying to citizens the equality of civil rights, and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment; and

(6) does not bear a reasonable relationship to any compelling State interest in the conduct of presidential elections.

(b) Congressional declaration: durational residency requirement, abolishment; absentee registration and balloting standards, establishment.

Upon the basis of these findings, Congress declares that in order to secure and protect the above-stated rights of citizens under the Constitution, to enable citizens to better obtain the enjoyment of such rights, and to enforce the guarantees of the fourteenth amendment, it is necessary (1) to completely abolish the durational residency requirement as a precondition to voting for President and Vice President, and (2) to establish nationwide, uniform standards relative to absentee registration and absentee balloting in presidential elections.

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- (c) Prohibition of denial of right to vote because of durational residency requirement or absentee balloting.

No citizen of the United States who is otherwise qualified to vote in any election for President and Vice President shall be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to comply with any durational residency requirement of such State or political subdivision; nor shall any citizen of the United States be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election, if such citizen shall have complied with the requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election.

- (d) Registration: time for application; absentee balloting; time of application and return of ballots.

For the purposes of this section, each State shall provide by law for the registration or other means of qualification of all duly qualified residents of such State who apply, not later than thirty days immediately prior to any presidential election, for registration or qualification to vote for the choice of electors for President and Vice President or for President and Vice President in such election; and each State shall provide by law for the casting of absentee ballots for the choice of electors for President and Vice President, or for President and Vice President, by all duly qualified residents of such State who may be absent from their election district or unit in such State on the day such election is held and who have applied therefor not later than seven days immediately prior to such election and have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election.

- (e) Change of residence; voting in person or by absentee ballot in State of prior residence.

If any citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any election for President and Vice President has begun residence in such State or political subdivision after the thirtieth day next preceding such election and, for that reason, does not satisfy the registration requirements of such State or political subdivision he shall be allowed to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election, (1) in person in the State or political subdivision in which he resided immediately prior to his removal if he had satisfied, as of the date of his change of residence, the requirements to vote in that State or political subdivision, or (2) by absentee ballot in the State or political subdivision in which he resided immediately prior to his removal if he satisfies, but for his nonresident status and the reason for his absence, the requirements for absentee voting in that State or political subdivision.

- (f) Absentee registration requirement.

No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or

political subdivision in any election for President and Vice President shall be denied the right to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election because of any requirement of registration that does not include a provision for absentee registration.

- (g) State or local adoption of less restrictive voting practices.

Nothing in this section shall prevent any State or political subdivision from adopting less restrictive voting practices than those that are prescribed herein.

- (h) Definition of "State".

The term "State" as used in this section includes each of the several States and the District of Columbia.

- (i) False registration, and other fraudulent acts and conspiracies: application of penalty for false information in registering or voting.

The provisions of section 1973i(c) of this title shall apply to false registration, and other fraudulent acts and conspiracies, committed under this section. (Pub. L. 89-110, title II, § 202, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 316.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973aa-2, 1973aa-3 of this title.

- § 1973aa-2. Judicial relief; civil actions by the Attorney General; three-judge district court; appeal to Supreme Court.

Whenever the Attorney General has reason to believe that a State or political subdivision (a) has enacted or is seeking to administer any test or device as a prerequisite to voting in violation of the prohibition contained in section 1973aa of this title, or (b) undertakes to deny the right to vote in any election in violation of section 1973aa-1 of this title, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of Title 28, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate. An action under this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2282 of Title 28 and any appeal shall be to the Supreme Court. (Pub. L. 89-110, title II, § 203, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 317.)

## CROSS REFERENCES

Supreme Court jurisdiction, direct appeals from decisions of three-judge courts, see section 1253 of Title 28, Judiciary and Judicial Procedure.

- § 1973aa-3. Penalty.

Whoever shall deprive or attempt to deprive any person of any right secured by section 1973aa or 1973aa-1 of this title shall be fined not more than \$5,000, or imprisoned not more than five years, or both. (Pub. L. 89-110, title II, § 204, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 317.)

- § 1973aa-4. Separability of provisions.

If any provision of subchapters I-A to I-C of this chapter or the application of any provision thereof



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to any person or circumstance is judicially determined to be invalid, the remainder of subchapters I-A to I-C of this chapter or the application of such provision to other persons or circumstances shall not be affected by such determination. (Pub. L. 89-110, title II, § 205, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 318.)

#### SUBCHAPTER I-C.—REDUCING VOTING AGE TO EIGHTEEN IN FEDERAL, STATE, AND LOCAL ELECTIONS

##### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1973aa-4 of this title.

§ 1973bb. Congressional declaration and findings; prohibition of denial of right to vote because of age.

(a) The Congress finds and declares that the imposition and application of the requirement that a citizen be twenty-one years of age as a precondition to voting in any primary or in any election—

(1) denies and abridges the inherent constitutional rights of citizens eighteen years of age but not yet twenty-one years of age to vote—a particularly unfair treatment of such citizens in view of the national defense responsibilities imposed upon such citizens;

(2) has the effect of denying to citizens eighteen years of age but not yet twenty-one years of age the due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment of the Constitution; and

(3) does not bear a reasonable relationship to any compelling State interest.

(b) In order to secure the constitutional rights set forth in subsection (a) of this section, the Congress declares that it is necessary to prohibit the denial of the right to vote to citizens of the United States eighteen years of age or over. (Pub. L. 89-110, title III, § 301, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 318.)

§ 1973bb-1. Prohibition of denial of right to vote because of age.

Except as required by the Constitution, no citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any primary or in any election shall be denied the right to vote in any such primary or election on account of age if such citizen is eighteen year of age or older. (Pub. L. 89-110, title III, § 302, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 318.)

§ 1973bb-2. Enforcement.

(a) Civil actions by the Attorney General; jurisdiction; three-judge district court; appeal to Supreme Court; expedition of cases.

(1) In the exercise of the powers of the Congress under the necessary and proper clause of section 8, article I of the Constitution, and section 5 of the fourteenth amendment of the Constitution, the Attorney General is authorized and directed to institute in the name of the United States such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the purposes of this subchapter.

(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subchapter, which shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of Title 28, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing and determination thereof, and to cause the case to be in every way expedited.

(b) Penalty.

Whoever shall deny or attempt to deny any person of any right secured by this subchapter shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (Pub. L. 89-110, title III, § 303, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 318.)

##### CROSS REFERENCES

Supreme Court jurisdiction, direct appeals from decisions of three-judge courts, see section 1253 of Title 28, Judiciary and Judicial Procedure.

§ 1973bb-3. Definition of "State".

As used in this subchapter the term "State" includes the District of Columbia. (Pub. L. 89-110; title III, § 304, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 319.)

§ 1973bb-4. Effective date.

The provisions of this subchapter shall take effect with respect to any primary or election held on or after January 1, 1971. (Pub. L. 89-110, title III, § 305, as added Pub. L. 91-285, § 6, June 22, 1970, 84 Stat. 319.)

#### SUBCHAPTER II.—FEDERAL ELECTION RECORDS

##### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1971 of this title.

§ 1974. Retention and preservation of records and papers by officers of elections; deposit with custodian; penalty for violation.

Every officer of election shall retain and preserve, for a period of twenty-two months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election, except that, when required by law, such records and papers may be delivered to another officer of election and except that, if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (Pub. L. 86-449, title III, § 301, May 6, 1960, 74 Stat. 88.)

## Voting Rights, Title 42 U.S.C. (contd)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1974a, 1974b of this title.

§ 1974a. Theft, destruction, concealment, mutilation, or alteration of records or papers; penalties.

Any person, whether or not an officer of election or custodian, who willfully steals, destroys, conceals, mutilates, or alters any record or paper required by section 1974 of this title to be retained and preserved shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (Pub. L. 86-449, title III, § 302, May 6, 1960, 74 Stat. 88.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1971 of this title.

§ 1974b. Demand for records or papers by Attorney General or representative; statement of basis and purpose.

Any record or paper required by section 1974 of this title to be retained and preserved shall, upon demand in writing by the Attorney General or his representative directed to the person having custody, possession, or control of such record or paper, be made available for inspection, reproduction, and copying at the principal office of such custodian by the Attorney General or his representative. This demand shall contain a statement of the basis and the purpose therefor. (Pub. L. 86-449, title III, § 303, May 6, 1960, 74 Stat. 88.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1971, 1974c of this title.

§ 1974c. Disclosure of records or papers.

Unless otherwise ordered by a court of the United States, neither the Attorney General nor any employee of the Department of Justice, nor any other representative of the Attorney General, shall disclose any record or paper produced pursuant to this subchapter, or any reproduction or copy, except to Congress and any committee thereof, governmental agencies, and in the presentation of any case or proceeding before any court or grand jury. (Pub. L. 86-449, title III, § 304, May 6, 1960, 74 Stat. 88.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1971 of this title.

§ 1974d. Jurisdiction to compel production of records or papers.

The United States district court for the district in which a demand is made pursuant to section 1974b of this title, or in which a record or paper so demanded is located, shall have jurisdiction by appropriate process to compel the production of such record or paper. (Pub. L. 86-449, title III, § 305, May 6, 1960, 74 Stat. 88.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1971 of this title.

§ 1974e. Definitions.

As used in this subchapter, the term "officer of election" means any person who, under color of any Federal, State, Commonwealth, or local law, statute, ordinance, regulation, authority, custom, or usage, performs or is authorized to perform any function, duty, or task in connection with any application, registration, payment of poll tax, or other act requi-

site to voting in any general, special, or primary election at which votes are cast for candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico. (Pub. L. 86-449, title III, § 306, May 6, 1960, 74 Stat. 88.)



c.) Political Activitiy by Government Employees

(1) Federal Employees

Title 5 U.S.C. \_ Government Organization and Employees

§ 7321. Political contributions and services.

The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that an employee in an Executive agency or in the competitive service is not obliged, by reason of that employment, to contribute to a political fund or to render political service, and that he may not be removed or otherwise prejudiced for refusal to do so. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 525.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
-----	5 U.S.C. 633(2)5	Jan. 16, 1883, ch. 27, § 2(2) 5, 22 Stat. 404.

The authority of the President to prescribe rules is added on authority of former section 633(1), which is carried into section 3302 of this title.

The words "employee in an Executive agency or in the competitive service" are substituted for "person in the public service" for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3302 of this title.

§ 7322. Political use of authority or influence; prohibition.

The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that an employee in an Executive agency or in the competitive service may not use his official authority or influence to coerce the political action of a person or body. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 525.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
-----	5 U.S.C. 633(2) 6 (1st sentence).	Jan. 16, 1883, ch. 27, § 2(2) 6, 22 Stat. 404.

Political Activity by Government Employees, Title 5 U.S.C. (contd).

The authority of the President to prescribe rules is added on authority of former section 633(1), which is carried into section 3302 of this title.

The words "employee in an Executive agency or in the competitive service" are substituted for "person in said service" for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3302 of this title.

§ 7323. Political contributions; prohibition.

An employee in an Executive agency (except one appointed by the President, by and with the advice and consent of the Senate) 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. An employee who violates this section shall be removed from the service. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 525.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
----	5 U.S.C. 1180	Aug. 15, 1876, ch. 237, § 6, 19 Stat. 169.

The words "An employee of an Executive agency (except one appointed by the President, by and with the advice and consent of the Senate)" are substituted for "Any executive officer or employee of the United States not appointed by the President, with the advice and consent of the Senate," because of the definitions in sections 105 and 2105. The words "an employee, a Member of Congress, or an officer of a uniformed service" are substituted for "any other officer or employee of the Government". In the last sentence, the word "removed" is substituted for "at once discharged" because of the provisions of the Lloyd-La Follette Act, 37 Stat. 555, as amended, and the Veterans' Preference Act of 1944, 58 Stat. 387, as amended, which are carried into this title.

The criminal penalty appearing in the last 25 words of section 6 of the Act of Aug. 15, 1876, is omitted as superseded by sections 602 and 607 of title 18.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 7324. Influencing elections; taking part in political campaigns; prohibitions; exceptions.

(a) An employee in an Executive agency or an individual employed by the government of the District of Columbia may not—

- (1) use his official authority or influence for the purpose of interfering with or affecting the result of an election; or
- (2) take an active part in political management or in political campaigns.

For the purpose of this subsection, the phrase "an active part in political management or in political campaigns" means those acts of political management or political campaigning which were prohibited on the part of employees in the competitive service before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President.

(b) An employee or individual to whom subsection (a) of this section applies retains the right to vote as he chooses and to express his opinion on political subjects and candidates.

(c) Subsection (a) of this section does not apply to an individual employed by an educational or re-

search institution, establishment, agency, or system which is supported in whole or in part by the District of Columbia or by a recognized religious, philanthropic, or cultural organization.

(d) Subsection (a)(2) of this section does not apply to—

- (1) an employee paid from the appropriation for the office of the President;
- (2) the head or the assistant head of an Executive department or military department;
- (3) an employee appointed by the President, by and with the advice and consent of the Senate, who determines policies to be pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws;
- (4) the Commissioners of the District of Columbia; or
- (5) the Recorder of Deeds of the District of Columbia.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 525.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(a)	5 U.S.C. 1181(a) (1st 2 sentences).	Aug. 2, 1939, ch. 410, § 9(a) (1st 2 sentences), 53 Stat. 1148. Mar. 27, 1942, ch. 199, § 701, 56 Stat. 181.
	5 U.S.C. 118k-3 (1st 33 words).	July 19, 1940, ch. 640, § 4 "Sec. 14 (1st 33 words)", 54 Stat. 771.
	5 U.S.C. 118l (less applicability to 5 U.S.C. 118k).	July 19, 1940, ch. 640, § 4 "Sec. 15 (less applicability to § 12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, § 4, 54 Stat. 767)", 54 Stat. 771.
(b)	5 U.S.C. 1181(a) (3d sentence).	Aug. 2, 1939, ch. 410 § 9(a) 3d sentence, 53 Stat. 1148. July 19, 1940, ch. 640, § 2, 54 Stat. 767.
(c)	5 U.S.C. 118k-1 (less applicability to 5 U.S.C. 118k).	Oct. 24, 1942, ch. 620, "Sec. 21 (less applicability to § 12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, § 4, 54 Sta. 767)" 56 Stat. 986.
(d)	5 U.S.C. 1181(a) (4th sentence).	Aug. 2, 1939, ch. 410, § 9(a) (4th sentence), 53 Stat. 1148.
	5 U.S.C. 118k-3 (less 1st 33 words).	July 19, 1940, ch. 640, § 4 "Sec. 14 (less 1st 33 words)", 54 Stat. 771.

In subsection (a), the words "July 19, 1940" are substituted for "at the time this section takes effect". The amendment made by the Act of Mar. 27, 1942, is omitted because it expired Mar. 31, 1947, under section 1501 of that Act, as added June 29, 1946, ch. 526, § 1, 60 Stat. 345; 50A U.S.C. 645.

In subsection (c), the reference in the Act of Oct. 24, 1942, to section 2 of the Act of Aug. 2, 1939, is omitted as that section was repealed by the Act of June 25, 1948, ch. 645, § 21, 62 Stat. 867, and is now covered by section 595 of title 18.

In subsection (d), the exception for the President and Vice-President of the United States is omitted as unnecessary, as they are not "employees" under the definition in section 2105. In subsection (d)(2), the words "or military departments" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established

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the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this subsection, which was in effect in 1949, remained applicable to the head or assistant head of a military department by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7325, 7326, 7327 of this title.

The source of this section is referred to in title 42 section 1973d.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 7325. Penalties.

An employee or individual who violates section 7324 of this title shall be removed from his position, and funds appropriated for the position from which removed thereafter may not be used to pay the employee or individual. However, if the Civil Service Commission finds by unanimous vote that the violation does not warrant removal, a penalty of not less than 30 days' suspension without pay shall be imposed by direction of the Commission. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 526.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
---	5 U.S.C. 1181 (b) (less last proviso, and less last sentence).	Aug. 2, 1939, ch. 410, § 9(b), 53 Stat. 1148. Aug. 25, 1950, ch. 784, § 1 "Sec. 9(b) (less last proviso, and less last sentence)", 64 Stat. 475. Oct. 5, 1962, Pub. L. 87-753, 76 Stat. 750.

The word "removed" is substituted for "removed immediately" because of the provisions of the Veterans' Preference Act of 1944, 58 Stat. 387, as amended, which is carried into this title. The words "or office" are omitted as included in "position". The words "by any Act of Congress" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1308 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 7326. Nonpartisan political activity permitted.

Section 7324(a) (2) of this title does not prohibit political activity in connection with—

- (1) an election and the preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected; or
- (2) a question which is not specifically identified with a National or State political party or political party of a territory or possession of the United States.

(2) a question which is not specifically identified with a National or State political party or political party of a territory or possession of the United States.

For the purpose of this section, questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character, are deemed not specifically identified with a National or State political party or political party of a territory or possession of the United States. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 526.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
---	5 U.S.C. 118n (less applicability to 5 U.S.C. 118k(a)).	July 19, 1940, ch. 640, § 4 "Sec. 18 (less applicability to § 12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, § 4, 54 Stat. 767)", 54 Stat. 772.

The words "or political part of a territory or possession of the United States" are added on authority of former section 118k-2, which is carried into section 1501.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 7327. Political activity permitted; employees residing in certain municipalities.

(a) Section 7324(a) (2) of this title does not apply to an employee of The Alaska Railroad who resides in a municipality on the line of the railroad in respect to political activities involving that municipality.

(b) The Civil Service Commission may prescribe regulations permitting employees and individuals to whom section 7324 of this title applies to take an active part in political management and political campaigns involving the municipality or other political subdivision in which they reside, to the extent the Commission considers it to be in their domestic interest, when—

- (1) the municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia, or is a municipality in which the majority of voters are employed by the Government of the United States; and
- (2) the Commission determines that because of special or unusual circumstances which exist in the municipality or political subdivision it is in the domestic interest of the employees and individuals to permit that political participation.

(2) the Commission determines that because of special or unusual circumstances which exist in the municipality or political subdivision it is in the domestic interest of the employees and individuals to permit that political participation. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 526.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(a)	5 U.S.C. 1181 (a) (less 1st 4 sentences).	Aug. 8, 1946, ch. 904, 60 Stat. 937.
(b)	5 U.S.C. 118m	July 19, 1940, ch. 640 § 4 "Sec. 16", 54 Stat. 771.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

(2) Certain State and Local Employees

Title 5 U.S.C

Chapter 15.—POLITICAL ACTIVITY OF CERTAIN  
STATE AND LOCAL EMPLOYEES

Sec.

- 1501. Definitions.
- 1502. Influencing elections; taking part in political campaigns; prohibitions; exceptions.
- 1503. Nonpartisan political activity permitted.
- 1504. Investigations; notice of hearing.
- 1505. Hearings; adjudications; notice of determinations.
- 1506. Orders; withholding loans or grants; limitations.
- 1507. Subpenas and depositions.
- 1508. Judicial review.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1104, 1302 of this title and in title 42 section 2943.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in sections 31-1803, 31-1623 of the District of Columbia Code.

§ 1501. Definitions.

For the purpose of this chapter—

- (1) "State" means a State or territory or possession of the United States;
- (2) "State or local agency" means the executive branch of a State, municipality, or other political subdivision of a State, or an agency or department thereof;
- (3) "Federal agency" means an executive agency or other agency of the United States, but does not include a member bank of the Federal Reserve System;



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(4) "State or local officer or employee" means an individual employed by a State or local agency whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a Federal agency, but does not include—

(A) an individual who exercises no functions in connection with that activity; or

(B) an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by a State or political subdivision thereof, or by a recognized religious, philanthropic, or cultural organization; and

(5) the phrase "an active part in political management or in political campaigns" means those acts of political management or political campaigning which were prohibited on the part of employees in the competitive service before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 403.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(1)	5 U.S.C. 118k-2	July 19, 1940, ch. 640, § 4 "Sec. 19", 54 Stat. 772.
(2), (3)	5 U.S.C. 118k(f)	July 19, 1940, ch. 640, § 4 "Sec. 12(f)", 54 Stat. 770.
(4)	5 U.S.C. 118k(a) (1st 41 words), (e).	July 19, 1940, ch. 640, § 4 "Sec. 12(a) (1st 41 words), (e)", 54 Stat. 787, 770.
	5 U.S.C. 118k-1 (as applicable to 5 U.S.C. 118k).	Oct. 24, 1942, ch. 620 "Sec. 21 (as applicable to § 12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, § 4, 54 Stat. 767)", 56 Stat. 986.
(5)	5 U.S.C. 118f (as applicable to 5 U.S.C. 118k).	July 19, 1940, ch. 640, § 4 "Sec. 15 (as applicable to § 12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, § 4, 54 Stat. 767)", 54 Stat. 771.

In paragraph (4) (B), the words "or by any Territory or Territorial possession of the United States" are omitted in view of the definition of "State" in paragraph (1).

In paragraph (5), the words "July 19, 1940" are substituted for "at the time this section takes effect".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 1502. Influencing elections; taking part in political campaigns; prohibitions; exceptions.

(a) A State or local officer or employee may not—

(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

(2) directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes; or

(3) take an active part in political management or in political campaigns.

(b) A State or local officer or employee retains the right to vote as he chooses and to express his opinions on political subjects and candidates.

(c) Subsection (a) (3) of this section does not apply to—

(1) the Governor or Lieutenant Governor of a State or an individual authorized by law to act as Governor;

(2) the mayor of a city;

(3) a duly elected head of an executive department of a State or municipality who is not classified under a State or municipal merit or civil-service system; or

(4) an individual holding elective office.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 404.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
----	5 U.S.C. 118k (a) (less 1st 41 words).	July 19, 1940, ch. 640, § 4 "Sec. 12(a) (less 1st 41 words)", 54 Stat. 787.

In subsection (a), the term "State or local officer or employee", defined in section 1501, is substituted for the first 41 words of former section 118k(a). The words "any part of his salary or compensation" are omitted as included in "anything of value".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1503, 1504, 1505, 1506 of this title.

§ 1503. Nonpartisan political activity permitted.

Section 1502(a) (3) of this title does not prohibit political activity in connection with—

(1) an election and the preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected; or

(2) a question which is not specifically identified with a National or State political party.

For the purpose of this section, questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character, are deemed not specifically identified with a National or State political party. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 404.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
----	5 U.S.C. 118k (as applicable to 5 U.S.C. 118k(a)).	July 19, 1940, ch. 640, § 4 "Sec. 18 (as applicable to § 12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, § 4, 54 Stat. 767)", 54 Stat. 772.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 1504. Investigations; notice of hearing.

When a Federal agency charged with the duty of making a loan or grant of funds of the United States for use in an activity by a State or local officer or employee has reason to believe that the officer or employee has violated section 1502 of this title, it shall report the matter to the Civil Service Commission. On receipt of the report, or on receipt of other information which seems to the Commission to warrant an investigation, the Commission shall—

(1) fix a time and place for a hearing; and

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(2) send, by registered or certified mail, to the officer or employee charged with the violation and to the State or local agency employing him a notice setting forth a summary of the alleged violation and giving the time and place of the hearing.

The hearing may not be held earlier than 10 days after the mailing of the notice. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 405.)

HISTORICAL AND REVISION NOTES		
Derivation	U.S. Code	Revised Statutes and Statutes at Large
----	5 U.S.C. 118k (b) (1st and 2d sentences, and 4th through 17th words of 3d sentence).	July 19, 1940, ch. 640 § 4 "Sec. 12(b) (1st and 2d sentences, and 4th through 17th words of 3d sentence)", 54 Stat. 768. June 11, 1960, Pub. L. 86-507, § 1(1), 74 Stat. 200.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1505, 1508 of this title.

§ 1505. Hearings; adjudications; notice of determinations.

Either the State or local officer or employee or the State or local agency employing him, or both, are entitled to appear with counsel at the hearing under section 1504 of this title, and be heard. After this hearing, the Civil Service Commission shall—

- (1) determine whether a violation of section 1502 of this title has occurred;
- (2) determine whether the violation warrants the removal of the officer or employee from his office or employment; and
- (3) notify the officer or employee and the agency of the determination by registered or certified mail.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 405.)

HISTORICAL AND REVISION NOTES		
Derivation	U.S. Code	Revised Statutes and Statutes at Large
----	5 U.S.C. 118k (b) (3d sentence, less 4th through 17th words, and 4th sentence).	July 19, 1940, ch. 640, § 4 "Sec. 12(b) (3d sentence, less 4th through 17th words, and 4th sentence)", 54 Stat. 768. June 11, 1960, Pub. L. 86-507, § 1(1), 74 Stat. 200.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1508 of this title.

§ 1506. Orders; withholding loans or grants; limitations.

(a) When the Civil Service Commission finds—

- (1) that a State or local officer or employee has not been removed from his office or employment within 30 days after notice of a determination by the Commission that he has violated section 1502 of this title and that the violation warrants removal; or
- (2) that the State or local officer or employee has been removed and has been appointed within

18 months after his removal to an office or employment in the same State in a State or local agency which does not receive loans or grants from a Federal agency;

the Commission shall make and certify to the appropriate Federal agency an order requiring that agency to withhold from its loans or grants to the State or local agency to which notice was given an amount equal to 2 years' pay at the rate the officer or employee was receiving at the time of the violation. When the State or local agency to which appointment within 18 months after removal has been made is one that receives loans or grants from a Federal agency, the Commission order shall direct that the withholding be made from that State or local agency.

(b) Notice of the order shall be sent by registered or certified mail to the State or local agency from which the amount is ordered to be withheld. After the order becomes final, the Federal agency to which the order is certified shall withhold the amount in accordance with the terms of the order. Except as provided by section 1508 of this title, a determination of order of the Commission becomes final at the end of 30 days after mailing the notice of the determination or order.

(c) The Commission may not require an amount to be withheld from a loan or grant pledged by a State or local agency as security for its bonds or notes if the withholding of that amount would jeopardize the payment of the principal or interest on the bonds or notes. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 405.)

HISTORICAL AND REVISION NOTES		
Derivation	U.S. Code	Revised Statutes and Statutes at Large
----	5 U.S.C. 118k (b) (less 1st 4 sentences).	July 19, 1940, ch. 640, § 4 "Sec. 12(b) (less 1st 4 sentences)", 54 Stat. 768. June 11, 1960, Pub. L. 86-507, § 1(1), 74 Stat. 200.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1508 of this title.

§ 1507. Subpenas and depositions.

(a) The Civil Service Commission may require by subpoena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter before it as a result of this chapter. Any member of the Commission may sign subpoenas, and members of the Commission and its examiners when authorized by the Commission may administer oaths, examine witnesses, and receive evidence. The attendance of witnesses and the production of documentary evidence may be required from any place in the United States at the designated place of hearing. In case of disobedience to a subpoena, the Commission may invoke the aid of a court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. In case of contumacy or refusal to obey a subpoena issued to a person, the United States District Court within whose jurisdiction the inquiry is carried on may issue an order requiring him to

## Political Activity by Government Employees, Title 5 U.S.C. (contd).

appear before the Commission, or to produce documentary evidence if so ordered, or to give evidence concerning the matter in question; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(b) The Commission may order testimony to be taken by deposition at any stage of a proceeding or investigation before it as a result of this chapter. Depositions may be taken before an individual designated by the Commission and having the power to administer oaths. Testimony shall be reduced to writing by the individual taking the deposition, or under his direction, and shall be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence before the Commission as provided by this section.

(c) A person may not be excused from attending and testifying or from producing documentary evidence or in obedience to a subpoena on the ground that the testimony or evidence, documentary or otherwise required of him may tend to incriminate him or subject him to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify, or produce evidence, documentary or otherwise, before the Commission in obedience to a subpoena issued by it. A person so testifying is not exempt from prosecution and punishment for perjury committed in so testifying. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 406.)

## HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
----	5 U.S.C. 118k (d) (less 1st sentence).	July 19, 1940, ch. 640, § 4 "Sec. 12(d) (less 1st sentence)", 54 Stat. 769.

In subsection (a), the word "affirmation" is omitted as included in "oath" on authority of section 1 of title 1, United States Code. The title of the court is changed to conform to title 28.

In subsection (c), the prohibition is restated in positive form.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

## § 1508. Judicial review.

A party aggrieved by a determination or order of the Civil Service Commission under section 1504, 1505, or 1506 of this title may, within 30 days after the mailing of notice of the determination or order, institute proceedings for review thereof by filing a petition in the United States District Court for the district in which the State or local officer or employee resides. The institution of the proceedings does not operate as a stay of the determination or order unless—

- (1) the court specifically orders a stay; and
- (2) the officer or employee is suspended from his office or employment while the proceedings are pending.

A copy of the petition shall immediately be served on the Commission, and thereupon the Commission shall certify and file in the court a transcript of the record on which the determination or order was made. The court shall review the entire record including questions of fact and questions of law. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court

that the additional evidence may materially affect the result of the proceedings and that there were reasonable grounds for failure to adduce this evidence in the hearing before the Commission, the court may direct that the additional evidence be taken before the Commission in the manner and on the terms and conditions fixed by the court. The Commission may modify its findings of fact or its determination or order in view of the additional evidence and shall file with the court the modified findings, determination, or order; or the modified findings of fact, if supported by substantial evidence, are conclusive. The court shall affirm the determination or order, or the modified determination or order, if the court determines that it is in accordance with law. If the court determines that the determination or order, or the modified determination or order, is not in accordance with law, the court shall remand the proceeding to the Commission with directions either to make a determination or order determined by the court to be lawful or to take such further proceedings as, in the opinion of the court, the law requires. The judgment and decree of the court are final, subject to review by the appropriate United States Court of Appeals as in other cases, and the judgment and decree of the court of appeals are final, subject to review by the Supreme Court of the United States on certiorari or certification as provided by section 1254 of title 28. If a provision of this section is held to be invalid as applied to a party by a determination or order of the Commission, the determination or order becomes final and effective as to that party as if the provision had not been enacted. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 406.)

## HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
----	5 U.S.C. 118k (c)	July 19, 1940, ch. 640, § 4 "Sec. 12(c)", 54 Stat. 769.

Sections 346 and 347 of title 28 referred to in former section 118k(c) were repealed by the Act of June 25, 1948, ch. 648, § 39, 62 Stat. 862, and are now covered by section 1254 of title 28. The titles of the courts are changed to conform to title 28.

In the reference to filing a written petition, "written" is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1506 of this title.



B. Misconduct by Public Officials

1. Criminal Code Provisions

Title 18 U.S.C. - Chapter 11 - Bribery, Graft, and Conflicts of Interest

§201. Bribery of public officials and witnesses.

(a) For the purpose of this section:

"public official" means Member of Congress, the Delegate from the District of Columbia, or Resident Commissioner, either before or after he has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, or a juror; and

"person who has been selected to be a public official" means any person who has been nominated or appointed to be a public official, or has been nominated or appointed; and

"official act" means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in his official capacity, or in his place of trust or profit.

(b) Whoever, directly or indirectly, corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent—

- (1) to influence any official act; or
- (2) to influence such public official or person who has been selected to be a public official to

## Criminal Code Provisions, Title 18 U.S.C. (contd).

commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(3) to induce such public official or such person who has been selected to be a public official to do or omit to do any act in violation of his lawful duty, or

(c) Whoever, being a public official or person selected to be a public official, directly or indirectly, corruptly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself or for any other person or entity, in return for:

(1) being influenced in his performance of any official act; or

(2) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(3) being induced to do or omit to do any act in violation of his official duty; or

(d) Whoever, directly or indirectly, corruptly gives, offers, or promises anything of value to any person, or offers or promises such person to give anything of value to any other person or entity, with intent to influence the testimony under oath or affirmation of such first-mentioned person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or with intent to influence such person to absent himself therefrom; or

(e) Whoever, directly or indirectly, corruptly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself or for any other person or entity in return for being influenced in his testimony under oath or affirmation as a witness upon any such trial, hearing, or other proceeding, or in return for absenting himself therefrom—

Shall be fined not more than \$20,000 or three times the monetary equivalent of the thing of value, whichever is greater, or imprisoned for not more than fifteen years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

(f) Whoever, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly gives, offers, or promises anything of value to any public official, former public official, or person selected to be a public official, for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official; or

(g) Whoever, being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself for or because of any official act performed or to be performed by him; or

## Criminal Code Provisions, Title 18 U.S.C. (contd)

(h) Whoever, directly or indirectly, gives, offers, or promises anything of value to any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or for or because of his absence therefrom; or

(i) Whoever, directly or indirectly, asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself for or because of the testimony under oath or affirmation given or to be given by him as a witness upon any such trial, hearing, or other proceeding, or for or because of his absence therefrom—

Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both.

(j) Subsections (d), (e), (h), and (i) shall not be construed to prohibit the payment or receipt of witness fees provided by law, or the payment, by the party upon whose behalf a witness is called and receipt by a witness, of the reasonable cost of travel and subsistence incurred and the reasonable value of time lost in attendance at any such trial, hearing, or proceeding, or in the case of expert witnesses, involving a technical or professional opinion, a reasonable fee for time spent in the preparation of such opinion, and in appearing and testifying.

(k) The offenses and penalties prescribed in this section are separate from and in addition to those prescribed in sections 1503, 1504, and 1505 of this title. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1119, and amended Pub. L. 91-405, title II, § 204(d) (1), Sept. 22, 1970, 84 Stat. 853.)

## CODIFICATION

A prior section 201, act June 25, 1948, ch. 645, 62 Stat. 691, which prescribed penalties for anyone who offered or gave anything of value to an officer or other person to influence his decisions, was eliminated in the general amendment of this chapter by Pub. L. 87-849, and is substantially covered by revised section 201.

## PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former sections 201-213 of this title, prior to the general amendment of this chapter by Pub. L. 87-849.

## AMENDMENTS

1970—Subsec. (a). Pub. L. 91-405 included Delegate from District of Columbia in definition of "public official".

## EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-405 effective on Sept. 22, 1970, see section 206(b) of Pub. L. 91-405, summarized in a note set out under section 25 of Title 2, The Congress.

## EFFECTIVE DATE

Section 4 of Pub. L. 87-849 provided that: "This Act [adding sections 201-209, and 218 of this title, redesignating sections 214, 215, 217-222 as 210, 211, 212-217 of this title respectively, repealing sections 223, 282, 284, 434, and 1914 of this title, and section 69 of Title 5, and enacting provisions set out as notes under section 281 and 282 of this title] shall take effect ninety days after the date of its enactment [Oct. 23, 1962]."

EX. ORD. NO. 11222. STANDARDS OF ETHICAL CONDUCT FOR GOVERNMENT OFFICERS AND EMPLOYEES

Ex. Ord. No. 11222, May 8, 1965, 30 F.R. 6469, as amended by Ex. Ord. No. 11590, Apr. 23, 1971, 36 F.R. 7831, provided: By virtue of the authority vested in me by Section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

## PART I—POLICY

SECTION 101. Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of his government. Each individual officer, employee, or adviser of government must help to earn and must honor that trust by his own integrity and conduct in all official actions.

## PART II—STANDARDS OF CONDUCT

SECTION 201. (a) Except in accordance with regulations issued pursuant to subsection (b) of this section, no employee shall solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from any person, corporation, or group which—

(1) has, or is seeking to obtain, contractual or other business or financial relationships with his agency;

(2) conducts operations or activities which are regulated by his agency; or

(3) has interests which may be substantially affected by the performance or nonperformance of his official duty.

(b) Agency heads are authorized to issue regulations, coordinated and approved by the Civil Service Commission, implementing the provisions of subsection (a) of this section and to provide for such exceptions therein as may be necessary and appropriate in view of the nature of their agency's work and the duties and responsibilities of their employees. For example, it may be appropriate to provide exceptions (1) governing obvious family or personal relationships where the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors—the clearest illustration being the parents, children or spouses of federal employees; (2) permitting acceptance of food and refreshments available in the ordinary course of a luncheon or dinner or other meeting or on inspection tours where an employee may properly be in attendance; or (3) permitting acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans. This section shall be effective upon issuance of such regulations.

(c) It is the intent of this section that employees avoid any action, whether or not specifically prohibited by subsection (a), which might result in, or create the appearance of—

(1) using public office for private gain;

(2) giving preferential treatment to any organization or person;

(3) impeding government efficiency or economy;

(4) losing complete independence or impartiality of action;

(5) making a government decision outside official channels; or

(6) affecting adversely the confidence of the public in the integrity of the Government.

SEC. 202. An employee shall not engage in any outside employment, including teaching, lecturing, or writing, which might result in a conflict, or an apparent conflict, between the private interests of the employee and his official government duties and responsibilities, although such teaching, lecturing, and writing by employees are generally to be encouraged so long as the laws, the provisions of this order, and Civil Service Commission and agency regulations covering conflict of interest and outside employment are observed.

SEC. 203. Employees may not (a) have direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with their responsibilities and duties as Federal employees, or (b) engage in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained through their employment. Aside from these restrictions, employees are free to engage in lawful financial transactions to the same extent as private citizens. Agencies may, however, further restrict such transactions in the light of the special circumstances of their individual missions.

SEC. 204. An employee shall not use Federal property of any kind for other than officially approved activities. He must protect and conserve all Federal property, including equipment and supplies, entrusted or issued to him.

## Criminal Code Provisions, Title 18 U.S.C. (contd)

SEC. 205. An employee shall not directly or indirectly make use of or permit others to make use of, for the purpose of furthering a private interest, official information not made available to the general public.

SEC. 206. An employee is expected to meet all just financial obligations, especially those—such as Federal, State, or local taxes—which are imposed by law.

## PART III—STANDARDS OF ETHICAL CONDUCT FOR SPECIAL GOVERNMENT EMPLOYEES

SECTION 301. This part applies to all "special Government employees" as defined in Section 202 of Title 18 of the United States Code, who are employed in the Executive Branch.

SEC. 302. A consultant, adviser or other special Government employee must refrain from any use of his public office which is motivated by, or gives the appearance of being motivated by, the desire for private gain for himself or other persons, including particularly those with whom he has family, business, or financial ties.

SEC. 303. A consultant, adviser, or other special Government employee shall not use any inside information obtained as a result of his government service for private personal gain, either by direct action on his part or by counsel, recommendations or suggestions to others, including particularly those with whom he has family, business, or financial ties.

SEC. 304. An adviser, consultant, or other special Government employee shall not use his position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to him or persons with whom he has family, business, or financial ties.

SEC. 305. An adviser, consultant, or other special Government employee shall not receive or solicit from persons having business with his agency anything of value as a gift, gratuity, loan or favor for himself or persons with whom he has family, business, or financial ties while employed by the government or in connection with his work with the government.

SEC. 306. Each agency shall, at the time of employment of a consultant, adviser, or other special Government employee require him to supply it with a statement of all other employment. The statement shall list the names of all the corporations, companies, firms, State or local governmental organizations, research organizations and educational or other institutions in which he is serving as employee, officer, member, owner, director, trustee, adviser, or consultant. In addition, it shall list such other financial information as the appointing department or agency shall decide is relevant in the light of the duties the appointee is to perform. The appointee may, but need not, be required to reveal precise amounts of investments. The statement shall be kept current throughout the period during which the employee is on the Government rolls.

## PART IV—REPORTING OF FINANCIAL INTERESTS

SECTION 401. (a) Not later than ninety days after the date of this order, 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 that Office, and each full-time member of a committee, board, or commission appointed by the President, shall submit to the Chairman of the Civil Service Commission a statement containing the following:

(1) A list of the names of all corporations, companies, firms, or other business enterprises, partnerships, non-profit organizations, and educational or other institutions—

(A) with which he is connected as an employee, officer, owner, director, trustee, partner, adviser, or consultant; or

(B) in which he has any continuing financial interest, through a pension or retirement plan, shared income, or otherwise, as a result of any current or prior employment or business or professional association; or

(C) in which he has any financial interest through the ownership of stocks, bonds, or other securities.

(2) A list of the names of his creditors, other than those to whom he may be indebted by reason of a mortgage on property which he occupies as a personal residence or to whom he may be indebted for current and ordinary household and living expenses.

(3) A list of his interests in real property or rights in lands, other than property which he occupies as a personal residence.

(b) Each person who enters upon duty after the date of this order in an office or position as to which a statement is required by this section shall submit such statement not later than thirty days after the date of his entrance on duty.

(c) Each statement required by this section shall be kept up to date by submission of amended statements of any changes in, or addition to, the information required to be included in the original statement, on a quarterly basis.

SEC. 402. The Civil Service Commission shall prescribe regulations, not inconsistent with this part, to require the submission of statements of financial interests by such employees, subordinate to the heads of agencies, as the Commission may designate. The Commission shall prescribe the form and content of such statements and the time or times and places for such submission.

SEC. 403. (a) The interest of a spouse, minor child, or other member of his immediate household shall be considered to be an interest of a person required to submit a statement by or pursuant to this part.

(b) In the event any information required to be included in a statement required by or pursuant to this part is not known to the person required to submit such statement but is known to other persons, the person concerned shall request such other persons to submit the required information on his behalf.

(c) This part shall not be construed to require the submission of any information relating to any person's connection with, or interest in, any professional society or any charitable, religious, social, fraternal, educational, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise.

SEC. 404. The Chairman of the Civil Service Commission shall report to the President any information contained in statements required by Section 401 of this part which may indicate a conflict between the financial interests of the official concerned and the performance of his services for the Government. The Commission shall report, or by regulation require reporting, to the head of the agency concerned any information contained in statements submitted pursuant to regulations issued under Section 402 of this part which may indicate a conflict between the financial interests of the officer or employee concerned and the performance of his services for the Government.

SEC. 405. The statements and amended statements required by or pursuant to this part shall be held in confidence, and no information as to the contents thereof shall be disclosed except as the Chairman of the Civil Service Commission or the head of the agency concerned may determine for good cause shown.

SEC. 406. The statements and amended statements required by or pursuant to this part shall be in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, regulation, or order. The submission of a statement or amended statements required by or pursuant to this part shall not be deemed to permit any person to participate in any matter in which his participation is prohibited by law, regulation, or order.

## PART V—DELEGATING AUTHORITY OF THE PRESIDENT UNDER SECTIONS 205 AND 208 OF TITLE 18 OF THE UNITED STATES CODE RELATING TO CONFLICTS OF INTEREST

SECTION 501. As used in this part, "department" means an executive department, "agency" means an independent agency or establishment or a Government corporation, and "head of an agency" means, in the case of an agency headed by more than one person, the chairman or comparable member of such agency.

SEC. 502. There is delegated, in accordance with and to the extent prescribed in Sections 503 and 504 of this part, the authority of the President under Sections 205 and 208(b) of Title 18, United States Code, to permit certain actions by an officer or employee of the Government, including a special Government employee, for appointment to whose position the President is responsible.



## Criminal Code Provisions, Title 18 U.S.C (contd)

SEC. 503. Insofar as the authority of the President referred to in Section 502 extends to any appointee of the President subordinate to or subject to the chairmanship of the head of a department or agency, it is delegated to such department or agency head.

SEC. 504. Insofar as the authority of the President referred to in Section 502 extends to an appointee of the President who is within or attached to a department or agency for purposes of administration, it is delegated to the head of such department or agency.

SEC. 505. Notwithstanding any provision of the preceding sections of this part to the contrary, this part does not include a delegation of the authority of the President referred to in Section 502 insofar as it extends to:

- (a) The head of any department or agency in the Executive Branch;
- (b) Presidential appointees in the Executive Office of the President who are not subordinate to the head of an agency in that Office; and
- (c) Presidential appointees to committees, boards, commissions, or similar groups established by the President.

**PART VI—PROVIDING FOR THE PERFORMANCE BY THE CIVIL SERVICE COMMISSION OF CERTAIN AUTHORITY VESTED IN THE PRESIDENT BY SECTION 1753 OF THE REVISED STATUTES**

SECTION 601. The Civil Service Commission is designated and empowered to perform, without the approval, ratification, or other action of the President, so much of the authority vested in the President by Section 1753 of the Revised Statutes of the United States (5 U.S.C. 631) [now covered by sections 3301 and 7301 of Title 5] as relates to establishing regulations for the conduct of persons in the civil service.

SEC. 602. Regulations issued under the authority of Section 601 shall be consistent with the standards of ethical conduct provided elsewhere in this order.

**PART VII—GENERAL PROVISIONS**

SECTION 701. The Civil Service Commission is authorized and directed, in addition to responsibilities assigned elsewhere in this order:

- (a) To issue appropriate regulations and instructions implementing Parts II, III, and IV of this order;
- (b) To review agency regulations from time to time for conformance with this order; and
- (c) To recommend to the President from time to time such revisions in this order as may appear necessary to ensure the maintenance of high ethical standards within the Executive Branch.

SEC. 702. Each agency head is hereby directed to supplement the standards provided by law, by this order, and by regulations of the Civil Service Commission with regulations of special applicability to the particular functions and activities of his agency. Each agency head is also directed to assure (1) the widest possible distribution of regulations issued pursuant to this section, and (2) the availability of counseling for those employees who request advice or interpretation.

SEC. 703. The following are hereby revoked:

- (a) Executive Order No. 10939 of May 5, 1961.
- (b) Executive Order No. 11125 of October 29, 1963.
- (c) Section 2(a) of Executive Order No. 10530 of May 10, 1954.
- (d) White House memorandum of July 20, 1961, on "Standards of Conduct for Civilian Employees."
- (e) The President's Memorandum of May 2, 1963, "Preventing Conflicts of Interest on the Part of Special Government Employees." The effective date of this revocation shall be the date of issuance by the Civil Service Commission of regulations under Section 701(a) of this order.

SEC. 704. All actions heretofore taken by the President or by his delegates in respect of the matters affected by this order and in force at the time of the issuance of this order, including any regulations prescribed or approved by the President or by his delegates in respect of such matters, shall, except as they may be inconsistent with the provisions of this order or terminate by operation of law, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this order.

SEC. 705. As used in this order, and except as otherwise specifically provided herein, the term "agency" means any

executive department, or any independent agency or any Government corporation; and the term "employee" means any officer or employee of an agency.

SEC. 706. This Order shall be applicable to the United States Postal Service established by the Postal Reorganization Act of 1970.

LYNDON B. JOENSON.

MEMORANDUM OF ATTORNEY GENERAL REGARDING CONFLICT OF INTEREST PROVISIONS OF PUBLIC LAW 87-849, FEB. 1, 1963, 28 F.R. 965

JANUARY 28, 1963.

Public Law 87-849, "To strengthen the criminal laws relating to bribery, graft, and conflicts of interest, and for other purposes," came into force January 21, 1963. A number of departments and agencies of the Government have suggested that the Department of Justice prepare and distribute a memorandum analyzing the conflict of interest provisions contained in the new act. I am therefore distributing the attached memorandum.

One of the main purposes of the new legislation merits specific mention. That purpose is to help the Government obtain the temporary or intermittent services of persons with special knowledge and skills whose principal employment is outside the Government. For the most part the conflict of interest statutes superseded by Public Law 87-849 imposed the same restraints on a person serving the Government temporarily or intermittently as on a full-time employee, and those statutes often had an unnecessarily severe impact on the former. As a result, they impeded the departments and agencies in the recruitment of experts for important work. Public Law 87-849 meets this difficulty by imposing a lesser array of prohibitions on temporary and intermittent employees than on regular employees. I believe that a widespread appreciation of this aspect of the new law will lead to a significant expansion of the pool of talent on which the departments and agencies can draw for their special needs.

ROBERT F. KENNEDY,  
Attorney General.

MEMORANDUM RE THE CONFLICT OF INTEREST PROVISIONS OF PUBLIC LAW 87-849, 76 STAT. 1119, APPROVED OCTOBER, 23, 1962

**INTRODUCTION**

Public Law 87-849, which came into force January 21, 1963, affected seven statutes which applied to officers and employees of the Government and were generally spoken of as the "conflict of interest" laws. These included six sections of the criminal code, 18 U.S.C. 216, 281, 283, 284, 434 and 1914, and a statute containing no penalties, section 190 of the Revised Statutes (5 U.S.C. 99). Public Law 87-849 (sometimes referred to hereinafter as "the Act") repealed section 190 and one of the criminal statutes, 18 U.S.C. 216, without replacing them.<sup>1</sup> In addition it repealed and supplanted the other five criminal statutes. It is the purpose of this memorandum to summarize the new law and to describe the principal differences between it and the legislation it has replaced.

The Act accomplished its revisions by enacting new sections 203, 205, 207, 208 and 209 of title 18 of the United States Code and providing that they supplant the above-mentioned sections 281, 283, 284, 434 and 1914 of title 18 respectively.<sup>2</sup> It will be convenient, therefore, after summarizing the principal provisions of the new sections, to examine each section separately, comparing it with its precursor before passing to the next. First of all, however, it is necessary to describe the background and provisions of the new 18 U.S.C. 202(a), which has no counterpart among the statutes formerly in effect.

**SPECIAL GOVERNMENT EMPLOYEES [New 18 U.S.C. 202(a)]**

In the main the prior conflict of interest laws imposed the same restrictions on individuals who serve the Government intermittently or for a short period of time as on those who serve full-time. The consequences of this generalized treatment were pointed out in the following paragraph of the Senate Judiciary Committee report on the bill which became Public Law 87-849:<sup>3</sup>

In considering the application of present law in relation to the Government's utilization of temporary or intermittent consultants and advisers, it must be emphasized that most of the existing conflict-of-interest statutes were enacted in the 19th century—that is, at

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a time when persons outside the Government rarely served it in this way. The laws were therefore directed at activities of regular Government employees, and their present impact on the occasionally needed experts—those whose main work is performed outside the Government—is unduly severe. This harsh impact constitutes an appreciable deterrent to the Government's obtaining needed part-time services.

The recruiting problem noted by the Committee generated a major part of the impetus for the enactment of Public Law 87-849. The Act dealt with the problem by creating a category of Government employees termed "special Government employees" and by excepting persons in this category from certain of the prohibitions imposed on ordinary employees. The new 18 U.S.C. 202(a) defines the term "special Government employee" to include, among others, officers and employees of the departments and agencies who are appointed or employed to serve, with or without compensation, for not more than 130 days during any period of 365 consecutive days either on a full-time or intermittent basis.

**SUMMARY OF THE MAIN CONFLICT OF INTEREST PROVISIONS OF PUBLIC LAW 87-849**

A regular officer or employee of the Government—that is, one appointed or employed to serve more than 130 days in any period of 365 days—is in general subject to the following major prohibitions (the citations are to the new sections of Title 18):

1. He may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another (18 U.S.C. 203 and 205).

2. He may not participate in his governmental capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment has a financial interest (18 U.S.C. 208).

3. He may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

4. He may not, for 1 year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibilities during the last year of his Government service (18 U.S.C. 207(b)). This temporary restraint of course gives way to the permanent restraint described in paragraph 3 if the matter is one in which he participated personally and substantially.

5. He may not receive any salary, or supplementation of his Government salary, from a private source as compensation for his services to the Government (18 U.S.C. 209).

A special Government employee is in general subject only to the following major prohibitions:

1. (a) He may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest and in which he has at any time participated personally and substantially for the Government (18 U.S.C. 203 and 205).

(b) He may not, except in the discharge of his official duties, represent anyone else in a matter pending before the agency he serves unless he has served there no more than 60 days during the past 365 (18 U.S.C. 203 and 205). He is bound by this restraint despite the fact that the matter is not one in which he has ever participated personally and substantially.

The restrictions described in subparagraphs (a) and (b) apply to both paid and unpaid representation of another. These restrictions in combination are, of course, less extensive than the one described in the corresponding paragraph 1 in the list set forth above with regard to regular employees.

2. He may not participate in his governmental capacity in any matter in which he, his spouse, minor child, out-

side business associate or person with whom he is negotiating for employment has a financial interest (18 U.S.C. 208).

3. He may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

4. He may not, for 1 year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his Government service (18 U.S.C. 207(b)). This temporary restraint of course gives way to the permanent restriction described in paragraph 3 if the matter is one in which he participated personally and substantially.

It will be seen that paragraphs 2, 3 and 4 for special Government employees are the same as the corresponding paragraphs for regular employees. Paragraph 5 for the latter, describing the bar against the receipt of salary for Government work from a private source, does not apply to special Government employees.

As appears below, there are a number of exceptions to the prohibitions summarized in the two lists.

**COMPARISON OF OLD AND NEW CONFLICT OF INTEREST SECTIONS OF TITLE 18, UNITED STATES CODE**

*New 18 U.S.C. 203.* Subsection (a) of this section in general prohibits a Member of Congress and an officer or employee of the United States in any branch or agency of the Government from soliciting or receiving compensation for services rendered on behalf of another person before a Government department or agency in relation to any particular matter in which the United States is a party or has a direct and substantial interest. The subsection does not preclude compensation for services rendered on behalf of another in court.

Subsection (a) is essentially a rewrite of the repealed portion of 18 U.S.C. 281. However, subsections (b) and (c) have no counterparts in the previous statutes.

Subsection (b) makes it unlawful for anyone to offer or pay compensation the solicitation or receipt of which is barred by subsection (a).

Subsection (c) narrows the application of subsection (a) in the case of a person serving as a special Government employee to two, and only two, situations. First, subsection (c) bars him from rendering services before the Government on behalf of others, for compensation, in relation to a matter involving a specific party or parties in which he has participated personally and substantially in the course of his Government duties. And second, it bars him from such activities in relation to a matter involving a specific party or parties, even though he has not participated in the matter personally and substantially, if it is pending in his department or agency and he has served therein more than 60 days in the immediately preceding period of a year.

*New 18 U.S.C. 205.* This section contains two major prohibitions. The first prevents an officer or employee of the United States in any branch or agency of the Government from acting as agent or attorney for prosecuting any claim against the United States, including a claim in court, whether for compensation or not. It also prevents him from receiving a gratuity, or a share or interest in any such claim, for assistance in the prosecution thereof. This portion of section 205 is similar to the repealed portion of 18 U.S.C. 283, which dealt only with claims against the United States, but it omits a bar contained in the latter—i.e., a bar against rendering uncompensated aid or assistance in the prosecution or support of a claim against the United States.

The second main prohibition of section 205 is concerned with more than claims. It precludes an officer or employee of the Government from acting as agent or attorney for anyone else before a department, agency or court in connection with any particular matter in which the United States is a party or has a direct and substantial interest.



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Section 205 provides for the same limited application to a special Government employee as section 203. In short, it precludes him from acting as agent or attorney only (1) in a matter involving a specific party or parties in which he has participated personally and substantially in his governmental capacity, and (2) in a matter involving a specific party or parties which is before his department or agency, if he has served therein more than 60 days in the year past.

Since new sections 203 and 205 extend to activities in the same range of matters, they overlap to a greater extent than did their predecessor sections 281 and 283. The following are the few important differences between sections 203 and 205:

1. Section 203 applies to Members of Congress as well as officers and employees of the Government; section 205 applies only to the latter.

2. Section 203 bars services rendered for compensation solicited or received, but not those rendered without such compensation; section 205 bars both kinds of services.

3. Section 203 bars services rendered before the departments and agencies but not services rendered in court; section 205 bars both.

It will be seen that while section 203 is controlling as to Members of Congress, for all practical purposes section 205 completely overshadows section 203 in respect of officers and employees of the Government.

Section 205 permits a Government officer or employee to represent another person, without compensation, in a disciplinary, loyalty or other personnel matter. Another provision declares that the section does not prevent an officer or employee from giving testimony under oath or making statements required to be made under penalty for perjury or contempt.<sup>6</sup>

Section 205 also authorizes a limited waiver of its restrictions and those of section 203 for the benefit of an officer or employee, including a special Government employee, who represents his own parents, spouse or child, or a person or estate he serves as a fiduciary. The waiver is available to the officer or employee, whether acting for any such person with or without compensation, but only if approved by the official making appointments to his position. And in no event does the waiver extend to his representation of any such person in matters in which he has participated personally and substantially or which, even in the absence of such participation, are the subject of his official responsibility.

Finally, section 205 gives the head of a department or agency the power, notwithstanding any applicable restrictions in its provisions or those of section 203, to allow a special Government employee to represent his regular employer or other outside organization in the performance of work under a Government grant or contract. However, this action is open to the department or agency head only upon his certification, published in the Federal Register, that the national interest requires it.

*New 18 U.S.C. 207.* Subsections (a) and (b) of this section contain post-employment prohibitions applicable to persons who have ended service as officers or employees of the executive branch, the independent agencies or the District of Columbia.<sup>6</sup> The prohibitions for persons who have served as special Government employees are the same as for persons who have performed regular duties.

The restraint of subsection (a) is against a former officer or employee's acting as agent or attorney for anyone other than the United States in connection with certain matters, whether pending in the courts or elsewhere. The matters are those involving a specific party or parties in which the United States is one of the parties or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while holding a Government position.

Subsection (b) sets forth a 1-year postemployment prohibition in respect of those matters which were within the area of official responsibility of a former officer or employee at any time during the last year of his service but which do not come within subsection (a) because he did not participate in them personally and substantially. More particularly, the prohibition of subsection (b) prevents his personal appearance in such matters before a court or a department or agency of the Government as agent or attorney for anyone other than the United States.<sup>7</sup> Where, in the year prior to the end of

his service, a former officer or employee has changed areas of responsibility by transferring from one agency to another, the period of his postemployment ineligibility as to matters in a particular area ends 1 year after his responsibility for that area ends. For example, if an individual transfers from a supervisory position in the Internal Revenue Service to a supervisory position in the Post Office Department and leaves that department for private employment 9 months later, he will be free of the restriction of subsection (b) in 3 months insofar as Internal Revenue matters are concerned. He will of course be bound by it for a year in respect of Post Office Department matters.

The proviso following subsections (a) and (b) authorizes an agency head, notwithstanding anything to the contrary in their provisions, to permit a former officer or employee with outstanding scientific qualifications to act as attorney or agent or appear personally before the agency for another in a matter in a scientific field. This authority may be exercised by the agency head upon a "national interest" certification published in the *FEDERAL REGISTER*.

Subsections (a) and (b) describe the activities they forbid as being in connection with "particular matter[s] involving a specific party or parties" in which the former officer or employee had participated. The quoted language does not include general rulemaking, the formulation of general policy or standards, or other similar matters. Thus, past participation in or official responsibility for a matter of this kind on behalf of the Government does not disqualify a former employee from representing another person in a proceeding which is governed by the rule or other result of such matter.

Subsection (a) bars permanently a greater variety of actions than subsection (b) bars temporarily. The conduct made unlawful by the former is any action as agent or attorney, while that made unlawful by the latter is a personal appearance as agent or attorney. However, neither subsection precludes postemployment activities which may fairly be characterized as no more than aiding or assisting another.<sup>8</sup> An individual who has left an agency to accept private employment may, for example, immediately perform technical work in his company's plant in relation to a contract for which he had official responsibility—or, for that matter, in relation to one he helped the agency negotiate. On the other hand, he is forbidden for a year, in the first case, to appear personally before the agency as the agent or attorney of his company in connection with a dispute over the terms of the contract. And he may at no time appear personally before the agency or otherwise act as agent or attorney for his company in such dispute if he helped negotiate the contract.

Comparing subsection (a) with the antecedent 18 U.S.C. 284 discloses that it follows the latter in limiting disqualification to cases where a former officer or employee actually participated in a matter for the Government. However, subsection (a) covers all matters in which the United States is a party or has a direct and substantial interest and not merely the "claims against the United States" covered by 18 U.S.C. 284. Subsection (a) also goes further than the latter in imposing a lifetime instead of a 2-year bar. Subsection (b) has no parallel in 18 U.S.C. 284 or any other provision of the former conflict of interest statutes.

It will be seen that subsections (a) and (b) in combination are less restrictive in some respects, and more restrictive in others, than the combination of the prior 18 U.S.C. 284 and 5 U.S.C. 99. Thus, former officers or employees who were outside the Government when the Act came into force on January 21, 1963, will in certain situations be enabled to carry on activities before the Government which were previously barred. For example, the repeal of 5 U.S.C. 99 permits an attorney who left an executive department for private practice a year before to take certain cases against the Government immediately which would be subject to the bar of 5 U.S.C. 99 for another year. On the other hand, former officers or employees became precluded on and after January 21, 1963 from engaging or continuing to engage in certain activities which were permissible until that date. This result follows from the replacement of the 2-year bar of



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18 U.S.C. 284 with a lifetime bar of subsection (a) in comparable situations, from the increase in the variety of matters covered by subsection (a) as compared with 18 U.S.C. 284 and from the introduction of the 1-year bar of subsection (b).

Subsection (c) of section 207 pertains to an individual outside the Government who is in a business or professional partnership with someone serving in the executive branch, an independent agency or the District of Columbia. The subsection prevents such individual from acting as attorney or agent for anyone other than the United States in any matters, including those in court, in which his partner in the Government is participating or has participated or which are the subject of his partner's official responsibility. Although included in a section dealing largely with postemployment activities, this provision is not directed to the postemployment situation.

The paragraph at the end of section 207 also pertains to individuals in a partnership but sets forth no prohibition. This paragraph, which is of importance mainly to lawyers in private practice, rules out the possibility that an individual will be deemed subject to section 203, 205, 207(a) or 207(b) solely because he has a partner who serves or has served in the Government either as a regular or a special Government employee.

**New 18 U.S.C. 208.** This section forbids certain actions by an officer or employee of the Government in his role as a servant or representative of the Government. Its thrust is therefore to be distinguished from that of sections 203 and 205 which forbid certain actions in his capacity as a representative of persons outside the Government.

Subsection (a) in substance requires an officer or employee of the executive branch, an independent agency or the District of Columbia, including a special Government employee, to refrain from participating as such in any matter in which, to his knowledge, he, his spouse, minor child or partner has a financial interest. He must also remove himself from a matter in which a business or nonprofit organization with which he is connected or is seeking employment has a financial interest.

Subsection (b) permits the agency of an officer or employee to grant him an *ad hoc* exemption from subsection (a) if the outside financial interest in a matter is deemed not substantial enough to have an effect on the integrity of his services. Financial interests of this kind may also be made nondisqualifying by a general regulation published in the **FEDERAL REGISTER**.

Section 208 is similar in purpose to the former 18 U.S.C. 434 but prohibits a greater variety of conduct than the "transaction of business with . . . [a] business entity" to which the prohibition of section 434 was limited. In addition, the provision in section 208 including the interests of a spouse and others is new, as is the provision authorizing exemptions for insignificant interest.

**New 18 U.S.C. 209.** Subsection (a) prevents an officer or employee of the executive branch, an independent agency or the District of Columbia from receiving, and anyone from paying him, any salary or supplementation of salary from a private source as compensation for his services to the Government. This provision uses much of the language of the former 18 U.S.C. 1914 and does not vary from that statute in substance. The remainder of section 209 is new.

Subsection (b) specifically authorizes an officer or employee covered by subsection (a) to continue his participation in a bona fide pension plan or other employee welfare or benefit plan maintained by a former employer.

Subsection (c) provides that section 209 does not apply to a special Government employee or to anyone serving the Government without compensation whether or not he is a special Government employee.

Subsection (d) provides that the section does not prohibit the payment or acceptance of contributions, awards or other expenses under the terms of the Government Employees Training Act. (72 Stat. 327, 5 U.S.C. 2301-2319).

**STATUTORY EXEMPTIONS FROM CONFLICT OF INTEREST LAWS**

Congress has in the past enacted statutes exempting persons in certain positions—usually advisory in nature—from the provisions of some or all of the former conflict of interest laws. Section 2 of the Act grants correspond-

ing exemptions from the new laws with respect to legislative and judicial positions carrying such past exemptions. However, section 2 excludes positions in the executive branch, an independent agency and the District of Columbia from this grant. As a consequence, all statutory exemptions for persons serving in these sectors of the Government ended on January 21, 1963.

**RETIRED OFFICERS OF THE ARMED FORCES**

Public Law 87-849 enacted a new 18 U.S.C. 206 which provides in general that the new sections 203 and 205, replacing 18 U.S.C. 281 and 283, do not apply to retired officers of the armed forces and other uniformed services. However, 18 U.S.C. 281 and 283 contain special restrictions applicable to retired officers of the armed forces which are left in force by the partial repealer of those statutes set forth in section 2 of the Act.

The former 18 U.S.C. 284, which contained a 2-year disqualification against postemployment activities in connection with claims against the United States, applied by its terms to persons who had served as commissioned officers and whose active service had ceased either by reason of retirement or complete separation. Its replacement, the broader 18 U.S.C. 207, also applies to persons in those circumstances. Section 207, therefore applies to retired officers of the armed forces and overlaps the continuing provisions of 18 U.S.C. 281 and 283 applicable to such officers although to a different extent than did 18 U.S.C. 284.

**VOIDING TRANSACTIONS IN VIOLATION OF THE CONFLICT OF INTEREST OR BRIBERY LAWS**

Public Law 87-849 enacted a new section, 18 U.S.C. 218, which did not supplant a pre-existing section of the criminal code. However, it was modeled on the last sentence of the former 18 U.S.C. 216 authorizing the President to declare a Government contract void which was entered into in violation of that section. It will be recalled that section 216 was one of the two statutes repealed without replacement.

The new 18 U.S.C. 218 grants the President and, under presidential regulations, an agency head the power to void and rescind any transaction or matter in relation to which there has been a "final conviction" for a violation of the conflict of interest or bribery laws. The section also authorizes the Government's recovery, in addition to any penalty prescribed by law or in a contract, of the amount expended or thing transferred on behalf of the Government.

Section 218 specifically provides that the powers it grants are "in addition to any other remedies provided by law." Accordingly, it would not seem to override the decision in *United States v. Mississippi Valley Generating Co.*, 364 U.S. 520 (1961), a case in which there was no "final conviction."

**BIBLIOGRAPHY**

Set forth below are the citations to the legislative history of Public Law 87-849 and a list of recent material which is pertinent to a study of the Act. The listed 1960 report of the Association of the Bar of the City of New York is particularly valuable. For a comprehensive bibliography of earlier material relating to the conflict of interest laws, see 13 Record of the Association of the Bar of the City of New York 323 (May 1958).

**LEGISLATIVE HISTORY OF PUBLIC LAW 87-849 (H.R. 8140, 87TH CONG.)**

1. Hearings of June 1 and 2, 1961 before the Antitrust Subcommittee (Subcommittee No. 5) of the House Judiciary Committee, 87th Cong., 1st sess., ser. 3, on *Federal Conflict of Interest Legislation*.
2. H. Rept. 748, 87th Cong., 1st sess.
3. 107 Cong. Rec. 14774.
4. Hearing of June 21, 1962 before the Senate Judiciary Committee, 87th Cong., 2d sess., on *Conflicts of Interest*.
5. S. Rept. 2213, 87th Cong., 2d sess.
6. 108 Cong. Rec. 20805 and 21130 (daily ed., October 3 and 4, 1962).

**OTHER MATERIAL**

1. President's special message to Congress, April 27, 1961, and attached draft bill, 107 Cong. Rec. 6835.

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2. President's Memorandum of February 9, 1962 to the heads of executive departments and agencies entitled *Preventing Conflicts of Interest on the Part of Advisers and Consultants to the Government*, 27 F.R. 1341.

3. 42 Op. A.G. No. 6, January 31, 1962.

4. Memorandum of December 10, 1956 for the Attorney General from the Office of Legal Counsel re conflict of interest statutes, Hearings before the Antitrust Subcommittee (Subcommittee No. 5) of House Judiciary Committee, 85th Cong., 2d sess., ser. 17, pt. 2, p. 619.

5. Staff report of Antitrust Subcommittee (Subcommittee No. 5) of House Judiciary Committee, 85th Cong., 2d sess., *Federal Conflict of Interest Legislation* (Comm. Print 1958).

6. Report of the Association of the Bar of the City of New York, *Conflict of Interest and Federal Service* (Harvard Univ. Press 1960).

## FOOTNOTES

<sup>1</sup>Section 190 of the Revised Statutes (5 U.S.C. 99), which was repealed by section 8 of Public Law 87-849, applied to a former officer or employee of the Government who had served in a department of the executive branch. It prohibited him, for a period of two years after his employment had ceased, from representing anyone in the prosecution of a claim against the United States which was pending in that or any other executive department during his period of employment. The subject of post-employment activities of former Government officers and employees was also dealt with in another statute which was repealed, 18 U.S.C. 284. Public Law 87-849 covers the subject in a single section enacted as the new 18 U.S.C. 207.

18 U.S.C. 216, which was repealed by section 1(c) of Public Law 87-849, prohibited the payment to or acceptance by a Member of Congress or officer or employee of the Government of any money or thing of value for giving or procuring a Government contract. Since this offense is within the scope of the newly enacted 18 U.S.C. 201 and 18 U.S.C. 203, relating to bribery and conflicts of interest, respectively, section 216 is no longer necessary.

<sup>2</sup>See section 2 of Public Law 87-849. 18 U.S.C. 281 and 18 U.S.C. 283 were not completely set aside by section 2 but remain in effect to the extent that they apply to retired officers of the Armed Forces (see "Retired Officers of the Armed Forces," *infra*).

<sup>3</sup>S. Rept. 2213, 87th Cong., 2d sess., p. 6.

<sup>4</sup>The term "official responsibility" is defined by the new 18 U.S.C. 202(b) to mean "the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action."

<sup>5</sup>These two provisions of section 205 refer to an "officer or employee" and not, as do certain of the other provisions of the Act, to an "officer or employee, including a special Government employee." However, it is plain from the definition in section 202(a) that a special Government employee is embraced within the comprehensive term "officer or employee." There would seem to be little doubt, therefore, that the instant provisions of section 205 apply to special Government employees even in the absence of an explicit reference to them.

<sup>6</sup>The prohibitions of the two subsections apply to persons ending service in these areas whether they leave the Government entirely or move to the legislative or judicial branch. As a practical matter, however, the prohibitions would rarely be significant in the latter situation because officers and employees of the legislative and judicial branches are covered by sections 203 and 205.

<sup>7</sup>Neither section 203 nor section 205 prevents a special Government employee, during his period of affiliation with the Government, from representing another person before the Government in a particular matter only because it is within his official responsibility. Therefore the inclusion of a former special Government employee within the 1-year postemployment ban of subsection (b) may subject him to a temporary restraint from which he was free prior to the end of his Government service. However, since special Government employees usually do not have "official responsibility," as that term is defined in section 202(b), their inclusion within the 1-year ban will not have a widespread effect.

<sup>8</sup>Subsection (a), as it first appeared in H.R. 8140, the bill which became Public Law 87-849, made it unlawful for a former officer or employee to act as agent or attorney for, or aid or assist, anyone in a matter in which he had participated. The House Judiciary Committee struck the underlined words, and the bill became law without them. It should be noted also that the repealed provisions of 18 U.S.C. 283 made the distinction between one's acting as agent or attorney for another and his aiding or assisting another.

## CANAL ZONE

Applicability of section to Canal Zone, see section 14 of this title.

## CROSS REFERENCES

Bribe moneys, disposition, see section 8612 of this title. Contracts by Members of Congress, see section 431 of this title.

Customs, penal provisions relating to entry of goods, see section 541 et seq. of this title.

Demand or acceptance of gift, fee or illegal payment by revenue officer or agent, see section 7214(a) of Title 26, Internal Revenue Code.

Disqualification from holding any office of honor, trust, or profit, additional grounds for, see sections 592, 593, 1901, 2071, 2381, 2385, 2387 of this title.

Wire or oral communications, authorization for interception, to provide evidence of offenses under this section, see section 2516 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 2516 of this title; title 12 section 1457.

## § 202. Definitions.

(a) For the purpose of sections 203, 205, 207, 208, and 209 of this title the term "special Government employee" shall mean an officer or employee of the executive or legislative branch of the United States Government, of any independent agency of the United States or of the District of Columbia, who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis, a part-time United States Commissioner or a part-time United States magistrate. Notwithstanding the next preceding sentence, every person serving as a part-time local representative of a Member of Congress in the Member's home district or State shall be classified as a special Government employee. Notwithstanding section 29 (c) and (d) of the Act of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r (c) and (d)), a Reserve officer of the Armed Forces, or an officer of the National Guard of the United States, unless otherwise an officer or employee of the United States, shall be classified as a special Government employee while on active duty solely for training. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is voluntarily serving a period of extended active duty in excess of one hundred and thirty days shall be classified as an officer of the United States within the meaning of section 203 and sections 205 through 209 and 218. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is serving involuntarily shall be classified as a special Government employee. The terms "officer or employee" and "special Government employee" as used in sections 203, 205, 207 through 209, and 218, shall not include enlisted members of the Armed Forces.

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(b) For the purposes of sections 205 and 207 of this title, the term "official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1121, and amended Pub. L. 90-578, title III, § 301(b), Oct. 17, 1968, 82 Stat. 1115.)

## REFERENCES IN TEXT

Section 29 (c) and (d) of the act of August 10, 1956, referred to in subsec. (a), was classified to former section 30r (c), (d) of Title 5, Executive Departments and Government Officers and Employees, and is now covered by sections 502, 2105 and 5534 of Title 5, Government Organization and Employees.

## CODIFICATION

A prior section 202, act June 25, 1948, ch. 645, 62 Stat. 691, which prescribed penalties for any officer or other person who accepted or solicited anything of value to influence his decision, was eliminated in the general amendment of this chapter by Pub. L. 87-849, and is substantially covered by revised section 201.

## AMENDMENTS

1968—Subsec. (a). Pub. L. 90-578 substituted "a part-time United States commissioner, or a part-time United States magistrate" for "or a part-time United States Commissioner".

## EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates and assumption of office takes place or third anniversary of enactment of Pub. L. 90-578, see section 403 of Pub. L. 90-578, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

## EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

## STANDARDS OF ETHICAL CONDUCT FOR SPECIAL GOVERNMENT EMPLOYEES

Standards of ethical conduct for special government employees, see Part III of Ex. Ord. No. 11222, May 8, 1965, 30 F.R. 6469, set out as a note under section 201 of this title.

## CANAL ZONE

Applicability of section to Canal Zone, see section 14 of this title.

## CROSS REFERENCES

Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title; title 12 sections 209, 1457; title 26 section 4946; title 40 App. section 108; title 42 section 3198.

§ 203. Compensation to Members of Congress, officers, and others in matters affecting the Government.

(a) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly receives or agrees to receive, or asks, demands, solicits, or seeks, any compensation for any services rendered or to be rendered either by himself or another—

(1) at a time when he is a Member of Congress, Member of Congress Elect, Delegate from the District of Columbia, Delegate Elect from the District of Columbia, Resident Commissioner, or Resident Commissioner Elect; or

(2) at a time when he is an officer or employee of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States, including the District of Columbia,

in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court-martial, officer, or any civil, military, or naval commission, or

(b) Whoever, knowingly, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly gives, promises, or offers any compensation for any such services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was such a Member, Delegate, Commissioner, officer, or employee—

Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States.

(c) A special Government employee shall be subject to subsection (a) only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: *Provided*, That clause (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1121, and amended Pub. L. 91-405, title II, § 204(d) (2), (3), Sept. 22, 1970, 84 Stat. 853.)

## CODIFICATION

A prior section 203, act June 25, 1948, ch. 645, 62 Stat. 692, which related to the acceptance or demand by district attorneys, or marshals and their assistants of any fee other than provided by law, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

## AMENDMENTS

1970—Subsec. (a) (1). Pub. L. 91-405, § 204(d) (2), included references to Delegate from District of Columbia and Delegate Elect from District of Columbia.

Subsec. (b). Pub. L. 91-405, § 204(d) (3), included reference to Delegate.

## EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-405 effective on Sept. 22, 1970, see section 206(b) of Pub. L. 91-405, summarized in a note set out under section 25 of Title 2, The Congress.

## EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

## CROSS REFERENCE

Activities of officers and employees in matters affecting the Government, see section 205 of this title.  
Definitions, see section 202 of this title.

## Criminal Code Provisions, Title 18 U.S.C. (contd)

Exemption of retired officers of the uniformed services, see section 206 of this title.

Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

Partners subject to section, see section 207 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 202, 205, 206, 207 of this title; title 5 section 3374; title 12 section 1457; title 20 sections 887, 869b; title 38 section 3402; title 40 App. section 108; title 42 sections 246, 3188.

## § 204. Practice in Court of Claims by Members of Congress.

Whoever, being a Member of Congress, Member of Congress Elect, Delegate from the District of Columbia, Delegate Elect from the District of Columbia, Resident Commissioner, or Resident Commissioner Elect, practices in the Court of Claims, shall be fined not more than \$10,000 or imprisoned for not more than two years, or both, and shall be incapable of holding any office of honor, trust, or profit under the United States. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1122, and amended Pub. L. 91-405, title II, § 204(d) (2), Sept. 22, 1970, 84 Stat. 853.)

## CODIFICATION

A prior section 204, act June 25, 1948, ch. 645, 62 Stat. 692, which related to an offer to influence a Member of Congress, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

## AMENDMENTS

1970—Pub. L. 91-405 included references to Delegate from District of Columbia and Delegate Elect from District of Columbia.

## EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-405 effective on Sept. 22, 1970, see section 206(b) of Pub. L. 91-405, summarized in a note set out under section 25 of Title 2, The Congress.

## EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

## CROSS REFERENCES

Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 App. section 108; title 42 section 3188.

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

Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, including the District of Columbia, otherwise than in the proper discharge of his official duties—

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

(2) acts as agent or attorney for anyone before any department, agency, court, court-martial, officer, or any civil, military, or naval commission in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, ar-

rest, or other particular matter in which the United States is a party or has a direct and substantial interest—

Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both.

A special Government employee shall be subject to the preceding paragraphs only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: *Provided*, That clause (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

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

Nothing herein or in section 203 prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except in those matters in which he has participated personally and substantially as a Government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of his official responsibility, provided that the Government official responsible for appointment to his position approves.

Nothing herein or in section 203 prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States provided that the head of the department or agency concerned with the grant or contract shall certify in writing that the national interest so requires.

Such certification shall be published in the Federal Register.

Nothing herein prevents an officer or employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1122.)

## CODIFICATION

A prior section 205, act June 25, 1948, ch. 645, 62 Stat. 692, which related to the acceptance by a Member of Congress of anything of value to influence him, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

## EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.



## Criminal Code Provisions, Title 18 U.S.C. (contd)

## DELEGATION OF AUTHORITY

Authority of the President under this section delegated to department or agency heads, see Part V of Ex. Ord. No. 11222, May 8, 1965, 30 F.R. 6469, set out as a note under section 201 of this title.

## CROSS REFERENCES

Definitions, see section 202 of this title.  
 Disqualification from holding any office of honor, trust, or profit, additional grounds for, see sections 204, 592, 593, 1901, 2071, 2381, 2385, 2387 of this title.  
 Exemption of retired officers of the uniformed services, see section 206 of this title.  
 Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.  
 Partners subject to section, see section 207 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 202, 206, 207 of this title; title 5 section 3374; title 12 section 1457; title 20 sections 867, 869b; title 38 section 3402; title 40 App. section 108; title 42 sections 246, 3188.

**§ 206. Exemption of retired officers of the uniformed services.**

Sections 203 and 205 of this title shall not apply to a retired officer of the uniformed services of the United States while not on active duty and not otherwise an officer or employee of the United States, or to any person specially excepted by Act of Congress. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1123.)

## CODIFICATION

A prior section 206, act June 25, 1948, ch. 645, 62 Stat. 692, which related to an offer to a judge or judicial officer to influence him, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

## EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

## CROSS REFERENCES

Definitions, see section 202 of this title.  
 Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 202 of this title; title 38 section 3402; title 40 App. section 108; title 42 section 3188.

**§ 207. Disqualification of former officers and employees in matters connected with former duties or official responsibilities; disqualification of partners.**

(a) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly acts as agent or attorney for anyone other than the United States in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially as an officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while so employed, or

(b) Whoever, having been so employed, within one year after his employment has ceased, appears personally before any court or department or agency

of the Government as agent, or attorney for, anyone other than the United States in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or directly and substantially interested, and which was under his official responsibility as an officer or employee of the Government at any time within a period of one year prior to the termination of such responsibility—

Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both: *Provided*, That nothing in subsection (a) or (b) prevents a former officer or employee, including a former special Government employee, with outstanding scientific or technological qualifications from acting as attorney or agent or appearing personally in connection with a particular matter in a scientific or technological field if the head of the department or agency concerned with the matter shall make a certification in writing, published in the Federal Register, that the national interest would be served by such action or appearance by the former officer or employee.

(c) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, acts as agent or attorney for anyone other than the United States, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest and in which such officer or employee of the Government or special Government employee participates or has participated personally and substantially as a Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or which is the subject of his official responsibility—

Shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

A partner of a present or former officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia or of a present or former special Government employee shall as such be subject to the provisions of sections 203, 205, and 207 of this title only as expressly provided in subsection (c) of this section. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1123.)

## CODIFICATION

A prior section 207, act June 25, 1948, ch. 645, 62 Stat. 692, which related to the acceptance of a bribe by a judge, was eliminated by the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

## EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

## CROSS REFERENCES

Definitions, see section 202 of this title.  
 Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

## Criminal Code Provisions, Title 18 U.S.C. (contd)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 202 of this title; title 5 section 3374; title 12 section 1457; title 20 sections 867, 869b; title 38 section 3402; title 40 App. section 108; title 42, sections 246, 3188.

## § 208. Acts affecting a personal financial interest.

(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest—

Shall be fined not more than \$10,000, or imprisoned not more than two years, or both.

(b) Subsection (a) hereof shall not apply (1) if the officer or employee first advises the Government official responsible for appointment to his position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee, or (2) if, by general rule or regulation published in the Federal Register, the financial interest has been exempted from the requirements of clause (1) hereof as being too remote or too inconsequential to affect the integrity of Government officers' or employees' services. (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1124.)

## CODIFICATION

A prior section 208, act June 25, 1948, ch. 645, 62 Stat. 693, which related to the acceptance of solicitation of a bribe by a judicial officer, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by revised section 201.

## EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

## DELEGATION OF AUTHORITY

Authority of the President under subsec. (b) of this section delegated to department or agency heads, see Part V of Ex. Ord. No. 11222, May 8, 1965, 30 F.R. 6469, set out as a note under section 201 of this title.

## CROSS REFERENCES

Definition, see section 202 of this title.  
Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 202 of this title; title 5 section 3374; title 12 section 1457; title 20 sections 867, 869b; title 40 App. section 108; title 42 sections 246, 3188.

## § 209. Salary of Government officials and employees payable only by United States.

(a) Whoever receives any salary, or any contribution to or supplementation of salary, as compensation for his services as an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality; or

Whoever, whether an individual, partnership, association, corporation, or other organization, pays, or makes any contribution to, or in any way supplements the salary of, any such officer or employee under circumstances which would make its receipt a violation of this subsection—

Shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

(b) Nothing herein prevents an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, or of the District of Columbia, from continuing to participate in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer.

(c) This section does not apply to a special Government employee or to an officer or employee of the Government serving without compensation, whether or not he is a special Government employee, or to any person paying, contributing to, or supplementing his salary as such.

(d) This section does not prohibit payment or acceptance of contributions, awards, or other expenses under the terms of the Government Employees Training Act (Public Law 85-507, 72 Stat. 327; 5 U.S.C. 2301-2319, July 7, 1958). (Added Pub. L. 87-849, § 1(a), Oct. 23, 1962, 76 Stat. 1125.)

## CODIFICATION

A prior section 209, act June 25, 1948, ch. 645, 62 Stat. 693, which related to an offer of a bribe to a witness, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered by section 201.

## EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87-849, set out as a note under section 201 of this title.

## CROSS REFERENCES

Definitions, see section 202 of this title.  
Memorandum of Attorney General regarding conflict of interest provisions, see note under section 201 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 14, 202 of this title; title 5 sections 3102, 3343, 3374, 4111; title 12 section 1457; title 20 sections 867, 869b; title 40 App. section 108; title 42 sections 246, 3188.

## § 210. Offer to procure appointive public office.

Whoever pays or offers or promises any money or thing of value, to any person, firm, or corporation in consideration of the use or promise to use any influence to procure any appointive office or place under the United States for any person, shall be fined not more than \$1,000 or imprisoned not more



## Criminal Code Provisions, Title 18 U.S.C. (contd)

than one year, or both. (June 25, 1948, ch. 645, 62 Stat. 694, § 210, formerly § 214, renumbered Oct. 23, 1962, Pub. L. 87-849, § 1(b), 76 Stat. 1125.)

## PRIOR PROVISIONS

A prior section 210, act June 25, 1948, ch. 645, 62 Stat. 693, which related to acceptance of a bribe by a witness, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered in revised section 201.

## CROSS REFERENCES

Minor offenses tried by United States magistrates as excluding offenses punishable under this section, see section 3401 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title.

**§211. Acceptance or solicitation to obtain appointive public office.**

Whoever solicits or receives, either as a political contribution, or for personal emolument, any money or thing of value, in consideration of the promise of support or use of influence in obtaining for any person any appointive office or place under the United States, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Whoever solicits or receives any thing of value in consideration of aiding a person to obtain employment under the United States either by referring his name to an executive department or agency of the United States or by requiring the payment of a fee because such person has secured such employment shall be fined not more than \$1,000, or imprisoned not more than one year, or both. This section shall not apply to such services rendered by an employment agency pursuant to the written request of an executive department or agency of the United States. (June 25, 1948, ch. 645, 62 Stat. 694, § 211, formerly § 215, amended Sept. 13, 1951, ch. 380, 65 Stat. 620, and renumbered Oct. 23, 1962, Pub. L. 87-849, § 1(b), 76 Stat. 1125.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—Based on title 18, U. S. C., 1940 ed., §§ 150 and 151 (Dec. 11, 1926, ch. 3, §§ 2, 3, 4+ Stat. 918).

Some changes of style and substance were made in this section as in [former] section 214 of this title.

## PRIOR PROVISIONS

A prior section 211, act June 25, 1948, ch. 645, 62 Stat. 693, which related to an offer of a gratuity to a revenue officer, was eliminated in the general amendment of this chapter by Pub. L. 87-849 and is substantially covered in revised section 201.

## AMENDMENTS

1951—Act Sept. 13, 1951, added second paragraph.

## CROSS REFERENCES

Minor offenses tried by United States magistrates as excluding offenses punishable under this section, see section 3401 of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title.

## 2. Gifts

## Title 5 U.S.C. - Government Organization and Employees

## SUBCHAPTER IV.—FOREIGN GIFTS AND DECORATIONS

## AMENDMENTS

1967—Pub. L. 90-83, § 1(45) (A), Sept. 11, 1967, 81 Stat. 208, substituted "Foreign Gifts and Decorations" for "Foreign Decorations" in the subchapter heading.

§ 7341. Repealed. Pub. L. 90-83, § 1(45)(B), Sept. 11, 1967, 81 Stat. 208.

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 526 related to receipt and display of foreign decorations, and is now covered by section 7342 of this title.

§ 7342. Receipt and disposition of foreign gifts and decorations.

(a) For the purpose of this section—

(1) "employee" means—

(A) an employee as defined by section 2105 of this title;

(B) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the District of Columbia;

(C) a member of a uniformed service;

(D) the President;

(E) a Member of Congress as defined by section 2106 of this title; and

(F) a member of the family and household of an individual described in subparagraphs (A)–(E) of this paragraph;

(2) "foreign government" means a foreign government and an official agent, or representative thereof;

(3) "gift" means a present or thing, other than a decoration, tendered by or received from a foreign government; and

(4) "decoration" means an order, device, medal, badge, insignia, or emblem tendered by or received from a foreign government.

(b) An employee may not request or otherwise encourage the tender of a gift or decoration.

(c) Congress consents to—

(1) the accepting and retaining by an employee of a gift of minimal value tendered or received as a souvenir or mark of courtesy; and

(2) the accepting by an employee of a gift of more than minimal value when it appears that to refuse the gift would be likely to cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States.

However, a gift of more than minimal value is deemed to have been accepted on behalf of the United States and shall be deposited by the donee for use and disposal as the property of the United States under regulations prescribed under this section.

(d) Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the agency, office or other entity in which the employee is employed and the concurrence of the Secretary of State. Without this approval and concurrence, the decoration shall be deposited by the donee for use and disposal as the

property of the United States under regulations prescribed under this section.

(e) The President may prescribe regulations to carry out the purpose of this section. (Added Pub. L. 90-83, § 1(45) (C), Sept. 11, 1967, 81 Stat. 208.)

## HISTORICAL AND REVISION NOTES

Section of title 5	Source (U.S. Code)	Source (Statutes at Large)
7342(a)	22:2621	Oct. 15, 1966, Pub. L. 89-673, § 2, 80 Stat. 952
7342(b)	22:2622	Oct. 15, 1966, Pub. L. 89-673, § 3, 80 Stat. 952
7342(c)	22:2623	Oct. 15, 1966, Pub. L. 89-673, § 4, 80 Stat. 952
7342(d)	22:2624	Oct. 15, 1966, Pub. L. 89-673, § 5, 80 Stat. 952
7342(e)	22:2625	Oct. 15, 1966, Pub. L. 89-673, § 7, 80 Stat. 952

The definitions of "employee" and "uniformed services" in 5 U.S.C. 2105 and 2101 are broad enough to cover the persons included in 22 U.S.C. 2621(1) with the exception of (1) individuals employed by, or occupying an office or position in, the government of a territory or possession of the United States or of the District of Columbia, (2) the President, and (3) Members of Congress, who, accordingly, are covered in paragraphs (B), (D), and (E). As the Canal Zone Government is an independent agency of the United States, see section 31 of title 2, Canal Zone Code, an employee thereof is an "employee" as defined in 5 U.S.C. 2105.

In subsection (b), the words "An employee may not" are substituted for "No person shall" to conform to the definition applicable and style of title 5, United States Code.

In subsection (c), the words "under regulations prescribed under this section" are substituted for "in accordance with the rules and regulations issued pursuant to this Act".

In subsection (e), the words "The President may prescribe regulations to carry out the purpose of this section" are substituted for "Rules and regulations to carry out the purposes of this Act may be prescribed by or under the authority of the President". Under 3 U.S.C. 301, the President may delegate the authority vested in him by this subsection.

## EX ORD. NO. 11446. ACCEPTANCE OF SERVICE MEDALS AND RIBBONS FROM MULTILATERAL ORGANIZATIONS OTHER THAN UNITED NATIONS

Ex. Ord. No. 11446, Jan. 16, 1969, 34 F.R. 803, provided: By virtue of the authority vested in me as President of the United States and as Commander in Chief of the Armed Forces of the United States, I hereby authorize the Secretary of Defense, with respect to members of the Army, Navy, Air Force, and Marine Corps, and the Secretary of Transportation, with respect to members of the Coast Guard when it is not operating as a service in the Navy, to prescribe regulations for the acceptance of medals and ribbons which are offered by multilateral organizations, other than the United Nations, to members of the Armed Forces of the United States in recognition of service conducted under the auspices of those organizations. A determination that service for a multilateral organization in a particular geographical area or for a particular purpose constitutes a justifiable basis for authorizing acceptance of the medal or ribbon offered to eligible members of the Armed Forces of the United States shall be made with the concurrence of the Secretary of State.

LYNDON B. JOHNSON

## RULES AND REGULATIONS

Delegation of the President's authority to prescribe rules and regulations to carry out the Foreign Gifts and Decorations Act of 1966 [now covered by this section] to the Secretary of State, see Ex. Ord. No. 11320, Dec. 22, 1966, 31 F.R. 15789, set out as a note under section 2626 of Title 22, Foreign Relations and Interoourse.

## Gifts, Title 5 U.S.C. (contd)

## SUBCHAPTER V.—MISCONDUCT

## § 7351. Gifts to superiors.

An employee may not—

- (1) solicit a contribution from another employee for a gift to an official superior;
- (2) make a donation as a gift to an official superior; or
- (3) accept a gift from an employee receiving less pay than himself.

An employee who violates this section shall be removed from the service. (Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 527.)

## HISTORICAL AND REVISION NOTES

Deriva- tion	U.S. Code	Revised Statutes and Statutes at Large
----	5 U.S.C. 113	R.S. § 1784.

The application of the section is confined to employees, since the President and Members of Congress, though officers, could not have been intended to be "summarily discharged", and members of uniformed services are not covered by this statute. In the last sentence, the word "removed" is substituted for "summarily discharged" because of the provisions of the Lloyd-LaFollette Act, 37 Stat. 555, as amended, and the Veterans' Preference Act of 1944, 58 Stat. 387, as amended, which are carried into this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

## 3. Franking Privilege

## Title 18 U.S.C. - Crimes and Criminal Procedure

## § 1719. Franking privilege.

Whoever makes use of any official envelope, label, or indorsement authorized by law, to avoid the payment of postage or registry fee on his private letter, packet, package, or other matter in the mail, shall be fined not more than \$300. (June 25, 1948, ch. 645, 62 Stat. 783.)

## LEGISLATIVE HISTORY

*Reviser's Note.*—Based on title 18, U. S. C., 1940 ed., § 357 (Mar. 4, 1909, ch. 321, § 227, 35 Stat. 1134).

Minor verbal change was made. Section 746 (f) of title 8, U. S. C., 1940 ed., Aliens and Nationality, providing same penalty for misuse of franking privilege in naturalization service, should be repealed as covered by this section. The proviso in section 337 of title 39, U. S. C., 1940 ed., The Postal Service, should also be repealed for the same reason.

## CROSS REFERENCES

Franking privilege, see section 3201 et seq. of Title 39, Postal Service.

## 4. Lobbying Regulations

## Title 2 U.S.C. - The Congress

## Chapter 8A.—REGULATION OF LOBBYING

- Sec.
261. Definitions.
262. Detailed accounts of contributions; retention of receipts; bills of expenditures.
263. Receipts for contributions.
264. Statements of accounts filed with Clerk of House.
265. Preservation of statements.
266. Persons to whom chapter is applicable.
267. Registration of lobbyists with Secretary of the Senate and Clerk of House; compilation of information.
268. Reports and statements under oath.
269. Penalties and prohibitions.
270. Exemptions from chapter.

## CROSS REFERENCES

Corrupt practices, see chapter 8 of this title.

Hatch Political Activity Act to restrain pernicious political activity, see sections 594, 595, 598, 600, 601, 604, 605, and 608 of Title 18, Crimes and Criminal Procedure, and sections 1501 et seq. and 7321 et seq. of Title 5, Government Organization and Employees.

## § 261. Definitions.

When used in this chapter—

(a) The term "contribution" includes a gift, subscription, loan, advance, or deposit of money or anything of value and includes a contract, promise, or agreement, whether or not legally enforceable, to make a contribution.

(b) The term "expenditure" includes a payment, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure.

(c) The term "person" includes an individual, partnership, committee, association, corporation, and any other organization or group of persons.

(d) The term "Clerk" means the Clerk of the House of Representatives of the United States.

(e) The term "legislation" means bills, resolutions, amendments, nominations, and other matters pending or proposed in either House of Congress, and includes any other matter which may be the subject of action by either House. (Aug. 2, 1946, ch. 753, title III, § 302, 60 Stat. 839.)

## AUTHORIZATION OF APPROPRIATIONS

Section 244 of act Aug. 2, 1946, provided in part: "All necessary funds required to carry out the provisions of this Act [Legislative Reorganization Act of 1946], by the Secretary of the Senate and the Clerk of the House, are hereby authorized to be appropriated."

Section 244 was made effective as of Aug. 2, 1946, by section 245 of said act Aug. 2, 1946.

For distribution of Legislative Reorganization Act of 1946 in this Code, see "Short Title" note under section 72a of this title.

## SHORT TITLE

Section 301 of act Aug. 2, 1946, provided that act Aug. 2, 1946, which is classified to sections 261 to 270 of this title, shall be popularly known as the "Federal Regulation of Lobbying Act".

## § 262. Detailed accounts of contributions; retention of receipts; bills of expenditures.

(a) It shall be the duty of every person who shall in any manner solicit or receive a contribution to any organization or fund for the purposes hereinafter designated to keep a detailed and exact account of—

- (1) all contributions of any amount or of any value whatsoever;

## Lobbying Regulations, Title 2 U.S.C. (contd)

(2) the name and address of every person making any such contribution of \$500 or more and the date thereof;

(3) all expenditures made by or on behalf of such organization or fund; and

(4) the name and address of every person to whom any such expenditure is made and the date thereof.

(b) It shall be the duty of such person to obtain and keep a receipted bill, stating the particulars, for every expenditure of such funds exceeding \$10 in amount, and to preserve all receipted bills and accounts required to be kept by this section for a period of at least two years from the date of the filing of the statement containing such items. (Aug. 2, 1946, ch. 753, title III, § 303, 60 Stat. 840.)

#### § 263. Receipts for contributions.

Every individual who receives a contribution of \$500 or more for any of the purposes hereinafter designated shall within five days after receipt thereof rendered to the person or organization for which such contribution was received a detailed account thereof, including the name and address of the person making such contribution and the date on which received. (Aug. 2, 1946, ch. 753, title III, § 304, 60 Stat. 840.)

#### § 264. Statements of accounts filed with Clerk of House.

(a) Every person receiving any contributions or expending any money for the purposes designated in subparagraph (a) or (b) of section 266 of this title shall file with the Clerk between the first and tenth day of each calendar quarter, a statement containing complete as of the day next preceding the date of filing—

(1) the name and address of each person who has made a contribution of \$500 or more not mentioned in the preceding report; except that the first report filed pursuant to this chapter shall contain the name and address of each person who has made any contribution of \$500 or more to such person since August 2, 1946;

(2) the total sum of the contributions made to or for such person during the calendar year and not stated under paragraph (1) of this subsection;

(3) the total sum of all contributions made to or for such person during the calendar year;

(4) the name and address of each person to whom an expenditure in one or more items of the aggregate amount or value, within the calendar year, of \$10 or more has been made by or on behalf of such person, and the amount, date, and purpose of such expenditure;

(5) the total sum of all expenditures made by or on behalf of such person during the calendar year and not stated under paragraph (4) of this subsection;

(6) the total sum of expenditures made by or on behalf of such person during the calendar year.

(b) The statements required to be filed by subsection (a) of this section shall be cumulative during the calendar year to which they relate, but where

<sup>1</sup>So in original.

there has been no change in an item reported in a previous statement only the amount need be carried forward. (Aug. 2, 1946, ch. 753, title III, § 305, 60 Stat. 840.)

#### § 265. Preservation of statements.

A statement required by this chapter to be filed with the Clerk—

(a) shall be deemed properly filed when deposited in an established post office within the prescribed time, duly stamped, registered, and directed to the Clerk of the House of Representatives of the United States, Washington, District of Columbia, but in the event it is not received, a duplicate of such statement shall be promptly filed upon notice by the Clerk of its nonreceipt;

(b) shall be preserved by the Clerk for a period of two years from the date of filing, shall constitute part of the public records of his office, and shall be open to public inspection.

(Aug. 2, 1946, ch. 753, title III, § 306, 60 Stat. 841.)

#### § 266. Persons to whom chapter is applicable.

The provisions of this chapter shall apply to any person (except a political committee as defined in the Federal Corrupt Practices Act, and duly organized State or local committees of a political party), who by himself, or through any agent or employee or other persons in any manner whatsoever, directly or indirectly, solicits, collects, or receives money or any other thing of value to be used principally to aid, or the principal purpose of which person is to aid, in the accomplishment of any of the following purposes:

(a) The passage or defeat of any legislation by the Congress of the United States.

(b) To influence, directly or indirectly, the passage or defeat of any legislation by the Congress of the United States.

(Aug. 2, 1946, ch. 753, title III, § 307, 60 Stat. 841.)

#### REFERENCES IN TEXT

The Federal Corrupt Practices Act, referred to in the text, is classified to chapter 8 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 264 of this title.

#### § 267. Registration of lobbyists with Secretary of the Senate and Clerk of House; compilation of information.

(a) Any person who shall engage himself for pay or for any consideration for the purpose of attempting to influence the passage or defeat of any legislation by the Congress of the United States shall, before doing anything in furtherance of such object, register with the Clerk of the House of Representatives and the Secretary of the Senate and shall give to those officers in writing and under oath, his name and business address, the name and address of the person by whom he is employed, and in whose interest he appears or works, the duration of such employment, how much he is paid and is to receive, by whom he is paid or is to be paid, how much he is to be paid for expenses, and what expenses are to be included. Each such person so registering shall, between the first and tenth day of each calendar quarter, so long as his activity continues, file with the Clerk and Secretary a detailed report under



## Lobbying Regulations, Title 2 U.S.C. (contd).

oath of all money received and expended by him during the preceding calendar quarter in carrying on his work; to whom paid; for what purposes; and the names of any papers, periodicals, magazines, or other publications in which he has caused to be published any articles or editorials; and the proposed legislation he is employed to support or oppose. The provisions of this section shall not apply to any person who merely appears before a committee of the Congress of the United States in support of or opposition to legislation; nor to any public official acting in his official capacity; nor in the case of any newspaper or other regularly published periodical (including any individual who owns, publishes, or is employed by any such newspaper or periodical) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge the passage or defeat of legislation, if such newspaper, periodical, or individual, engages in no further or other activities in connection with the passage or defeat of such legislation, other than to appear before a committee of the Congress of the United States in support of or in opposition to such legislation.

(b) All information required to be filed under the provisions of this section with the Clerk of the House of Representatives and the Secretary of the Senate shall be compiled by said Clerk and Secretary, acting jointly, as soon as practicable after the close of the calendar quarter with respect to which such information is filed and shall be printed in the Congressional Record. (Aug. 2, 1946, ch. 753, title III, § 308, 60 Stat. 841.)

## § 263. Reports and statements under oath.

All reports and statements required under this chapter shall be made under oath, before an officer authorized by law to administer oaths. (Aug. 2, 1946, ch. 753, title III, § 309, 60 Stat. 842.)

## § 269. Penalties and prohibitions.

(a) Any person who violates any of the provisions of this chapter, shall, upon conviction, be guilty of a misdemeanor, and shall be punished by a fine of not more than \$5,000 or imprisonment for not more than twelve months, or by both such fine and imprisonment.

(b) In addition to the penalties provided for in subsection (a) of this section, any person convicted of the misdemeanor specified therein is prohibited, for a period of three years from the date of such conviction, from attempting to influence, directly or indirectly, the passage or defeat of any proposed legislation or from appearing before a committee of the Congress in support of or opposition to proposed legislation; and any person who violates any provision of this subsection shall, upon conviction thereof, be guilty of a felony, and shall be punished by a fine of not more than \$10,000, or imprisonment for not more than five years, or by both such fine and imprisonment. (Aug. 2, 1946, ch. 753, title III, § 310, 60 Stat. 842.)

## § 270. Exemptions from chapter.

The provisions of this chapter shall not apply to practices or activities regulated by the Federal Cor-

rupt Practices Act nor be construed as repealing any portion of said Federal Corrupt Practices Act. (Aug. 2, 1946, ch. 753, title III, § 311, 60 Stat. 842.)

## REFERENCES IN TEXT

The Federal Corrupt Practices Act, referred to in the text, is classified to chapter 8 of this title.

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