

114502

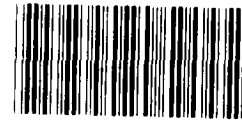
BY THE COMPTROLLER GENERAL

Report To The Congress

OF THE UNITED STATES

The Financial Disclosure Process Of The Legislative Branch Can Be Improved

The House and Senate Ethics Committees are responsible for implementing and administering the requirements of title I of the Ethics in Government Act. Both Committees can do more to improve their financial disclosure process.



114502

Because of the absence of a well-defined disclosure system and strict enforcement, the intent of the law is not being met. Furthermore, certain individuals--primarily candidates for office--are not filing their reports within the required deadlines.

GAO recommends that improvements be made in the financial disclosure process and that disclosure reports be audited for completeness and accuracy to increase the integrity of the process.



FPCD-81-20
MARCH 4, 1981

015799

Request for copies of GAO reports should be sent to:

**U.S. General Accounting Office
Document Handling and Information
Services Facility
P.O. Box 6015
Gaithersburg, Md. 20760**

Telephone (202) 275-6241

The first five copies of individual reports are free of charge. Additional copies of bound audit reports are \$3.25 each. Additional copies of unbound report (i.e., letter reports) and most other publications are \$1.00 each. There will be a 25% discount on all orders for 100 or more copies mailed to a single address. Sales orders must be prepaid on a cash, check, or money order basis. Check should be made out to the "Superintendent of Documents".



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

B-201515

To the President of the Senate and the
Speaker of the House of Representatives

CNO 00001

This report describes how the House Committee on Standards of Official Conduct and the Senate Select Committee on Ethics have implemented the requirements of title I of the Ethics in Government Act of 1978 (Public Law 95-521). The report examines the disclosure activities for the 1979 and 1980 filing requirements and discusses the need for improvements in the financial disclosure systems which the House and Senate have created. We made this review according to the legislative mandate contained in section 109 of the law.

We are sending copies of this report to the Chairmen, House Committees on Standards of Official Conduct, on Post Office and Civil Service, and on the Judiciary and the Clerk of the House. We are also sending copies to the Chairmen, Senate Select Committee on Ethics and Senate Committee on Governmental Affairs and the Secretary of the Senate.

James B. Atwater
Comptroller General
of the United States

*HSE03700
SEN 460 06500
AGC00037*

D I G E S T

GAO reviewed the House and Senate financial disclosure activities for the 1979 and 1980 calendar year filing requirements and concluded that the House and Senate need to improve the implementation of the financial disclosure systems they have created.

Improvements are needed in

- identifying individuals who are required to file disclosure reports,
- ensuring filing compliance,
- reviewing disclosure reports for completeness and accuracy,
- taking legal enforcement actions against those who fail to file, and
- approving and monitoring of blind trusts.

The House Committee on Standards of Official Conduct and the Senate Select Committee on Ethics (Ethics Committees) are responsible for implementing and administering the disclosure requirements of title I of the Ethics in Government Act of 1978. This title establishes public financial disclosure requirements for Members of Congress, their employees, congressional candidates, and other employees of the legislative branch. The act requires GAO to review and comment on whether disclosure requirements have been effectively implemented and whether audits for completeness and accuracy of disclosure reports should be performed.

GAO found that the Ethics Committees have no formal written procedures prescribing how the systems should operate and no clear delineation of responsibilities to guide them in effectively implementing and administering the law. On the basis of its former disclosure report audit experience, GAO believes that audits of financial disclosure reports should be instituted to enhance the integrity of the disclosure systems. (See p. 27.)

FPCD-81-20

IDENTIFICATION OF FILERS--IMPROVEMENTS
CAN ENHANCE THE PROCESS

GAO was restricted from independently verifying whether all required House and Senate employees were identified for filing purposes because the House and Senate have a policy of prohibiting third parties, including GAO, from access to computerized payroll and employment data. Generally, procedures for identifying individuals required to file financial disclosure reports are adequate. The Senate, however, did not properly identify its employees whose pay is equivalent to GS-16 or higher and who, consequently, were required to file in 1979 and 1980 and had not developed a system to identify and notify new employees required to file. (See p. 4.)

In cases where Members do not employ anyone equivalent to or above the GS-16 level, they must designate a principal assistant, who should be someone who can influence the legislative process. Neither the House nor Senate has developed criteria that define the types of positions eligible for a principal assistant designation. Despite the lack of criteria, the House has effectively carried out this provision. However, the Senate has not. (See p. 6.)

In addition, neither the House nor Senate Ethics Committee periodically checks to ensure that legislative branch agencies are properly identifying all individuals required to file.

The Federal Election Campaign Act was amended on January 8, 1980, and changed the definition of a candidate. Before the amendment, the definition of a candidate was similar to that of the Ethics in Government Act, and any candidate who had to register with the Federal Election Commission was required by the ethics act to file a disclosure report. The change in the definition of a candidate makes it difficult for the House and Senate to identify and notify individuals who are candidates for purposes of the disclosure law. Neither the House nor the Senate can readily identify individuals who continue to be candidates during the years after they lose an election. (See p. 8.)

The October 1980 Federal white-collar pay schedule increased the nominal rate of a GS-16 from \$47,889 to \$52,247. However, the basic rate of pay payable to employees at this rate is limited to \$50,112. Because of a House interpretative ruling, many individuals who were required to file for the 1980 filing requirement will not be required to file in 1981 because they no longer are compensated at a rate of a GS-16. (See p. 9.)

RECOMMENDATIONS

GAO recommends that the Chairmen of the House and Senate Ethics Committees:

- Develop formal written criteria to assist Members in designating principal assistants subject to potential conflicts of interest.
- Periodically evaluate legislative branch agencies' identification of filers (including experts and consultants).

GAO also recommends that the Chairman of the Senate Ethics Committee:

- Monitor the appointment of new employees required to file so that the Committee can observe filing compliance by these individuals.
- Notify Senators who must designate a principal assistant when they do not have an employee equivalent to a GS-16 or above on their staffs.

MATTERS FOR CONSIDERATION

The Chairmen of the House and Senate Ethics Committees should consider:

- Modifying the appropriate forms, in coordination with the Federal Election Commission, to help the Senate and House offices of public records ensure that all defeated candidates who remain candidates are properly identified.
- Conforming the ethics law definition of a candidate to that of the Federal Election Campaign Act. If the committees agree, they should introduce the necessary legislation to do so.

--Amend the law to lower the required filing salary to the pay ceiling of \$50,112, or some other specified pay level, to allow those individuals equivalent to a GS-16 level or above who previously filed to continue to file.

IMPROVEMENTS NEEDED IN
ASSURING FILING COMPLIANCE

Compliance is a problem, primarily for candidates, and an effective system has not been created by the House and Senate to obtain reports from nonfilers in a timely manner. To illustrate, as of May 30, 1980, 3,242 individuals were identified as required filers. Of this total, 2,294 individuals, or 71 percent, filed disclosure reports on time, while 948 filed late or failed to file. (See p. 12.)

The House Ethics Committee is not requiring candidates who lose a primary election to file disclosure reports, but there is no statutory basis for excusing these individuals from filing. Eighty-nine candidates were identified as of July 29, 1980, as having lost a congressional primary, but no Committee action was planned or taken to have them comply with the statutory requirements.

A civil penalty would encourage individuals to apply for extensions or file by the appropriate time. Currently, no such penalty exists for late filers.

RECOMMENDATIONS

GAO recommends that the Chairmen of the House and Senate Ethics Committees:

- Inform the House and Senate support organizations of the information needed to monitor filers' compliance and specify how often such information is needed.
- Regularly monitor all nonfilers and establish a policy that specifies the actions that should be taken against nonfilers.
- Require all candidate nonfilers, including candidates who lose a primary election, to promptly file disclosure reports.

MATTER FOR CONSIDERATION

If individuals continue to file late, after appropriate Committee action, then the Chairmen of the House and Senate Ethics Committees should consider whether the law should be amended to impose a civil penalty to discourage late filing.

IMPROVEMENTS NEEDED IN THE REVIEW OF FINANCIAL DISCLOSURE REPORTS

Neither the House nor Senate Ethics Committee is effectively reviewing the disclosure reports to see that they are in proper form and comply with the disclosure provisions of the law. GAO sampled 218 of the 1,253 reports filed in 1979 with the House and found that approximately one-third contained at least one error or omission. Similarly, a sample of 1980 Senate reports showed that at least one-fourth of the 586 reports filed contained errors. In both cases, the reports had been reviewed previously by the House and Senate committee. (See p. 17.)

The House Ethics Committee has not established a system that monitors whether all individuals requested to amend their reports have properly and promptly done so. Because the House committee maintains no record of individuals directed to amend their reports, GAO was unable to assess whether individuals were filing amendments when asked to by the Committee. Although the Senate Committee made some improvements in its management of the review process, it still does not monitor whether amended reports are promptly filed or filed at all. For example, of the 113 individuals who were requested to amend their 1980 reports, as of August 13, 1980, 43 individuals had not yet done so.

RECOMMENDATIONS

GAO recommends that the Chairmen of the House and Senate Ethics Committees:

--Develop detailed guidelines to assist Committee staff when reviewing reports for completeness and accuracy.

GAO also recommends that the Chairman of the House Ethics Committee establish:

--A system that will monitor requests for and receipts of amended reports.

--Time frames for when an amended report should be filed.

In addition, the Chairman of the Senate Ethics Committee should follow up to ensure that individuals requested to amend their reports comply in a timely fashion.

NONFILERS ARE NOT BEING REFERRED
TO THE ATTORNEY GENERAL

Although the law authorizes the Attorney General to bring a civil action against any nonfiler, neither the House nor the Senate Ethics Committee has taken action to refer nonfilers to the Attorney General for prosecution. While the law does not specifically assign to the Ethics Committees the responsibility of referring nonfilers for legal action, comparable provisions contained in other titles of the law clearly assign this responsibility to the organizations responsible for administering the statute's disclosure requirements.

The House Ethics Committee has not referred nonfilers to the Attorney General because of a procedural rule set by the House that requires a vote by House Members before an individual can be referred to the appropriate Federal or State authorities for a violation of law. Similarly, the Senate Ethics Committee has not referred nonfilers to the Attorney General because it felt that the enforcement initiative was the responsibility of the Justice Department. However, in late June 1980, the Senate Committee decided to advise the Attorney General of those individuals who had not filed disclosure reports.

Only two individuals have been referred to the Attorney General. The referral was initiated by a senatorial candidate and involved a complaint that two other candidates, seeking election in the same State, did not file disclosure reports. (See p. 25.)

RECOMMENDATIONS

GAO recommends that the Chairman of the Senate Ethics Committee assume the enforcement initiative, after sending the proper dunning notices to delinquent filers, by referring to the Attorney General, in a timely fashion, all individuals who have failed to file disclosure reports.

The Chairman of the House Ethics Committee, after sending the proper dunning notices to delinquent filers, should refer nonfilers to House Members for decision to refer them to the Attorney General.

DISCLOSURE REPORT AUDITS SHOULD BE PERFORMED

The institution of an audit requirement will preserve the integrity of the current financial disclosure process and will provide the public with complete and accurate information which it needs to properly review disclosure reports.

GAO's audit responsibility under former Senate rule 42/ of the Senate Code of Official Conduct revealed that disclosure reports were not always completely and accurately filed. Even if the Committees improve the quality of their review process, such a review would not detect the type of omitted financial interest that audits have revealed. (See p. 30.)

RECOMMENDATIONS

GAO recommends that the Congress institute the requirement for random audits of financial disclosure reports. If the Congress elects to subject only Members of Congress and congressional employees to an audit requirement, both House and Senate should adopt an appropriate rule. If the audit requirement also applies to legislative branch agency employees and congressional candidates, the law will have to be amended to obtain compliance from these individuals. GAO further recommends that, if audits are made an integral part of the congressional disclosure process, the Chairmen of the supervising Ethics Committees should develop procedures to ensure that amendments to disclosure reports, required

as a result of audits, are made promptly and included with the individual's original financial report.

COMMITTEES' APPROVAL OF QUALIFIED BLIND TRUSTS NOT CONSISTENT WITH THE LAW

The purpose of a blind trust is to permit an individual to transfer property to an independent trustee as a means of avoiding the potential for conflicts of interest. To qualify as a blind trust under the law, both the trust instrument and its trustee(s) must meet prescribed statutory standards and must be approved by either the House or the Senate Ethics Committee.

Some of the trust instruments and trustees of approved qualified blind trusts do not appear to meet the standards contained in the law. GAO found that 8 of 11 trust instruments approved by the Senate Ethics Committee had not been amended to reflect the provisions of the law, or the independence of the trustee was questionable. This was also the case for eight of nine trusts approved by the House Ethics Committee. Neither Ethics Committee monitors blind trusts after they have been approved. (See p. 35.)

RECOMMENDATIONS

To improve the approval and monitoring of blind trusts, the Chairmen of the House and Senate Ethics Committees should:

- Develop formal procedures and requirements for approval of a proposed trust and its trustee(s).
- Establish procedures for monitoring and enforcing the qualified blind trust requirements set forth in the law.

MATTER FOR CONSIDERATION

To provide the public ready access to trust documents, the Chairmen of the House and Senate Ethics Committees should consider requiring that a reporting individual attach to the annual financial disclosure report any trust document required by law.

ACTIVITIES OF STATE OFFICES RESPONSIBLE
FOR FINANCIAL DISCLOSURE REPORTS

The law requires that a copy of each disclosure report filed by congressional Members and candidates be sent to their States so that the report can be readily available for inspection by their constituents. The law, however, does not impose duties or responsibilities on the States regarding the maintenance, use restrictions, and disposition of reports. GAO found that few requests are made for these reports and that States' practices vary widely regarding maintenance, use restrictions, and disposition of reports. In view of the minimal requests being made at the State level, forwarding disclosure reports for public availability may be an unnecessary burden. (See p. 42.)

MATTERS FOR CONSIDERATION

The Chairmen of the House and Senate Ethics Committees, in coordination with the House and Senate offices of public records, should consider:

- Proposing legislation to delete the requirement that Member and candidate disclosure reports be forwarded to the appropriate States.
- Designating a Federal location within each State as the repository for reports so that the maintenance/disposition, written application for inspection or copy, and unlawful use provisions may be consistently applied.
- Preparing formal guidelines to State offices advising them of the proper practices that should be employed if either of the above matters is not acted upon.

C o n t e n t s

		<u>Page</u>
DIGEST		i
CHAPTER		
1	INTRODUCTION	1
	Objectives, scope, and methodology	1
2	IDENTIFICATION OF FILERS GENERALLY HAS BEEN EFFECTIVE--IMPROVEMENTS CAN ENHANCE THE PROCESS	3
	Who must file?	3
	House and Senate identification of required filers generally adequate	4
	Identifying legislative branch agency employees	7
	Timely candidate identification and filing is complicated by amendment to the Federal Election Campaign Act	7
	Procedures needed to identify individuals who continue to be candidates in non-election years	8
	Adequacy of the "who-must-file" coverage of the law	9
	Effect of current GS pay level on legislative branch disclosure	9
	Conclusions	10
	Recommendations	<u>11</u>
	Matters for consideration	11
3	FILING COMPLIANCE AND ETHICS COMMITTEES' COMPLIANCE REVIEW OF DISCLOSURE REPORTS HAVE NOT BEEN EFFECTIVE	12
	House and Senate filing compliance--total compliance has not been attained	12
	Weaknesses in House and Senate procedures for monitoring filing compliance	15
	Coordinating information needs between the House Committee and ORR can improve compliance monitoring	17
	House and Senate Ethics Committees' compliance review of disclosure reports needs to be improved	17
	Conclusions	20
	Recommendations	<u>21</u>
	Matter for consideration	22

CHAPTER		<u>Page</u>
4	HOUSE AND SENATE ETHICS COMMITTEES NEED TO AGGRESSIVELY ENFORCE THE FILING PROVISIONS OF TITLE I	23
	House Ethics Committee not actively enforcing noncompliance	23
	Senate Ethics Committee beginning to take enforcement actions	24
	Department of Justice Enforcement activity	25
	Conclusions	26
	Recommendations	26
5	AUDITS OF FINANCIAL DISCLOSURE REPORTS--A NECESSARY ACTIVITY TO ENSURE THE INTEGRITY OF THE CONGRESSIONAL DISCLOSURE SYSTEM	27
	Historical development of the need for random audits of disclosure reports	27
	Advantages and disadvantages of disclo- sure report audits	29
	Filers' and disclosure report users' opinions of the need for an audit requirement	32
	Conclusions	33
	Recommendations	33
6	BLIND TRUST APPROVALS SHOULD COMPLY WITH THE LAW	34
	Ethics Committees should approve only trusts that meet the spirit and intent of the law	34
	Conclusions	38
	Recommendations	39
	Matter for consideration .	39
7	OTHER RELATED FINANCIAL DISCLOSURE MATTERS	40
	Reports are being made available to the public, State officials, and Ethics Committees as required by law	40
	Activities of State offices responsible for public financial disclosure reports	42
	Completing disclosure forms and adhering to disclosure provisions generally are not burdensome	44
	Adequacy of the financial disclosure reporting requirements	46
	Conclusions	48
	Matters for consideration	48

		<u>Page</u>
APPENDIX		
I	GAO Questionnaire on public disclosure report filers and users	49
II	Title I of the Ethics in Government Act of 1978 as amended by Public Laws 96-19 and 96-28	115
III	Summary of reported findings of audits of Senate rule 42 disclosure reports	132
IV	House and Senate bills introduced containing audit provisions	140
V	Other issues which should be considered if audits are to be implemented	141

ABBREVIATIONS

EGA	Ethics in Government Act of 1978
FECA	Federal Election Campaign Act of 1971
GAO	General Accounting Office
OPR	Office of Public Records
ORR	Office of Records and Registration



CHAPTER 1

INTRODUCTION

On October 26, 1978, Public Law 95-521--the Ethics in Government Act (EGA) of 1978--was enacted, in part, to require public financial disclosure of Members of Congress and other high-level officials in all three branches of Government. The principal objectives of this legislation are to promote the financial accountability of, and increase public confidence in, Government officials.

While disclosure may not, in itself, restore the public's confidence in the Government, it helps to deter conflicts of interest by publicizing information on Government officials' financial interests and outside business and professional activities.

Title I of the law established public financial disclosure requirements applicable to officials in the legislative branch. The law requires Members of Congress, officers of both the House and Senate, candidates for congressional office, congressional employees, and legislative branch employees receiving a salary equal to or exceeding the basic rate of pay for a General Schedule (GS)-16 to file public financial disclosure reports. (See ch. 2 for a detailed explanation of who must file and when such filings are required.)

The Senate Select Committee on Ethics and the House Committee on Standards of Official Conduct (Ethics Committees) are responsible for implementing the legislative branch's disclosure system.

The Office of the Secretary of the Senate and the Clerk of the House mainly are responsible for receiving disclosure reports, sending copies of the reports to the Senate and House Ethics Committees, and making the reports publicly available upon request.

OBJECTIVES, SCOPE, AND METHODOLOGY

Section 109 of title I requires us to determine whether the title is being carried out effectively and whether timely and accurate financial disclosure reports are being filed. In addition, we are to determine the feasibility and potential need for systematic random audits of the financial disclosure reports filed under this title.

Our work covered the House and Senate disclosure activities for the 1979 and 1980 calendar year filing requirements. We conducted our work primarily in Washington, D.C., at the Offices of the House Committee on Standards of Official Conduct, Senate Select Committee on Ethics, Clerk of the House, and Secretary of the Senate. We examined issues, such as:

- How filers are identified, including the adequacy of coverage and an evaluation of how Members designate persons to file.
- Compliance with the filing requirements.
- How the Senate and House Ethics Committees fulfill their compliance review roles.
- The extent to which the Justice Department enforces compliance.
- The need for systematic random audits of the reports filed under title I of the law.
- How the Secretary of the Senate and the Clerk of the House carry out administrative duties, including the implementation of the requirement for the public availability of reports.

We examined a randomly selected statistical sample of House and Senate financial disclosure reports to determine whether they were properly completed. We also reviewed blind trusts instruments and related documents to determine whether they met the requirements of the law and interviewed appropriate House and Senate officials and staffs involved in the disclosure process.

In addition, we canvassed Members of the House and Senate, congressional staff filers, legislative branch employees, candidates, and financial disclosure report users to gain insight of filer/user attitudes and experiences with the financial disclosure process. We assessed the extent to which duties have been imposed on various State officers responsible for making Members' and congressional candidates' disclosure reports available. We also obtained information from various State ethics officials to determine the extent to which disclosure report audits are being conducted.

We were limited in determining whether the House and Senate have properly identified all congressional employees for filing purposes because House and Senate policy prevents outside agencies, including us, from access to personnel employment and payroll data. Therefore, we were unable to independently verify whether the House and Senate have properly identified those individuals who are required to comply with the disclosure requirements. Further details regarding the limitations of the available data are included, where necessary, in each chapter, and a discussion of our questionnaire methodology is included in appendix I.

CHAPTER 2

IDENTIFICATION OF FILERS GENERALLY HAS BEEN EFFECTIVE--

IMPROVEMENTS CAN ENHANCE THE PROCESS

House and Senate procedures for identifying congressional employees required to file public disclosure reports generally have been effective. Mainly, filers appear to be staff members in positions able to influence the legislative process, and therefore, subject to conflicts of interest. We did find, however, that other individuals with the same duties, responsibilities, and titles are not filing because they do not meet the salary threshold equivalent to a GS-16 employee.

Legislative branch agencies are properly identifying their employees; however, we found that neither the House nor the Senate Ethics Committee periodically checks to ensure that these agencies continue to properly identify all individuals required to file.

Because of a recent amendment to the Federal Election Campaign Act (FECA) of 1971, the House and Senate are experiencing difficulty in obtaining timely reports from congressional candidates required to file. The Senate does not have procedures to identify defeated candidates who remain candidates in nonelection years. Officials from the Office of the Clerk informed us that they had such procedures.

On October 1, 1980, the approved Federal white-collar pay schedule increased the rate of a GS-16 from \$47,889 to \$52,247. Because of a House Ethics Committee interpretative ruling, many individuals who were required to file in 1980 will not be required to file in 1981.

WHO MUST FILE?

Members of Congress, their employees, candidates for congressional office, and certain employees of the legislative branch are required to file personal financial disclosure reports. A Member must file if he/she is in office on May 15 of any year. The reporting period covers the previous calendar year. For example, if a Member is in office on May 15, 1980, he/she is required to file a financial disclosure report covering the 1979 calendar year on or before May 15, 1980.

Officers or employees of the House and Senate or of a legislative branch agency are required to file if they are compensated at the basic rate of pay equal to or more than that in effect for a grade GS-16, work for more than 60 days in any one calendar year and/or employed on May 15 of the following calendar year. (The GS-16 level was selected as the filing criterion because the Congress felt that it was at this level that individuals could

influence the legislative process.) When a Member does not have a staff employee compensated at the rate of pay equal to or in excess of the GS-16 rate, that Member must designate at least one staff member as a principal assistant to file a disclosure report. The principal assistant must be employed by the designating Member of Congress on May 15.

New employees who expect to work for more than 60 days and are compensated at or in excess of the GS-16 rate must file an abbreviated report within 30 days of assuming the new position if they (1) were not employed in the legislative branch immediately before assuming the position or (2) did not hold a legislative branch position covered by the law within the preceding 30 days. Experts, consultants, or any other employees hired on a temporary or part-time basis are also subject to the filing requirements. However, their filing can be waived by the respective Ethics Committee under certain prescribed conditions.

A candidate 1/ for the Congress must file within 30 days of becoming a candidate, or by May 15, whichever is later. In no case, however, may a candidate file less than 7 days before an election. The person must continue to file by May 15 each year as long as he/she is a candidate in accordance with section 101(d).

HOUSE AND SENATE IDENTIFICATION OF REQUIRED FILERS GENERALLY ACCURATE

Generally, the House and Senate procedures for identifying individuals required to file financial disclosure reports are adequate. The Senate, however, did not properly identify its employees required to file in 1979 and 1980 and had not developed a system to identify and notify new employees required to file. The Senate Ethics Committee has not informed Senate Members who do not have an employee compensated at or in excess of the GS-16 rate that they must designate a principal assistant to file a disclosure report.

Identification of qualifying congressional employees

The Office of Records and Registration (ORR) in the Office of the Clerk of the House has assumed the responsibility of identifying for the House Ethics Committee those House employees and candidates required to file public financial disclosure reports. The Senate Disbursing Office and the Office of Public Records (OPR), both within the Office of the Secretary of the Senate, identify Senate employees and candidates who are required to file.

1/A candidate is defined by EGA as someone other than the incumbent Member who seeks nomination or election to the Congress.

Our review of ORR's financial disclosure identification procedures revealed that individuals have been properly identified. Also, ORR is notifying Members that they must designate a principal assistant for filing purposes when they do not have an employee equivalent to a GS-16 or above on their staff.

Our review of the Senate practice revealed problems with the identification of existing and new employees equivalent to a GS-16 or above. Some GS-16 employees who should have filed during 1979 probably did not because Senate rule 42, requiring financial disclosure by Members and employees, was in effect concurrently with the law. Under this rule, only individuals who worked for more than 90 days had to file, as opposed to the more than 60 days required by the law. The Senate Disbursing Office identified all those who filed according to rule 42 but did not identify those who worked more than 60 days but less than 90. Senate Disbursing Office officials agreed that some individuals who should have filed in 1979 probably did not because they were not identified. Officials stated it would be too time-consuming to identify them now.

Senate rule 42 was repealed on August 3, 1979, and only those who met the criteria of the new law had to file annual disclosure reports by May 15, 1980. However, in identifying individuals required to file, the Senate Disbursing Office did not account for the October 1, 1979, Federal pay raise which increased the GS-16 basic rate of pay from \$44,756 to \$47,889. The result was that 165 individuals were incorrectly identified as having exceeded the GS-16 rate because their rate of pay, with the pay raise, exceeded the \$44,756 salary level. We brought this matter to the attention of officials of the Senate Ethics Committee and the Senate Disbursing Office, which later amended the list of required filers. Senate Disbursing Office officials told us that this error occurred because the Senate Ethics Committee staff failed to clearly spell out the salary threshold that should be used when identifying individuals for annual filing.

Neither the Senate Ethics Committee nor the Senate Disbursing Office had established a system to identify new employees who have to file within 30 days of their employment. At our request, the Senate Disbursing Office identified all new equivalent GS-16 and above employees during 1979. Of the 32 individuals identified, only 12 filed disclosure reports. The Senate Disbursing Office identified four additional new employees between January 1 and May 15, 1980. We found that only one of these individuals filed according to the law. The information provided by the Senate Disbursing Office, however, was not completely accurate. For example, we found instances where individuals were identified as new employees but were actually Senate employees during the previous year.

We believe that the Senate Ethics Committee should be responsible for informing new employees about their filing obligation.

A committee staff member told us that he felt that it was up to new employees to know this. At our request, the Senate Disbursing Office began notifying new employees compensated at a rate equal to or greater than a GS-16 of their filing obligation; however, an official of this office told us that it did not inform the Senate Ethics Committee of these new appointments so that the committee could monitor filing compliance by these individuals.

Designation of principal assistants

The intent behind designating principal assistants is to assure that each Member has at least one employee filing a financial disclosure report. The principal assistant should be someone in a position to influence the legislative process. The House has effectively carried out the designation provision of the law; the Senate has not.

Neither the House nor Senate has developed formal written criteria that would help Members designate principal assistants. Currently, Members use their own criteria. Generally, this method has worked out well. However, written criteria are needed to ensure uniformity in the types of individuals who are designated to file and to ensure that future designations are consistent with the intent of the law.

House designation of principal assistants generally complies with the law

Most House Members appear to designate principal assistants consistent with the intent of the law. House Members are appointing at least one staff employee to file a report. ORR records for the 1980 filing year showed that 335 Members, who were required to appoint principal assistants, identified 457 individuals to file. Members are not limited to the number of persons they can designate to file.

Members appear to be appointing key individuals. Of the 422 principal assistants who filed, we believe (as a result of interviews with 97 individuals holding such positions) that approximately 351, or 83 percent, were susceptible to potential conflicts of interest. The remaining individuals consisted of secretaries, caseworkers, special assistants, and press aides and, in our judgment, were not in positions susceptible to potential conflicts of interests. For example, one Member designated a staff assistant whose salary ranked eighth in the office. We found that other individuals in that office, not required to file, were in better positions to influence the legislative process.

Senate has not implemented designation of principal assistants

The Senate Ethics Committee does not notify Senators about designating a principal assistant when they do not have a person

equivalent to a GS-16 or above employed on their staffs. According to a committee staff member, the provision to designate is in the filing instructions and he does not think it is the committee's responsibility to notify Senators. We disagree, since the Senate committee should be responsible for ensuring that the provisions of the law are properly implemented. Furthermore, the committee staff member said that most Members will have someone filing from their offices because of Senate rule 41. This rule requires Senators to designate a political fund designee to handle campaign funds.

Although political fund designees file the same disclosure report as do employees who are compensated at or above the GS-16 rate of pay on May 15 of each year, they are not subject to the law, in our opinion, because they file according to a Senate rule. Also, many political fund designees are not in positions susceptible to potential conflicts of interest. Of 92 political fund designees who were compensated at less than the salary of a GS-16, only 49, or 53 percent, were in occupational categories which we believe were susceptible to potential conflicts of interest.

Eighteen Senators did not have at least a GS-16 equivalent employed on their staffs and had not designated a principal assistant. Considering the political fund designee filing requirement, all Senators did have at least one person filing from their offices. We believe, however, that the coverage provision of the law was intended to require disclosure only by key officials--those in a position to influence the legislative process--not by those authorized to handle political contributions.

IDENTIFYING LEGISLATIVE BRANCH AGENCY EMPLOYEES

The law requires that both the House and Senate Ethics Committees monitor reports filed by employees of legislative branch agencies. The House Ethics Committee is responsible for reports filed by employees of the Architect of the Capitol, Botanic Gardens, Congressional Budget Office, Government Printing Office, and Library of Congress. The Senate committee is responsible for reports filed by GAO, the Office of Technology Assessment, National Commission on Air Quality, and Office of the Attending Physician. Both the House and Senate have requested that the above agencies identify and provide them with a list of GS-16 employees. Neither committee verifies agencies' lists of required filers.

TIMELY CANDIDATE IDENTIFICATION AND FILING IS COMPLICATED BY AMENDMENT TO THE FEDERAL ELECTION CAMPAIGN ACT (FECA)

On January 8, 1980, FECA was amended. The amendment changed the definition of a candidate by requiring only those individuals to register for election who had raised or spent more than \$5,000.

Before the amendment, it was fairly easy to identify candidates since any one who had registered with the Federal Election Commission, regardless of how much he/she spent or received, met the definition of a candidate for the disclosure law. Officials of the House and Senate offices of public records knew who had to file because they received the candidates' election registration forms. However, because of the amendment, an individual can possibly be considered a candidate under EGA but not under FECA. The change complicates matters because the House and Senate can no longer identify a candidate until he/she meets the \$5,000 threshold or appears on a State ballot.

According to the disclosure law, a candidate must file a disclosure report within 30 days of becoming a candidate (regardless of fund status), or on May 15, whichever is later. In no case, however, may a candidate file less than 7 days before a primary or general election. As a result of the FECA amendment, the House ORR and Senate OPR can identify a candidate when his/her name shows up on a State ballot or when the candidate files a report required by FECA. House and Senate officials told us that after January 1980 they relied on State primary ballots to identify individuals who became candidates. This method, although reasonable, may not allow candidates to file their reports within the time frames specified by law.

PROCEDURES NEEDED TO IDENTIFY
INDIVIDUALS WHO CONTINUE TO BE
CANDIDATES IN NONELECTION YEARS

Section 101(d) of EGA generally requires candidates to file disclosure reports for each year of their candidacy. Defeated candidates need not file disclosure reports if they remain a candidate simply to pay outstanding debts from prior elections. Neither the House nor the Senate office of public records can readily identify such individuals who continue to be candidates during the years after they lose an election. House and Senate officials told us that all individuals must submit a statement of candidacy within 15 days of attaining candidate status under FECA. If candidates submit their statements as required, identifying valid candidates (those seeking election as opposed to those paying outstanding debts) should not pose a problem. However, according to officials of the House and Senate offices of public records, candidates do not always submit their statement of candidacy to specify the election they seek.

While Senate OPR officials stated that they are not yet certain how they will identify an individual's candidacy, House ORR officials told us that they will monitor the quarterly financial reports (Report of Receipt and Disbursement--FEC No. 3). These quarterly reports require a candidate's campaign committee to report receipts and disbursements from the candidate's campaign activities. House ORR officials said that if an individual raises

or spends \$5,000 or more for any purpose other than reducing campaign debts, he/she will be considered a candidate for future election and be required to file by May 15.

ADEQUACY OF THE "WHO-MUST-FILE"
COVERAGE OF THE LAW

As previously stated, the disclosure law was designed to require those who could influence the legislative process to file. Although most individuals who filed in 1979 and 1980 appear to meet this requirement, we found that some who hold positions and have duties similar to those filing do not file because they do not meet the salary threshold specified for filing purposes.

We attempted to determine what congressional staff positions are most subject to influencing the legislative process. We interviewed 97 House and Senate congressional staff members to determine their duties and responsibilities. On the basis of these interviews, we judged that the positions of administrative assistant, executive assistant, legislative assistants, and district administrators/representatives as those most susceptible to potential conflicts of interest. However, in view of the absence of specific position descriptions, we cannot be certain that all similar positions, or the individuals who hold them, should be subject to the disclosure filing requirements set forth in the law. Job titles can be deceiving and may not in themselves be an indication that an individual is susceptible to potential conflicts of interest.

Determining those congressional employees that are most able to influence the legislative process is a subjective matter. For this reason, we believe that the employing Member is best able to determine the degree to which his/her employees are susceptible to conflicts. Members should be given the discretion to identify those employees who they feel should file disclosure reports, regardless of whether the Members already employ an equivalent GS-16 or above staff member on their personal and/or committee staffs.

EFFECT OF CURRENT GS PAY LEVEL
ON LEGISLATIVE BRANCH DISCLOSURE

On October 1, 1980, the President approved a 9.11-percent pay raise for most white-collar Federal workers. This pay adjustment sets the pay rate of a GS-16 employee at \$52,247. However, the basic rate of pay payable to employees at this rate is limited to \$50,112.

The change in the GS-16 pay schedule presents a problem for the May 15, 1981, House filing requirement. Because of a House Ethics Committee interpretative ruling, only an individual who is compensated at the rate of pay of a GS-16 or above who meets the salary criteria as of May 15 of each year is required to file. To illustrate, although an individual may have been compensated

at the rate of pay of a GS-16 level employee (\$47,889 before October 1, 1980), if still employed on May 15, 1981, the individual would not have to file because the salary ceiling of \$50,112 would prevent him/her from being compensated at the GS-16 rate of \$52,247. Therefore, under the ruling, individuals who were previously compensated at the GS-16 level would not be required to file for the May 15, 1981, requirement.

The change in the GS-16 salary rate substantially reduces the potential number of required filers from 407 to 82 for the May 15, 1981, filing year. If this interpretation also applies to the legislative branch agency employees, the majority of the 193 required filers identified by the House as of May 30, 1980, will probably not be required to file.

We discussed this problem with a House Ethics Committee staff member who told us that the staff plans to bring the matter to the attention of committee members. This problem will not arise in the Senate until 1982 because the Senate Ethics Committee requires all individuals who meet the service and salary criteria of a GS-16 employee for any part of the preceding year to file a report by the succeeding May 15, regardless of whether the individual was compensated at the GS-16 rate on that date.

CONCLUSIONS

The need to establish an effective process to accurately identify all individuals who have to file public disclosure reports is critical if the intent of the law is to be met. Inadequate implementation of the coverage provisions of the law affects the credibility of the financial disclosure process. The Senate Ethics Committee needs to improve its oversight to ensure that new employees compensated at a rate of pay equal to or in excess of a GS-16 are filing reports within 30 days of their employment and that Members designate principal assistants consistent with the intent of the law. Designation criteria would assist Members when appointing key principal assistants and could ensure that all Members' future appointments are consistent with the purpose of the law.

The Ethics Committees should periodically review legislative agency compliance with the law to improve the effectiveness of the overall disclosure process.

Identifying candidates and requiring them to file within time frames stipulated in law are difficult assignments since candidates do not have to register with the Federal Election Commission unless they raise or spend more than \$5,000. Additionally, both the House and Senate offices of public records will have to ensure that individuals who remain candidates in nonelection years are identified and requested to file a report each year of their

candidacy. Federal Election Commission form No. 3 could be modified to allow individuals to show whether they still are a candidate for a future election.

Because of the escalating GS-16 rate of pay, the law eventually will have to be modified, either by reducing the salary threshold to the pay ceiling in effect, lowering the GS pay level, or setting the salary criteria at a certain specified pay level. Such action will ensure that individuals in positions to influence the legislative process will always have to file disclosure reports.

RECOMMENDATIONS

We recommend that the Chairmen of the House and Senate Ethics Committees:

- Develop formal written criteria to assist Members in designating principal assistants subject to potential conflicts of interest.
- Periodically evaluate legislative branch agencies' identification of filers (including experts and consultants).

We also recommend that the Chairman of the Senate Ethics Committee:

- Monitor the appointment of new employee required to file so that the committee can observe filing compliance for these individuals.
- Notify Senators who must designate a principal assistant when they do not have an employee equivalent to a GS-16 or above on their staffs.

MATTERS FOR CONSIDERATION

The Chairmen of the House and Senate Ethics Committees should consider:

- Modifying the appropriate Federal Election Campaign forms, in coordination with the Federal Election Commission, to help the Senate and House offices of public records ensure that all defeated candidates who remain candidates are properly identified.
- Conforming the EGA definition of a candidate to that of FECA and introducing the necessary legislation to do so.
- Amend the law to lower the required filing salary threshold to the pay ceiling of \$50,112, or some other specified pay level, to allow those individuals equivalent to a GS-16 level who previously filed to continue to file.

CHAPTER 3

FILING COMPLIANCE AND ETHICS COMMITTEES' COMPLIANCE

REVIEW OF DISCLOSURE REPORTS HAVE NOT BEEN EFFECTIVE

Effective public financial disclosure requires that all individuals subject to the law file disclosure reports within prescribed time frames and that their reports be complete and in proper form. The House and Senate Ethics Committees are responsible for determining whether financial disclosure reports are accurate, complete, and filed within the allowed time.

Our review of the financial disclosure process shows that filing compliance was a problem for 1979 and 1980 and that neither the House nor the Senate Ethics Committee has an effective followup system to correct the problem. In addition, the Ethics Committees have not adequately reviewed disclosure reports or ensured that individuals who were requested to correct their reports have filed properly and promptly.

HOUSE AND SENATE FILING COMPLIANCE-- TOTAL COMPLIANCE HAS NOT BEEN ATTAINED

Many individuals identified as needing to file for the 1979 and 1980 filing years either failed to file a report or filed late. Both the Senate and House identified 2,440 required filers as of October 17, 1979. Of these, 612, or 25 percent, filed late or did not file at all. A similar pattern existed as of May 30, 1980. Of 3,242 individuals identified as required filers, 948, or 29 percent, filed late or failed to file.

The Senate and House verified the status of some nonfilers-- primarily congressional employees--during July and August 1980. They concluded that some of the employees were not required to file because they were not employed on May 15, 1980, or, in the case of some House employees, were not compensated at the rate of a GS-16 or were not principal assistants on May 15, 1980.

The following tables present the status of Senate and House filing compliance for the 1979 and 1980 filing years.

Senate

Status of Individuals Identified as Required To
File a Financial Disclosure Report as of

	<u>May 30, 1980 (note a)</u>				<u>October 17, 1979 (note a)</u>			
	<u>Total filers</u>	<u>Filed on time</u>	<u>Filed late</u>	<u>Non- filers</u>	<u>Total filers</u>	<u>Filed on time</u>	<u>Filed late</u>	<u>Non- filers</u>
Members	<u>b/ 97</u>	97	-	-	<u>b/ 98</u>	98	-	-
Senate employees	<u>b/ 328</u>	266	36	26	<u>b/ 635</u>	461	120	54
Legislative branch employees (note c)	213	179	24	10	296	171	68	57
Candidates	<u>168</u>	<u>65</u>	<u>28</u>	<u>75</u>	<u>d/ 55</u>	<u>6</u>	<u>13</u>	<u>36</u>
Total	<u>806</u>	<u>607</u>	<u>88</u>	<u>111</u>	<u>1,084</u>	<u>736</u>	<u>201</u>	<u>147</u>

a/These figures do not include any individual whose report due date was extended beyond May 15, 1980, or had not elapsed as of May 30, 1980.

b/These figures are based on data furnished by the Senate Disbursing Office.

c/Includes employees of the Office of Technology Assessment, GAO, National Commission on Air Quality, and Office of the Attending Physician.

d/Includes 19 candidates that registered after August 3, 1979, and received a blanket extension letter from the Senate Ethics Committee until the forms and instructions for complying with the law became available.

House

Status of Individuals Identified as Required To
File a Financial Disclosure Report as of

	<u>May 30, 1980 (note a)</u>				<u>October 17, 1979 (note a)</u>			
	<u>Total</u> <u>filers</u>	<u>Filed</u> <u>on time</u>	<u>Filed</u> <u>late</u>	<u>Non-</u> <u>filers</u>	<u>Total</u> <u>filers</u>	<u>Filed</u> <u>on time</u>	<u>Filed</u> <u>late</u>	<u>Non-</u> <u>filers</u>
Members	b/ 428	421	7	-	b/ 439	428	11	-
House employees	b/ 859	738	48	c/ 73	b/ d/ 561	440	65	56
Legislative branch employees (note e)	193	175	11	c/ 7	203	178	16	9
Candidates	<u>956</u>	<u>353</u>	<u>263</u>	<u>340</u>	<u>153</u>	<u>46</u>	<u>69</u>	<u>38</u>
Total	<u>2,436</u>	<u>1,687</u>	<u>329</u>	<u>420</u>	<u>1,356</u>	<u>1,092</u>	<u>161</u>	<u>103</u>

14

a/These figures do not include any individual whose report due date was extended beyond May 15, 1980, or had not elapsed as of May 30, 1980.

b/These figures are based on data furnished by the Clerk's ORR.

c/According to an ORR official, these individuals did not meet the filing requirement.

d/This figure does not include those individuals required to file due to being designated principal assistants.

e/Includes employees of the Library of Congress, Government Printing Office, Congressional Budget Office, Architect of the Capitol, and Botanic Gardens.

Currently, no penalty exists for late filers. One way to encourage timely filings would be for the committees to establish a penalty for filing a report late. We believe a civil penalty for late filing would encourage individuals to either file on time or apply for an extension.

WEAKNESSES IN HOUSE AND SENATE PROCEDURES
FOR MONITORING FILING COMPLIANCE

We found that neither the House nor Senate Ethics Committee has established a well-defined and documented system that would monitor reports by filing due dates. Neither Ethics Committee has adequately taken the necessary action to obtain reports from all nonfilers. In cases where the committees have pursued nonfilers, actions frequently were not timely.

Senate Ethics Committee needs
to develop a followup system
that assures timely compliance

The Senate OPR receives disclosure reports as they are filed and provides the Senate Ethics Committee with information on filer compliance status upon request. OPR officials informed us that they on occasion provide the committee with a list of nonfilers; however, the committee has never established a requirement that OPR regularly provide information on filing compliance. Because of the lack of such a requirement, the committee does not take timely action against nonfilers. We found that the lists of nonfilers provided to the committee contained names of individuals, some of which had been delinquent for a month.

To illustrate, the table on page 13 shows that 28 candidates filed late and 75 did not file a report as of May 30, 1980. The Senate committee did not immediately followup to ensure timely compliance. As of August 15, 1980, the committee had not sent dunning letters to candidate nonfilers because it had not yet identified them nor requested a list of candidate nonfilers from OPR. Furthermore, we identified 12 candidates who met the 30-day filing requirement and were required to file reports during May 17, 1980, through June 11, 1980. However, OPR referred only one of these 12 candidates on August 20, 1980, to the committee for followup action. The first followup action by the committee to obtain compliance from the 75 candidate nonfilers did not occur until October 28, 1980, and included only 2 of the 75 candidates who did not file as of May 30, 1980.

We also found that 26 Senate employees did not file reports as of May 30, 1980. However, it was not until July 30, 1980, that the committee staff determined that seven of these employees did not have to file because they were not employed as of May 15, 1980. A staff member told us that, excluding 5 employees who filed on or before June 19, 1980, the remaining 14 individuals

were valid nonfilers. These individuals were notified by the committee of their obligation and that nonfiling would provide a basis to refer their names to the Attorney General. A committee staff member informed us that, excluding one individual who was hospitalized, all Senate employees had filed reports as of August 1980. However, we found that as of November 26, 1980, 2 of the 26 Senate employees had not yet filed.

In addition, OPR records showed that 10 legislative branch agency employees had not filed disclosure reports as of August 15, 1980. We brought this to the attention of a Senate committee staff member who was not aware of this situation. No action had been taken to verify whether the employees were required to file or whether they had in fact filed as of that date.

During 1979 little was done to seek compliance from nonfilers. Although, we were told by committee staff members that the committee sent two followup letters to Senate employee nonfilers to remind them of their filing obligation, no action was taken against other nonfilers.

House Ethics Committee also needs
to establish procedures that ensure
timely compliance

The House Ethics Committee did not monitor, in a timely manner, the status of late filers for 1979 and 1980 nor did it adequately attempt to secure filings from all required individuals. Although ORR sends a first delinquent notice to nonfilers, committee staff informed us that they have no procedures to assure prompt followup action by the committee after the delinquency notice is sent. The earliest committee followup occurred for House employees during August 1980, approximately 3 months after ORR notified individuals that they were required to file a disclosure report.

Additionally, we found that in 1980 the House Ethics Committee did not require candidates who lost a primary election to file a disclosure report. However, there is no statutory basis for excusing these individuals from filing. The committee identified 89 candidates who lost congressional primaries as of July 29, 1980. A committee staff member told us that these candidates would not be required to comply with the statutory filing requirement.

According to an ORR official, during 1979, dunning letters were sent to all nonfilers. In addition, committee staff told us that it sent followup letters to candidates who did not comply with the filing requirement. However, according to a committee staff member, none of these candidates filed a report and no further committee action was taken to seek compliance. In addition, we found that 65 House employees and legislative branch

agency employees had not filed disclosure reports. (See p. 14.) An ORR report, dated January 4, 1980, showed that, except for nine individuals, the same individuals still had not complied with the filing requirement. According to ORR and House committee staff members, no additional followup was taken to verify the filing status of these individuals or to seek compliance.

COORDINATING INFORMATION NEEDS BETWEEN
THE HOUSE COMMITTEE AND ORR CAN
IMPROVE COMPLIANCE MONITORING

The law specifically requires the House Ethics Committee to monitor filing compliance. Monitoring compliance requires that the committee have the necessary information and/or reports to identify filers, filing due dates, and the extent of filing compliance.

We did not find a clear statement of duties between ORR and the House committee. The House committee has not communicated its information needs to ORR so that the committee can effectively monitor filing compliance. Although it receives some information from ORR, the committee needs more information to determine who must file, the report due dates, and the reasons for changing the list of identified filers.

Currently, ORR monitors report due dates and notifies non-filers of their filing obligation within 10 days after their report due dates expire. ORR sends copies of the dunning notices to the House committee to inform it of those individuals who have not filed. In addition, ORR provides the committee weekly with a master list of all individuals required to file. However, this list does not show each individual's filing status or report due date.

We believe that precise delineation of responsibilities between the House Ethics Committee and ORR would improve monitoring of filing compliance. Such a delineation should include a clear statement of the information needed by both organizations to carry out their duties. Because ORR has access to the needed information and has at its disposal the availability of computer support, it should be responsible for keeping the necessary records on individual filing status. In addition, information on filers' status and report due dates should be reported regularly to the House committee so that it can follow up on nonfilers promptly.

HOUSE AND SENATE ETHICS COMMITTEES'
COMPLIANCE REVIEW OF DISCLOSURE
REPORTS NEEDS TO BE IMPROVED

We found that neither the House nor the Senate Ethics Committee is effectively reviewing public financial disclosure reports.

Also, the House committee has not established a system that monitors whether all individuals requested to amend their reports have properly and promptly done so. Although the Senate committee established a followup system during 1980, it has not effectively used it to determine if amended reports are filed promptly.

To determine the adequacy of the committees' review process, we reviewed reports filed with ORR and OPR as of October 17, 1979, and reports filed with OPR as of May 30, 1980, using the committees' review criteria. The committees' general criteria are to direct an individual to correct his/her disclosure report if

- the report is not signed,
- an item is incorrectly reported (for example, a holding is reported but the corresponding category value is not disclosed and the evaluation method described), or
- an item is omitted in one section and properly disclosed in another (for example, unearned income has been disclosed but the corresponding holding is not).

House Ethics Committee's controls over amendments are inadequate

House committee staff members told us that they had reviewed all reports for the 1979 and 1980 filing years for completeness and accuracy. However, the committee had no specific written guidelines for reviewing reports. Also, the committee staff did not keep records that identify those individuals directed to amend their reports nor could the staff assure us that all amendments had been filed as directed.

We found that 1,253 individuals had filed financial disclosure reports with ORR as of October 17, 1979, all of which, we were told, were reviewed by the House committee for accuracy and completeness. The majority of individuals whose reports were found to contain errors were notified by telephone to correct their reports. We randomly selected 218 of the 1,253 reports to review. Using the committee's criteria, we found that 93 reports, or approximately 43 percent of the reports reviewed, contained one or more errors, such as:

- Income but no corresponding asset was reported.
- Asset but no corresponding income was reported.
- Creditors were not identified.
- Assets reported under the income and holding sections of the report were not itemized.

On the basis of our work, we believe that approximately one-third of the 1,253 reports filed contained at least one error or omission. Only 7 of the 93 reports reviewed had been amended. Although 156 amendments to the reports were filed as of October 17, 1979, we did not determine which amendments had been filed at the direction of the committee's staff from those filed voluntarily. The House committee's report review procedures did not improve for the 1980 filing year, and control records of individuals directed to amend their reports were still absent. As a result, we did not review the 1980 filings for accuracy and completeness.

The reports we identified as containing errors could have also been identified by the committee staff as containing errors. Therefore, without knowing which individuals were requested by the committee staff to amend their reports, we did not evaluate the effectiveness of the committee's report review process for either year.

Senate Ethics Committee's review process is inadequate

A Senate committee staff member told us that all reports filed during 1979 and 1980 had been reviewed for completeness and accuracy. Criteria used for determining whether a report was complete and accurate were the same as those used by the House committee. As was the case with the House committee, no specific written guidelines existed that outlined the disclosure elements the committee considers important in determining if a report is complete and in proper form. However, a staff memorandum, dated May 20, 1980, instructed reviewers to review each report for apparent compliance with the provisions of the law and the Senate committee's instruction booklet. Additionally, the memorandum directed that a recordkeeping system be kept to show those reports in which an error and/or omission was discovered. The memorandum further stated that when a corrected or amended report is received, it be returned to the original reviewer to determine if the error was corrected and/or omission properly disclosed.

The Senate committee's 1980 procedures for reviewing reports and requesting amended reports were the same as those used in 1979, except that during 1979, no system existed to determine whether inaccurately completed reports were being amended as requested by the committee. When an error was noted, the committee advised the filing individual of the error by letter, along with a copy of the report section containing the error. The individual was directed to correct the report section and return it to the committee.

To evaluate the effectiveness of the committee's report review process, we randomly selected reports filed with the Senate in calendar years 1979 and 1980. For calendar year 1979, 341

financial disclosure reports had been filed with the committee. These excluded reports filed by Senate employees since, at the time we made the review, the Senate committee did not have a list of individuals who had been employed by the Senate and paid at the rate of a GS-16 for 60 days during 1978. We randomly selected 86 of the 341 reports filed (approximately 25%) for review. We found that 61 reports (71%) contained at least one inaccuracy or omission. Therefore, on the basis of our review, we believe that more than one-half of the 341 reports reviewed by the committee contained at least one error or omission. Of the 86 reports reviewed, only two individuals had been requested by the committee to amend their reports, and only one had actually filed an amended report.

For calendar year 1980, 699 reports had been filed with the Senate committee. The committee, as of August 13, 1980, had identified at least one error or omission in 113 of 699 reports filed as of June 13, 1980. We randomly selected 115 of the 586 remaining reports to review for completeness and accuracy. Our review disclosed that 42 reports, or 37 percent of the 115 reports reviewed, contained at least one error. We believe that approximately one-fourth of the 586 reports previously reviewed and found to contain no errors by the committee contained at least one error or omission.

We believe the Senate committee needs to place greater emphasis on its followup of requests for amendments. During 1979, the committee had not established a system that would monitor whether all individuals who were requested to amend their reports had properly done so. To illustrate, as of December 7, 1979, we identified 268 individuals who were requested by the Senate committee to amend their reports, however, 92, or 34 percent, had not yet done so.

As of August 13, 1980, we found that 43, or 38 percent of the 113 individuals who were notified to amend their reports, did not file amended reports. However, committee staff informed us that in 1980 it began to seek compliance from those individuals whose reports contained some type of error. We found that, excluding 2 of the remaining 43 cases, no followup actions were taken. Furthermore, we noted that the Senate committee had not established a deadline for the filing of an amendment.

CONCLUSIONS

Effective public financial disclosure requires that all individuals subject to the law file disclosure reports within prescribed time frames and that their reports be complete and in proper form. The system for monitoring compliance should include formal procedures that specify when timely followup actions should be taken against nonfilers and have the proper controls to monitor whether all individuals who are requested to correct their reports

have properly and promptly done so. If the public is to successfully review the performance of public officials in view of their financial holdings and interests, they must be confident that all reports have been filed and contain complete and accurate information.

Both the House and Senate Ethics Committees need to improve their systems for monitoring the filing of reports. Formal guidelines specifying the duties of organizations involved and the information they need to provide would help improve their existing systems. Imposing a civil penalty for late filings could encourage individuals to file their reports within the required deadlines. This would require an amendment to the law. Penalties imposed by House or Senate rules may not be entirely effective since neither the House nor Senate has legal jurisdiction over candidates and legislative branch agency employees. Also, both committees need to improve the quality of their reviews of disclosure reports. We believe their reviews would be more effective if written procedures outlined the critical elements that should be given special attention. Proper follow up to ensure that an individual promptly files an amended report is also essential. Review without compliance is meaningless and has a negative impact on the credibility of the disclosure process.

RECOMMENDATIONS

We recommend that the Chairmen of the House and Senate Ethics Committees:

- Inform the House and Senate support organizations of the information needed to monitor filing compliance and specify the frequency when such information is needed.
- Regularly monitor all nonfilers and establish a policy that specifies the actions that should be taken against nonfilers.
- Develop detailed guidelines to assist committee staff when reviewing reports for completeness and accuracy.
- Require all candidates, including candidates who lose a primary election, to promptly file disclosure reports.

We also recommend that the Chairman of the House Ethics Committee establish:

- A system that will monitor requests for and receipts of amended reports.
- Time frames for when an amended report should be filed.

Further, we recommend that the Chairman of the Senate Ethics Committee follow up to ensure that individuals requested to amend their reports comply in a timely fashion.

MATTER FOR CONSIDERATION

If individuals continue to file late, after appropriate committee action, then the Chairmen of the House and Senate Ethics Committees should consider whether the law should be amended to impose a civil penalty to discourage late filing.

CHAPTER 4

HOUSE AND SENATE ETHICS COMMITTEES NEED TO

AGGRESSIVELY ENFORCE THE FILING PROVISIONS OF TITLE I

Strict enforcement is an essential element that can help ensure the effectiveness and credibility of any financial disclosure system. Section 106 of title I authorizes the Attorney General to bring a civil action against an individual who knowingly and willfully falsifies or fails to file or report information that he/she is required to report under section 102 of the law--Contents of Reports. Violators of the law can be assessed a civil penalty of up to \$5,000.

Although the Attorney General may enforce the law, the law does not specifically state who should take the initiative to identify those legislative branch individuals who violated filing requirements. Comparable enforcement provisions contained in other titles of the law assign this responsibility to the organizations responsible for administering the statute's disclosure requirements.

Although House and Senate records applicable to the 1979 and 1980 disclosure filings showed that there were several instances of noncompliance with filing requirements of the law, little or no action was taken by either Ethics Committee to enforce compliance.

HOUSE ETHICS COMMITTEE NOT ACTIVELY ENFORCING NONCOMPLIANCE

The House Ethics Committee is not taking followup action to enforce the filing requirements of the law.

Committee staff members told us that they have not referred any nonfilers to the Attorney General for prosecution because the committee lacks the authority to refer such cases without the full support of House Members. Although original drafts of the legislative disclosure law contained language authorizing the Ethics Committees to refer violations of the filing requirement directly to the Attorney General, committee staff members told us that the language of the bill was inconsistent with House rule X, clause 4(e)(1), and therefore, deleted in subsequent legislative versions.

Rule X of the Standing Rules of the House states that:

"The Committee on Standards of Official Conduct is authorized * * * (c) to report to the appropriate Federal or State authorities, with the approval of the House, any substantial violation, by a Member,

officer, or employee of the House, of any law applicable to the performance of his duties or the discharge of his responsibilities which may have been disclosed in a Committee investigation * * *."

Committee staff members told us that the matter of nonfilers has not been brought to the attention of the full committee. Furthermore, according to staff members, change in the House rules would be necessary for the committee to refer individuals directly to the Justice Department without the full vote of the House.

On the basis of House records, we found that, as of October 17, 1979, 103 individuals did not file disclosure reports within the prescribed filing deadlines contained in the law. Of this total, 56 were House employees, 38 were congressional candidates, and 9 were employees of other legislative branch agencies. As of January 4, 1980, with minor exceptions, these same individuals had not yet filed disclosure reports. Similarly, House records for the 1980 disclosure year show that as of May 30, 1980, 420 individuals did not file a disclosure report. Of this total, 340 were congressional candidates, 73 were House employees, and 7 were employees of other legislative branch agencies. House Ethics Committee and ORR staff members told us that the filing status of the 73 House employees and 7 legislative branch employees was resolved and that, excluding candidates, all individuals required to file a report have in fact done so. However, no enforcement initiative was taken at the time we completed our work.

SENATE ETHICS COMMITTEE BEGINNING TO TAKE ENFORCEMENT ACTIONS

Until late June 1980 the Senate Ethics Committee had not been seeking enforcement of the law for those individuals who did not file disclosure reports. Unlike the House committee, the Senate committee does not need the approval of the Senate membership before it can refer an employee or Member to the proper Federal/State authorities for a violation of law. The committee has the authority to report, by a majority vote, known violation of law directly to the proper authorities.

According to Senate records, as of October 17, 1979, 147 individuals did not file by the filing deadline contained in the law. Of this total, 54 were Senate employees, 36 were congressional candidates, and 57 were legislative branch employees. As of May 30, 1980, 111 individuals--75 congressional candidates, 26 Senate employees, and 10 legislative branch employees--did not file disclosure reports within deadlines prescribed for the 1980 filing year.

Senate committee staff members told us that some delinquent Senate employees have filed reports for 1980, and in the other cases, letters were sent out advising nonfiling employees of

planned committee action to refer their names to the Attorney General. As of August 1980, our review of Senate records showed that, excluding two individuals, all Senate employees had filed for 1980. However, no letters to congressional candidates or legislative branch employees were sent out at the time we completed our work.

Although a committee staff member told us that no individual was referred to the Attorney General in the past for not filing a disclosure report, the committee leadership now plans to periodically advise the Justice Department of those individuals who have not filed disclosure reports as required by law. Committee staff members also told us that earlier referrals were not made because the committee felt that the enforcement initiative, as stated in section 106 of the law, was the responsibility of the Justice Department. We disagree, since the Ethics Committees, not the Attorney General, are in the best position to identify nonfilers.

DEPARTMENT OF JUSTICE ENFORCEMENT ACTIVITY

At the time of our study, only two individuals had been referred to the Attorney General for enforcement. This referral was initiated by a senatorial candidate seeking election in the State of Pennsylvania. The referral involved a complaint that two other candidates, seeking election in the same State, did not file disclosure reports as required by the law. Justice officials told us that the Department asked the Senate Ethics Committee on April 30, 1980, to provide its views on whether there had been a violation and what actions, if any, would be appropriate. This was done; however, both of the senatorial candidates later filed disclosure reports.

Justice officials told us that it is not their responsibility to take the initiative to identify the individuals who do not comply with the requirements of the law. Justice officials believe that the committees are the best source for identifying those who do not file. The Justice Department's intent, we were told, is to actively pursue all cases where a referral or complaint has been received alleging that violations of the law have occurred. Justice officials told us, however, that if names were referred to the Attorney General, in all probability, prosecution of these cases would not receive high priority, since no funds have been allocated for the prosecution of cases referred under section 106 of the EGA. Because referrals of violations have been almost nonexistent, a Justice official told us that no special unit has been created solely to handle complaints on the disclosure law. Further, the Justice official said that if such a demand were to exist, the Department would take the necessary steps to successfully fulfill its responsibilities under section 106 of the law.

CONCLUSIONS

The lack of an active enforcement program can seriously affect the credibility of the legislative branch disclosure process. Both the Senate and the House committees have failed to take the lead in enforcing the provisions of the law. Although the law is void of specific language, we believe that the committees have the responsibility and are in the best position to refer cases to the Attorney General. Although the Senate committee has taken some action against employee nonfilers, it needs to do more.

RECOMMENDATIONS

We recommend that the Chairman of the Senate Ethics Committee assume the enforcement initiative, after sending the proper dunning notices to delinquent filers, by referring to the Attorney General, in a timely fashion, all individuals who have failed to file disclosure reports.

We also recommend that the Chairman of the House Ethics Committee, after sending the proper dunning notices to delinquent filers, refer nonfilers to the House Members for decision to refer them to the Attorney General.

CHAPTER 5

AUDITS OF FINANCIAL DISCLOSURE REPORTS--A NECESSARY ACTIVITY TO ENSURE THE INTEGRITY OF THE CONGRESSIONAL DISCLOSURE SYSTEM

While effective management of the disclosure process by the House and Senate Ethics Committees can help restore public confidence in Government, the public is the ultimate judge to whether public financial disclosure can accomplish this end. The public must be assured that the information contained in the public financial disclosure reports is complete and accurate. We believe that random audits of financial disclosure reports can provide this assurance to the public.

Audits conducted by us under former Senate rule 42, (S. Res. 110) revealed that public disclosure reports frequently contained errors and omissions. (See app. III.) According to some members of the Senate Ethics Committee, however, the omissions and inaccuracies surfaced by our prior audits were not considered significant in view of the expense and time involved. Despite this concern, we believe that audits of disclosure reports are necessary.

HISTORICAL DEVELOPMENT OF THE NEED FOR RANDOM AUDITS OF DISCLOSURE REPORTS

The need for random audits of public financial disclosure reports first surfaced as an issue during the 94th Congress. During this Congress, Senate bill 495, "Watergate Reorganization and Reform Act of 1976," was introduced. This bill, among other things, proposed the establishment of public financial disclosure requirements for high-level officials of the three branches of Government and contained a provision that random audits be conducted of not more than 5 percent of the disclosure reports filed. In addition, audits were required of at least one report filed by each Member of the Senate and House during each 6-year period. The purpose of the audits, as initially envisioned, was to determine whether the information contained in the disclosure reports was complete and accurate.

Senator Roth of the Senate Committee on Governmental Affairs, during consideration of S. 495, introduced the provision requiring the Comptroller General to make spotcheck audits of financial disclosure reports. During the July 21, 1976, Senate floor debate, Senator Roth indicated the need for audits by stating:

"I have long held that financial disclosure without auditing is a paper tiger. The kind of person who would accept bribes or extort payments is not going to hesitate to falsify the financial information he is required under the bill to disclose. Without any audit, there would be little to deter him from falsifying, and it would be almost impossible to catch him. My amendment will put some teeth into the law. Just as spotcheck IRS audits help prevent falsification of tax returns, audits by the Comptroller General of financial disclosure information will help insure that the information provided is accurate, complete, and honest. All high ranking public officials, including the President, Vice President, and Members of Congress, the Cabinet, and the Supreme Court, would know that their statements might be checked.

"Without an audit procedure, public financial disclosure would only give the appearance of a check on corruption, not a real check. Whatever sense of confidence it gives the public and press would be a false sense of confidence. In a period of widespread disillusionment with government, it is essential to insure that the reforms we adopt are real and effective reforms * * *."

Since the Senate adoption of S. 495 (July 21, 1976), several other public financial disclosure bills (see app. IV) were introduced with provisions for periodic random audits of financial disclosure reports. Of all of the bills that were introduced during the 95th Congress, only one of these, S. 555, Public Officials Integrity Act of 1977 (the successor to S. 495) was approved by the Senate (June 27, 1977) and contained the requirement for random audits of disclosure reports.

During the periods the House and Senate were developing disclosure legislation, the Senate saw a need to amend the Standing Rules of the Senate to create a code of official conduct for its Members and employees. Senate Resolution 110, as it was known, was adopted by the Senate on April 1, 1977, and included the requirement for annual public disclosure and random audits. However, as disclosure legislation progressed in the House, the need for a random audit provision was later determined to be unnecessary and was dropped during the House's consideration of H.R. 7401, Legislative Branch Disclosure Act of 1977.

On August 3, 1979, the Senate adopted Senate Resolution 220 which repealed Senate rule 42 and substituted that rule with the provisions of title I of the Ethics in Government Act (currently rule 34). This resolution conformed the Senate public disclosure requirements with that set forth in the ethics law and established

uniform disclosure requirements for all three branches of Government. This resolution eliminated the requirement for random audits.

ADVANTAGES AND DISADVANTAGES
OF DISCLOSURE REPORT AUDITS

Audits can provide a significant mechanism to assure the public that public financial disclosure reports are accurate, thorough, and complete. In addition, audits for completeness and accuracy may motivate reporting individuals to properly disclose the necessary information in accordance with the public financial disclosure provisions set forth in the law. We believe a reporting individual may exercise more caution and care when completing his/her disclosure report if the possibility exists of being randomly selected for an audit.

Audits can also provide a very useful service to the House and Senate Ethics Committees. Audit results can highlight whether recurring improprieties might be the result of ambiguous disclosure instructions or poorly designed disclosure forms. On the basis of these indications, modifications to the disclosure forms and/or instructions could result in more accurate and complete reporting. In addition, improvement in the disclosure forms and instructions can reduce requests for financial disclosure assistance by reporting individuals.

More important, however, audits can disclose omissions which may cause the public or the reviewing Ethics Committees to further examine whether reason(s) exists to question wrongdoing or whether there has been a violation of law, rule, or conflict of interest regulation. Without an audit, neither the public nor the House and Senate Ethics Committees can be certain that all reports have been accurately and completely filed and whether omissions exist. Furthermore, the results of audits can substantiate the credibility of those in public trust positions.

The House Select Committee on Ethics (now the House Committee on Standards of Official Conduct), during its consideration of H.R. 7401, the Legislative Branch Disclosure Act, rejected the need for audits primarily because it concluded that such audits were unworkable, meaningless, and basically unnecessary. The committee based its conclusion on June 1977 testimony which cited that:

--Lack of adequate records and supporting detail could weaken the quality of audits.

--Where supporting data was inadequate, the finding would necessarily be significantly qualified so that the report would be of little or no value, thereby creating a negative impact on public confidence. Conversely, overlooking

qualifying remarks might lead to unmerited credibility of one's financial affairs simply because an audit was performed.

--Audits may subject reporting individuals' friends and relatives to an unreasonable invasion of privacy or overly burdensome requirements.

--Audits were basically unnecessary in view of the public availability of reports, civil sanctions contained in the law, and the Ethics Committees' compliance review procedures.

--Audits would require a substantial investment of time and money.

On the basis of our audit experience under former rule 42, we found that the only valid concern relates to the costs of audits. Our views on this matter and public availability are discussed below.

Public availability of disclosure reports, civil sanctions, and Ethics Committees' compliance review procedures do not negate the need for audits

Publicly available disclosure reports, civil sanctions, and the supervising ethics offices' compliance review procedures do not negate the need for random audits. During our work, we found that (1) the Ethics Committees' reviews of the reports filed were not always complete and, even if complete, such reviews could not detect holding omissions, (2) enforcement of filing requirements through the use of civil sanctions was virtually nonexistent, and (3) neither the House nor Senate Ethics Committee had received any complaints alleging that omissions or inaccuracies existed in a public financial disclosure report(s).

As discussed in chapter 3, our work revealed that the Ethics Committees were not adequately reviewing the reports to determine whether they were complete and in proper form. Reviews are limited to the information disclosed on the report, and as a result, cannot detect omissions of financial holdings or interests. Further, review of an individual's financial affairs generally is necessary to ensure that all financial items have been reported.

While in concept the use of sanctions can aid in deterring individuals from concealing the disclosure of financial interests and holdings, the use of sanctions has been virtually nonexistent. (See ch. 4.) Also, before enforcement can be effective, the Ethics Committees must have a way to identify the financial omissions--something that the committees cannot do now.

In addition, since the start of congressional public financial disclosure, the public has made no allegations to the Ethics Committees that a public financial disclosure report was not complete and accurate. This is in contrast to our audits made under former Senate rule 42 which showed that numerous inaccuracies and omissions existed in Members' and congressional employees' public disclosure reports.

Investment of resources required by audits

Audits of financial disclosure reports undoubtedly require an investment of time and money, however, the amount of investment will vary depending on the number of audits conducted and the extensiveness of the audits' scope.

To illustrate, we estimate that it cost \$380,000, or an average of \$3,800 per audit, to conduct 100 audits under former Senate rule 42 during 1978-79. These audits entailed a complete examination of all the disclosure categories required to be reported as well as an examination of every financial interest and holding disclosed by the reporting individual. The audits also entailed an examination of individuals' Federal income tax returns, bank records, trust holdings, and other documentation supporting the individuals' financial interests. We also independently confirmed individuals' interests with their brokers, accountants, attorneys, and banks.

Audits conducted under former Senate rule 42 revealed that both Senators' and employees' financial disclosure reports generally were not complete or accurate. Whether the omissions and inaccuracies found during our audits could be attributed to Member/employee error or oversight or whether the omissions were intentional could not be determined. (App. III analyzes the results of our audits.)

We did not determine the significance of inaccuracies and omissions found in our audits. Our responsibility was to determine whether the disclosure reports were complete and accurate and not whether information disclosed or found improper during the course of our audits indicated a conflict or appearance of a conflict of interest or improper ethical behavior. We believe, however, that some of the omissions found during our prior audits are relevant information for determining if potential conflicts of interest exist.

Regarding the significance of our audit findings, we asked Senate committee staff members whether they investigated the findings produced by audits. They told us that, although they had reviewed all 100 audit reports, they had made no further inquiries of Members or employees regarding omissions or inaccuracies found in their reports. Committee staff members felt that because items were not completely reported, no sufficient basis existed

to further investigate audit findings. The staff members believe that it is the public's responsibility to review disclosure reports to detect wrongdoing or unethical behavior.

Appendix V discusses in more detail the scope of audits and addresses other issues which should be considered if audits are implemented.

FILERS' AND DISCLOSURE REPORT
USERS' OPINIONS OF THE NEED
FOR AN AUDIT REQUIREMENT

Excluding the majority of filers, disclosure report users felt that regularly scheduled random audits for completeness and accuracy should be conducted. A series of questions about the need for confidential random audits showed that nearly 76 percent of report users favored such a requirement, while only between 30 and 42 percent of the responding filers favored audits. Of those filers who desired audits, House Members, congressional candidates, and legislative branch agency employees felt the strongest about the need to implement systematic audits. Report users were more concerned about the need for audits of Members' and candidates' reports, although, more than a majority of filers indicated that the audit requirement should apply to all individuals who are subject to the law.

Of those who felt that an audit requirement should be part of the legislative branch disclosure system, most respondents felt that GAO would be the most suitable agency to perform these audits, although the frequency of responses varied substantially from 32 percent (House Members) to 75 percent (Senate employees). Filers, and report users to a lesser extent, also thought that either an accounting firm or the Ethics Committees themselves should be responsible for performing the audits.

Users and congressional candidates felt that the results of individuals' audits should be made public, while less than half of the responding Members felt that such publicity was a good idea. However, House Members agreed to publicity more so than did Senate Members. Also, both House and Senate Members indicated that if their staff were audited, the results should be made available to them, the appropriate Ethics Committee, and the person who was audited.

Those respondents who did not believe that audits should be conducted were asked to give their reasons. The reasons most frequently given by congressional and legislative branch employees, candidates, and report users were that such audits would invade privacy and be too costly to conduct. In addition, many House Members indicated that audits were not needed in view of public disclosure. Senate Members also perceived that audits

were not needed. (Table 15 in app. I provides responses we received to our questions regarding the need for audits of disclosure reports.)

Responses from Ethics officials from States where public financial disclosure has been enacted indicated that systematic random audits were not conducted and no plans were being made to implement such a requirement.

CONCLUSIONS

On the basis of our prior audit experience and because neither the public nor the supervising Ethics Committees can determine whether disclosure reports are complete and accurate, the Congress should institute an audit requirement. Unless random audits are made, the public can not be assured that the information it is reviewing is complete. Complete disclosure of financial holdings is essential if the public is to have confidence in Government officials. Without audits, the accuracy and completeness of financial disclosure reports cannot be effectively monitored.

RECOMMENDATIONS

We recommend that the Congress institute the requirement for random audits of financial disclosure reports. If the Congress elects to subject only Members of Congress and congressional employees to an audit requirement, both the House and Senate should adopt an appropriate rule. If the audit requirement also applies to legislative branch agency employees and congressional candidates the law will have to be amended to require compliance by these individuals. (See p. 143 of app. V.)

We further recommend that, if audits are made an integral part of the congressional disclosure process, the Chairmen of the supervising Ethics Committees should develop procedures to ensure that amendments to disclosure reports, required as a result of audits, are made promptly and included with the individual's original financial report. (See p. 143.)

CHAPTER 6

BLIND TRUST APPROVALS SHOULD COMPLY WITH THE LAW

Section 102(e)(2) of the law provides that a reporting individual need not report the holdings of or the source of income from the holdings of a qualified blind trust. We found that both the House and Senate Ethics Committees have approved trust arrangements where some of the trust instruments and trustees did not appear to meet the trust standards in the law. We also found that neither committee monitors the administration of a qualified blind trust after it has been approved to see that it remains blind and that the necessary documents are publicly available when assets of the trusts have been disposed of or transferred into the trust.

ETHICS COMMITTEES SHOULD APPROVE ONLY TRUSTS THAT MEET THE SPIRIT AND INTENT OF THE LAW

The purpose of a blind trust is to permit an individual to transfer property to an independent trustee as a means of avoiding the potential for conflicts of interest. To qualify as a blind trust under the law, both the trust instrument and its trustee(s) must meet prescribed standards (see section 102(e) of the law, app. II) and must be approved by either the House or the Senate Ethics Committee. These standards pertain to the required trust provisions and the administration of the trust, the nature and extent of communication allowable between the trustee and interested parties, and determining the independence of the trustee. The law assigns to the House and Senate Ethics Committees the responsibility for approving qualified blind trusts; that is, determining whether a proposed trust instrument meets the prescribed standards and whether the trustee meets the independence tests set forth in sections 102(e)(3).

Our review of approved qualified blind trust documents shows that some of the trust instruments and trustees do not appear to meet the law's standards. Also, neither committee has established a system for monitoring the administration of a qualified blind trust after it has been approved to see that it remains blind and that the necessary documents are publicly available when assets of the trusts have been disposed of or transferred into the trust.

While the law is void of any language that requires the committees to periodically monitor qualified blind trusts once they are approved, a periodic review of the status of approved trusts to determine whether they remain blind continue to insulate the reporting individual from potential conflicts will provide more credibility to the use of blind trusts as part of the disclosure process.

Approval of trusts and trustee does not meet the provisions of the law

We reviewed all House trusts (9) and all Senate trusts (11) that had been approved by the House and Senate Ethics Committees as qualified blind trusts as of May 28, 1980. Seven of the 9 House trusts and 9 of the 11 Senate trusts were created before the enactment of the law. The law states that trusts in existence before the adoption of the law must have their trust instrument amended to include the trust provisions of the law, or if the existing instrument does not permit amendment, all parties to the trust instrument must agree in writing to administer the trust in accordance with the terms of the law.

The House and Senate Ethics Committees each approved eight trusts which do not appear to meet the criteria for a blind trust because either the trust instrument had not been amended to reflect the requirements of the law or the trustee's independence was questionable. For example, one of the trusts approved by the Senate committee did not contain any of the seven provisions (see app. II, section 102(e)(3)) required by the EGA. The trust was approved even though the Chairman and Vice-Chairman of the Senate committee were notified by their staffs of this situation. The staffs informed them that it appeared that the trust instrument would not qualify as a blind trust and recommended that it be amended by agreement to administer the trust in accordance with the law's trust provisions. Documents in the trust file provided no evidence that the recommendation was ever acted upon.

None of the nine House-approved trusts included all of the provisions required by the law, and the House committee made no effort to require the individuals to include the provisions omitted or to require the interested parties to agree in writing to administer the trust in accordance with provisions of the law.

We found that the Senate Ethics Committee had approved five qualified blind trusts where the trustee's independence appeared questionable. A trustee should be independent and divorced of any relationship from the individual who established the trust. We found that the trustees in question were either uncompensated or a close friend or one of the trust institution's employees was a close relative in a high management position that would not prevent him from gaining knowledge of trust activities. For example, a co-trustee was approved as being independent even though correspondence between the Senate Ethics Committee, its staff, and the reporting individual indicated that the trustee (1) may have been a former law partner, (2) would not accept compensation, and (3) had past and present "associations" with the reporting individual. In this case, a committee member also expressed reservations about whether uncompensated trustees violate the intent of the law. Knowing this, the Senate committee did not suggest to the reporting individual that the trustee be removed. Instead it requested

that the reporting individual certify to the trustee's independence to aid the committee in determining that the trustee was truly independent. After this certification was accomplished and returned, the Senate committee approved the trust. Committee staff members told us that the Committee's position is to put the onus of a trustee's independence on the reporting individual.

The Senate committee relies almost exclusively on a certification form from the reporting individual to determine if a trustee is independent. The certification form contains the law's criteria that a trustee must meet before he/she can be considered independent. The Senate committee does not conduct an independent evaluation of the trustee's qualifications to act as a trustee.

The House committee also does not conduct an independent evaluation of the trustee's qualifications to act as a trustee. Each committee letter approving a trust included a statement that it appears the trustee(s) meets the statutory requirements for independence on the basis of information contained in either the trust instrument or a letter from the reporting individual. We found one case where the trustee's independence appeared questionable and no additional followup actions were taken by committee staff members to determine if the trustee was truly independent.

The Senate Committee on Governmental Affairs, in its report on the use of blind trusts (Report No. 95-639, dated, Feb. 21, 1978, 95th Congress, 2d sess.) clearly opposes the Ethics Committees' methods for verifying a trustee's independence. The report states:

"* * *that the approval of a trustee by the ethics committees is not intended to be a meaningless exercise, such as when a reporting individual certifies that the trustee is independent. Rather, the supervising ethics committee must exercise its own independent judgment, based upon whatever facts it may request from the reporting individual, that a trustee is independent, both real and apparent, before it can implement the spirit of the blind trust provision."

Need to monitor qualified blind trusts

We found that neither the Senate nor House Ethics Committee is monitoring qualified blind trusts once they have been approved to determine whether their administration conforms to the terms of the trust agreement or provisions of the law. As a result, we believe that the trust requirements of the law are not being properly implemented. Although the law is void of language that requires the committees to periodically monitor a qualified blind trust once it has been approved, the Senate Committee on Governmental Affairs' blind trust report clearly establishes periodic

monitoring as a means to prevent the appearance of conflicts of interest and abuses to the use of blind trusts. Another reason for monitoring blind trusts is to determine whether an attempt is being made to achieve the principal goal of a qualified blind trust. The goal--a total lack of knowledge by the public official regarding the holdings held in trust. Ideally this would require that a trustee sell all of the assets transferred into a blind trust by any interested party.

A review of 20 trust instruments and related documents disclosed several instances where the Ethics Committees or a reporting individual failed to comply with the blind trust provisions of the law. For example, we found that:

- No evidence existed showing that the lists of assets transferred to six trusts were the assets in the trusts on the date of their approval as qualified blind trusts.
- Lists of assets transferred to four trusts excluded the assets category of value.
- Certain assets in four trusts are questionable because trust records, not available to the public, indicate the sale or transfer of these assets initially placed in the trusts by the reporting individuals.
- Two trust agreements were publicly filed, however, they were not executed copies of the trusts.
- One of the Ethics Committees failed to notify the office of public records of the disposition of a trust asset, and therefore, it was not a part of the public record.
- One Member's trust did not receive formal approval from the appropriate Ethics Committee, however, it was made available to the public which gave the appearance that it had received formal approval from the committee.
- A reporting individual failed to submit to the appropriate Ethics Committee a copy of his executed trust agreement within 30 days of it being approved as a qualified blind trust. The trust was approved in January 1980, but as of October 1980, the executed trust agreement had not been submitted to the committee.

We found that either the House or the Senate Ethics Committee had approved six trusts where no assets had been transferred into the trust for extended periods of time (one of which had no activity over a 13-year period), and no trust assets transferred into the trust by any interested party had ever been sold. A system for monitoring trust activities would disclose cases where assets are placed in a trust and are not marketed over a period

of time. In such instances, the trust reverts to merely a management device and is hardly a blind trust. We believe that such cases, once identified, should be reviewed by the Ethics Committee to determine if the blind trust status should be revoked and the trust's holdings reported in accordance with section 102(a-d) of the law.

A trust that is merely a management device circumvents disclosure because a public official's financial interests held in a blind trust are not as accessible to the public as financial interests required to be reported in a public financial disclosure report. The latter is an annual reporting requirement, whereas, the blind trust holdings are made available along with the reporting individual's disclosure report only in the year it is approved. Information on the status of assets initially placed in a blind trust is available to the public in subsequent years, but the public has to remember that the reporting individual has a blind trust so that it can request the information it needs.

We asked public financial disclosure report users whether they were aware of the availability of copies of blind trust instruments. Only 15.4 percent of the respondents said that they knew of their availability. A third of the respondents said that they had requested some of these documents, while 57.8 percent of those who were unaware of the existence of such documents said they would have requested them if they had known about them. When asked whether blind trust documents should be part of the financial disclosure reports, 80.5 percent of the report users favored including these documents as part of the disclosure report.

CONCLUSIONS

The Ethics Committees are not approving blind trusts in accordance with the requirements of the law or monitoring these agreements after they are executed. The committees' failure to fulfill these requirements not only defeats the purpose of a blind trust but also affects the public's confidence in and access to a public official's financial activities. Also, the committees are violating the intent of the law by approving a trust as blind when the trustee's independence is questionable or when the trust terms do not comply with those required by the EGA.

The approval of trust agreements without the trust instrument conforming to the blind trust provisions of the law or the trustee being truly independent raises serious doubt as to the appropriateness of the blind trust as a mechanism to insulate a Government official from conflicts of interest. To ensure that the requirements of a blind trust are met before they are approved as being qualified, both committees should make certain that the proper provisions of the law are included as part of the trust instrument and should establish formal guidelines to be used when

evaluating a trustee's independence. The guidelines should be sufficiently detailed to develop information that would allow the committees to determine if a trustee is independent, including if any of its employees, in the case of a financial institution, has any association with the individual who created the trust.

RECOMMENDATIONS

To improve the approval and monitoring of blind trusts, we recommend that the Chairmen of the House and Senate Ethics Committees:

--Develop formal procedures and requirements for approval of a proposed trust and its trustee(s).

--Establish procedures for monitoring and enforcing the qualified blind trust requirements set forth in the law.

MATTER FOR CONSIDERATION

To provide the public ready access to trust documents, the Chairmen of the House and Senate Ethics Committees should consider requiring that a reporting individual attach to the annual financial disclosure report any trust document required by the law.

CHAPTER 7

OTHER RELATED FINANCIAL DISCLOSURE MATTERS

This chapter discusses other financial disclosure matters that we reviewed as part of our mandate to examine the congressional disclosure process. We addressed the following issues:

- Availability of financial disclosure reports to the public, State offices (which keep copies of Member and candidate reports) and the House and Senate committees.
- Activities of State offices responsible for keeping copies of public financial disclosure reports.
- Difficulty and extent of burden associated with complying with the disclosure filing requirements.
- Adequacy of existing disclosure requirements and the need for additional requirements.

We examined the need for certain changes that could improve the disclosure process, while in other cases, we present information on the attitudes of report filers and users.

Our work shows that financial disclosure reports are being made publicly available and are being sent to the Ethics Committees in a timely fashion, activities of State offices responsible for keeping copies of reports vary widely, and the requirements of the financial disclosure law generally are not difficult to comply with. In addition, excluding filers of financial disclosure reports, users felt that the reporting provisions of the law generally were inadequate.

REPORTS ARE BEING MADE AVAILABLE TO THE PUBLIC, STATE OFFICIALS, AND ETHICS COMMITTEES AS REQUIRED BY LAW

The Clerk of the House and the Secretary of the Senate are responsible for making financial disclosure reports available to the public, State officials designated in accordance with section 316(a) of the FECA, and the House and Senate Ethics Committees. We found that both the Secretary of the Senate and the Clerk of the House generally are making the reports available within the time prescribed by the law.

Availability of reports to the public

Financial disclosure reports required to be filed by May 15 of any year shall be made available to the public in Washington, D.C., within 15 calendar days after May 15 of such year. All other financial disclosure reports are to be made available to

the public within 15 days of being filed. Public financial disclosure reports are microfilmed for ease of viewing by members of the public and, if a member of the public wishes copies of a particular report, they are made available at 10 cents a page.

When a member of the public wishes to view or obtain a particular report(s) from the Clerk of the House or Secretary of the Senate, he/she fills out a request form giving the name, address, occupation, and person or organization represented (if not one's self). Requests to view or obtain a disclosure report(s), are made publicly available. The law requires that it is unlawful for any person to obtain or use a report for (1) any unlawful purpose, (2) any commercial purpose other than by the communication media for dissemination to the public, and (3) use of establishing credit ratings or for use in the solicitation of money for any political, charitable, or other purposes. We found that both the House and Senate offices of public records have incorporated these restrictions into their request document for disclosure reports.

Usage of the 1980 financial disclosure reports by individuals who requested reports from the House and Senate

During our work, we found that many requests were made for the 1980 disclosure reports. As of mid-July 1980, nearly 300 individuals, primarily members of the news media, requested over 6,000 Members, candidates, and congressional staff disclosure reports.

We canvassed disclosure report users to determine how such reports are used: about 76 percent of the respondents used the requested reports for net worth estimation, about 70 percent used the reports for conflicts-of-interest determination, and about 57 percent used the reports for both conflicts-of-interest and net worth determinations. Fifty-two percent of the respondents indicated that more than one individual with whom they were associated also used some or all of the reports requested. Therefore, circulation and use of reports requested is greater than House and Senate records show. The majority of respondents (63.2 percent) also indicated that they have a continuing interest in disclosure and plan to request disclosure reports for the next filing year.

Regarding the availability of reports to users, questionnaire results indicated that respondents were able to obtain all or most of the reports requested. In cases where respondents indicated "most" reports were received, the reason for their non-receipt was that the reporting individuals had not yet filed their disclosure reports at the time the requests were made.

Availability of reports
to the Ethics Committees

Section 103 of title I requires that the Clerk of the House send a copy of each financial disclosure report to the House Ethics Committee within a 7-day period beginning the day the report is received. The Secretary of the Senate is also responsible for sending copies to the Senate Ethics Committee, however, no time period is stipulated--an apparent oversight in the law. We found that with minor exceptions, both offices are forwarding these reports to the committees as prescribed by law.

Until October 1979, the House ORR sent disclosure reports to the House committee once a week. We reviewed 103 cases to determine whether ORR was sending the 1979 disclosure reports to the House committee in a timely manner. We found that only six were forwarded late, and in all cases on the 8th day. This procedure was later changed during the latter part of October 1979 to twice weekly. A followup review for the 1980 filings indicated that reports were sent within a 7-day period and usually within 1 or 2 days.

The Senate OPR usually sends the disclosure reports to the Senate committee also within 1 to 2 days.

Availability of report to State officials

We found that reports are also generally being made available to designated State officials in a timely manner. Section 103 of title I requires that the Clerk or Secretary send a copy of each report filed by a Member or congressional candidate to the appropriate State officials designated in accordance with FECA within 7 days of being filed. In complying with the law, the House ORR and Senate OPR employ the same procedures as though the reports were being forwarded to the respective committees. Before the House ORR changed its procedure for forwarding reports to States to twice a week, we found that of 46 randomly selected House reports reviewed, only 3 were sent late to the States, in all cases, on the 8th day. A review of the filed 1980 disclosure reports showed that the House ORR was sending these reports in a timely fashion. Likewise, the Senate OPR was promptly forwarding the majority of reports to the States within 2 days of their receipt.

ACTIVITIES OF STATE OFFICES
RESPONSIBLE FOR PUBLIC
FINANCIAL DISCLOSURE REPORTS

As stated previously, the Clerk and the Secretary forward a copy of each disclosure report to the appropriate State offices designated by the FECA. The intent of the law was to make Members' and congressional candidates' financial disclosure reports more readily available for public inspection in the State. The

law, however, contains no provisions imposing duties or responsibilities on the States regarding the maintenance, disposition, and use restriction of the reports. We surveyed State officials, through the use of a questionnaire, to determine whether States have implemented similar provisions to those stated in the law for the Secretary of the Senate and Clerk of the House. (See p. 41.) Our questionnaire was mailed to all 50 States and 46, or 92 percent, of the States responded.

We found that States have not implemented the same provisions of the law which are required at the Federal level. Most State officials responsible for maintaining these disclosure reports said that they had never been instructed by either the Clerk of the House or the Secretary of the Senate regarding the proper maintenance and disposition of the financial disclosure reports. Although five individuals reported receiving instruction, copies of instructions enclosed as part of their response revealed them to be general statements of the provision of law which requires State offices to publicly make the reports available. Most States also reported that

- few or no requests for public financial disclosure reports are being made, and little is being done to publicize their availability;
- no policy as to the length of time reports should be retained;
- they do not require information, such as the person or organization represented, from requesters nor do they keep or plan to keep records of requests; and
- they do not inform requesters of the statutory restriction and penalty associated with unlawful use.

Requests for disclosure reports

We were unable to determine exactly how many 1979 disclosure reports were requested by the public because many States do not keep records of requests. This determination was further complicated since some States did not limit their answers to the reports under EGA, but instead, have also attributed their responses to the reports filed under FECA. However, 39 of the 46 responses received indicated that requests for disclosure reports ranged from "very few" to 10 to 13 requests per year. Followup of the remaining State responses showed that the number of requests received also included requests for campaign financing reports.

We also found that State officials do not publicize the availability of the public financial disclosure reports. Of the 46 State responses received, only 2 reported that they attempt to publicize report availability. Furthermore, State officials

indicated that journalists/news media represent the majority of those who request disclosure reports. This fact may contribute to one of the reasons why few requests have been made, since many news services are located in Washington, D.C.

Length of time reports are retained varies between States

Section 104(d) of title I provides that financial disclosure reports, filed by all those other than candidates, will be available to the public for 6 years after their receipt, at which time they will be destroyed unless needed in an ongoing investigation. Similarly, reports filed by candidates will be retained and destroyed 1 year after the individual is no longer a candidate for election unless needed for investigation purposes. Our survey showed that many States have not yet established a policy for retaining disclosure reports, while some States retain reports anywhere from 2 years to indefinitely. For instance, 17 States reported that they have established no policy, 8 reported that they retain reports for only 2 years, 6 reported they hold reports for 3 to 5 years, 6 reported they hold reports for 6 years, and 5 said that they retain the report for 8 years or longer.

States not requiring written application from requesters and requesters are not informed of statutory restrictions

We found that most States do not require a written application by requesters when examining or obtaining disclosure reports. Responses to our survey showed that 31 of the 46 States do not require, nor plan to require, information from requesters. Only 14 States kept records of requests (1 State did not respond to this question). Of those States that require information from requesters, we found that name and address are the most frequent requirements.

Unlike OPR and ORR, we found that 28 States do not inform requesters of the statutory restrictions contained in the law. (See p. 41.) However, 16 States indicated that requesters were notified of these restrictions (2 States did not respond to this question).

COMPLETING DISCLOSURE FORMS AND ADHERING TO DISCLOSURE PROVISIONS GENERALLY ARE NOT BURDENSOME

Through the use of questionnaires to required filers, we examined the extent of burden to filers by inquiring about the difficulty involved in completing the House and Senate disclosure forms and complying with the various disclosure provisions of the law. We found that some filers requested assistance before they were able to complete their reports, and in these instances, we

requested their opinions about the quality and promptness of the assistance received. The following discussion represents filer responses to our survey questions.

Completion of disclosure reports and requested assistance

Almost all legislative branch employees and most candidates filled out their own disclosure reports in 1980 (see app. I, table 2), while the majority of House and Senate Members reported receiving assistance. The most frequently cited source of assistance was a staff member and, to a lesser extent, the Members' accountants.

When asked how many weeks in advance of the reporting deadline the forms and instructions should be sent out, most respondents, excluding Senators, indicated that 6 weeks or less was a reasonable time (table 3). Two-thirds of the Senate Members felt that 8 weeks or less was an appropriate time period.

Report filers were asked if they or the preparer of the disclosure report had requested assistance in preparing their 1980 disclosure reports. A majority of each group indicated that no assistance was necessary (table 4). Of those under the jurisdiction of the Senate who requested assistance, the Senate committee was most frequently contacted, while on the House side, the House committee was most frequently contacted. Candidates more than any other group reported seeking assistance from the Clerk of the House or some source other than the cognizant committee. Almost all respondents who requested assistance indicated that the assistance provided by all sources was both adequate and prompt (table 5).

Awareness of interpretative rulings varied considerably among respondents (table 6). Only 21.9 percent of legislative branch agency employees were aware of them, while 67.4 percent of the Senators responding to our survey knew of their existence.

Burden of forms and provisions

Overall burden was assessed by determining the time and cost involved in completing 1980 disclosure reports. Burden regarding specific disclosure provisions was measured by asking which required information was difficult to provide.

More than half of the employee groups and candidates indicated that 2 hours or less were required to complete their forms (table 7). Members of Congress required more time to complete their forms, with almost one-third of the Senators needing over 10 hours.

Regarding costs incurred in complying with financial disclosure requirements, most respondents (especially legislative branch employees) did not report that any cost was incurred (tables 8 and 9). Most Members' costs were for accountant fees, while most candidates reporting costs were for something other than legal or accounting fees. Almost 10 percent of the Senators responding to our survey claimed to have spent a total of \$500 or more.

Our survey obtained difficulty ratings on 13 specific requirements of current financial disclosure provisions (table 10). Generally, candidates and Members reported experiencing greater difficulty than employees. Those provisions with the highest percentages of respondents reporting difficulty were gifts of transportation, lodging, food, or entertainment; other types of gifts; and financial interests of spouse and dependent children. For each of these disclosure provisions, between 26 and 47 percent of Members and candidates indicated that they had difficulty when complying.

On a followup question about spouse and dependent children, between 23 and 45 percent of filers indicated that too much information was required. In contrast, only 7.4 percent of report requesters felt that way, while 22.1 percent stated that not enough information was required.

ADEQUACY OF THE FINANCIAL DISCLOSURE REPORTING REQUIREMENTS

In considering financial disclosure legislation, the House and Senate were primarily guided by two principles: (1) disclosure should be required only for those items which are relevant to potential conflicts of interest and (2) requirements should be designed to avoid unnecessary invasions of privacy or extremely burdensome recordkeeping. As part of our work, we solicited filers' and users' opinions about the necessity of the current requirements and the need for additional disclosure requirements. The detailed results of our questionnaires are contained in appendix I, tables 10, 11, 12, 13, and 14.

Adequacy of current requirements

Questionnaire recipients were asked for their attitudes about the necessity of 13 specific reporting requirements (table 10). Generally, most respondents indicated that the required disclosure provisions were necessary. The only categories of required information in which less than two-thirds of any respondent group endorsed the necessity were reimbursements for travel-related expenses, savings accounts or certificates of deposit, and financial interests and holdings of spouse and dependent children. Of all respondent groups, report users showed the least variance among categories with at least 85 percent agreeing on the necessity of each disclosure requirement.

In addition to the evaluation of necessity, respondents were asked to evaluate the adequacy of 12 reporting thresholds including salary and time of employment criteria used in defining "high-level" employees (table 12). Overall, most respondents, excluding report users, felt that the current thresholds were about right or should be somewhat higher. Most report users had the tendency to agree with the current thresholds or believed it should be lowered.

Excluding report users, less than two-thirds of each respondent group (44 to 66 percent) agreed with the current threshold (\$100) for income from salary, pensions and honoraria, and from dividends, interest, rent or capital gains, including trusts or other financial arrangements. Less than two-thirds of the Senators responding agreed with the current threshold for gifts other than transportation, lodging, food, or entertainment; interest in real or personal property; and purchase, sale or exchange in real property, stocks, bonds, commodities futures, or other forms of securities.

Less than two-thirds of report users and Senators agreed with the \$250 threshold for gifts of transportation, lodging, food, or entertainment with most of the remaining report users favoring a lower threshold and all of the nonconcurring Senators seeking a higher threshold. One-third of the candidates and 60 percent of report users did not agree with the \$10,000 threshold for liabilities to creditors and revolving charge accounts, with most of those in each of these groups favoring lower thresholds. Also, just under two-thirds of the report users agreed with the \$5,000 value for savings accounts or certificates of deposit. The remaining users wanted a lower threshold.

Need for additional requirements

Respondents were asked if groups other than Senators and Representatives, high-level congressional staff (those compensated at the rate equal to or greater than that of a GS-16), designated principal assistants of Members with no high-level staff, and high-level employees of legislative branch agencies may have positions of sufficient influence to warrant their being required to file financial disclosure reports. The percentages answering "yes" varied from 5.9 percent of the Senate Members to 30.4 percent of the report users (table 13).

We asked about the 18 possible modifications to current disclosure requirements (table 14). Only five of the modifications drew greater than two-thirds endorsement and those only by report users. Using an endorsement level of one-third or better as a criterion, we determined that the most highly rated modifications involved those pertaining to partnerships, followed by the requirement that legislative branch agency employees file as a new employee if they secured congressional employment and met the

salary criteria. All other proposed modifications (except those requiring the reporting of the total value of individual gifts from any one source valued at less than \$35 each) drew one-third or better support from between one and three respondent groups.

CONCLUSIONS

Both the House and Senate offices of public records are doing an effective job in making the reports accessible to users and available to their Ethics Committee and designated State officers. States vary in their practices of maintaining and disposing of disclosure reports from that which has been implemented by the House and Senate offices of public records. Sending Members and congressional candidates disclosure reports to the States for public availability may be an unnecessary burden to the House and Senate offices and various State offices in view of the few requests at the State level.

The law contains no provisions imposing duties or responsibilities regarding the maintenance and disposition of Federal disclosure reports. An amendment requiring the States to adhere to the provision in current law raises a possible constitutional issue of invasion of State sovereignty. Furthermore, if it is deemed necessary that reports be available in the States and the provisions of the law be applied, it may be wise to have the reports available at a Federal courthouse, or other appropriate Federal office, to ensure that the above requirements of the law are met at the State level.

MATTERS FOR CONSIDERATION

The Chairmen of the the House and Senate Ethics Committees, in coordination with the House and Senate offices of public records should consider:

- Proposing legislation to delete the requirement that Member and candidate disclosure reports be forwarded to the appropriate States.
- Designating a Federal location within each state as the repository for reports so that the maintenance/disposition, written application for inspection or copy, and unlawful use provisions may be consistently applied.
- Preparing formal guidelines to State offices advising them of the proper practices that should be employed if either of the above matters is not acted upon.

GAO QUESTIONNAIRE ON PUBLIC DISCLOSUREREPORT FILERS AND USERSMETHODOLOGY

As part of our mandated study, we felt that it was necessary to canvass, by the use of questionnaires, filers and users of public financial disclosure reports to obtain information of their attitudes and experiences with the 1980 disclosure filing requirement. Major subjects covered in our questionnaire included,

- completion of disclosure forms,
- assistance requested and provided,
- burden of the disclosure forms and provisions,
- adequacy of the current disclosure requirements,
- need for additional requirements,
- need for audits,
- treatment of blind trusts, and
- use of reports.

To obtain balanced responses to our questionnaires regarding the legislative branch financial disclosure process currently in effect, we obtained detailed information from those individuals most intimately involved with the process. Information was obtained from 785 individuals by means of a mailout questionnaire. We used three data collection instruments (see pp. 53-80 of app. I) and sent them to the following individuals:

Survey of Senate and House Members

Senators
Congressmen

Survey of congressional and legislative branch employees and candidates

Senate employees
House employees
Legislative branch agency employees
Congressional candidates

Survey of Disclosure Report Requesters

Users of disclosure reports

Questionnaires were sent either to all individuals in a group or a random sample of group members. In those cases where samples were used, the initial sample size was designed to allow for a high-level of precision and confidence in projecting the findings to the relevant universes. Except for report users a second mailout was used to increase response rates. Approximate sampling errors associated with the questionnaire findings are shown on page 51. Relatively low response rates were obtained from four of the seven groups studied (see table 1 below), and therefore, the possible impact of nonresponse bias requires caution in making projections.

Table 1

Basic Questionnaire Statistics

<u>Group</u>	<u>Size of universe</u>	<u>No. sampled</u>	<u>No. responding</u>	<u>Response rate</u> (percent)
Senators	99	99	51	51.5
Congressmen	435	435	252	57.9
Senate employees	296	85	64	75.3
House employees	770	171	115	67.3
Legislative branch employees	374	178	160	89.9
Congressional candidates	750	151	64	42.4
Disclosure report users	<u>262</u>	<u>262</u>	<u>79</u>	30.2
Total	<u>2,986</u>	<u>1,381</u>	<u>785</u>	

In the case of Senate and House Members, we were able to perform statistical tests to determine whether respondents differed from all Members with respect to party affiliation and the number of years in the Congress, two variables possibly related to attitudes toward financial disclosure. For both the Senate and House, our respondents did not differ by a statistically significant margin from all Senators and Congressmen. We believe that this finding and the sizable number of responses obtained for each group studied still make the resulting data base from our questionnaire an important source from which to draw information on the issues of legislative branch financial disclosure.

In addition to these surveys of report filers and users, we sent questionnaires to all State secretaries (see p. 81) and to State ethics officials (see p. 84) in those States that have enacted legislative branch financial disclosure legislation. We made followup phone calls to encourage the participation of those

who did not respond to the initial mailing. Response rates to these questionnaires were 92 percent (46 of 50) and 80 percent (32 of 40), respectively.

The purpose of the State secretary questionnaire was to obtain information regarding the handling of the financial disclosure reports sent to the State by the Clerk of the House and the Secretary of the Senate. Specifically, we were interested in the number of requests being made by the public for access to the disclosure reports and the procedures being followed by the States for report maintenance and distribution. Detailed findings from this questionnaire are presented in chapters 5 and 7.

Our State ethics official survey was intended to provide information on whether States are auditing the disclosure reports of State legislative branch officials. The questionnaires returned indicated that none of the States conducted any type of audit (either for completeness and accuracy or conflict of interest) beyond a cursory review of the forms to ensure that they were filled out according to instructions.

The sampling errors presented below represent the size of the confidence intervals at the 95-percent level of confidence for the respondent groups indicated in those cases where a survey finding of 20 percent (or 80 percent) or 50 percent is reported.

Confidence level-95 percent

<u>Respondent group</u>	<u>Observed percent</u>	
	<u>20 or 80</u>	<u>50</u>
Senators	+7.7	+ 9.6
Congressmen	+3.3	+ 4.1
Senate employees	+8.7	+10.9
House employees	+6.8	+ 8.5
Legislative branch employees	+4.7	+ 5.9
Congressional candidates	+9.4	+11.8
Disclosure report users	+7.4	+ 9.3

Confidence intervals for other reported percentages can be interpolated. The confidence interval (sampling error) indicates the precision with which our sample findings reflect the result that would have been obtained had all members of a respondent group answered our questions. This assumes that our respondents are representative of the entire group from which they were selected.

For example, if 50 percent of the Congressmen who answered our survey favored audits, then we can say that we are 95-percent sure that between 45.9 and 54.1 percent of all Congressman favor audits.

Review of Legislative Branch Financial Disclosure

**SURVEY OF CONGRESSIONAL AND LEGISLATIVE
BRANCH EMPLOYEES AND CANDIDATES**



OFFICIAL GOVERNMENT BUSINESS

U.S. GENERAL ACCOUNTING OFFICE

CONGRESSIONAL/LEGISLATIVE BRANCH EMPLOYEE AND CANDIDATE QUESTIONNAIRE

Instructions

Indicate your answers by making a check (✓) mark, entering a number, or writing a brief response as appropriate. Not everyone is intended to answer all the questions. Please follow the "Go to" instructions so you will only answer questions relevant to you. If you need more space to answer certain questions, please attach additional pages and indicate to which questions they apply.

Our study is concerned only with the Ethics in Government Act of 1978 and the questions below reflect only the reporting requirements of the act.

Please return the questionnaire in the envelope provided. If you have any questions contact Mr. Pasquale Esposito at (202) 275-5140.

Your cooperation is appreciated.

1. The Ethics in Government Act requires certain categories of congressional/legislative branch employees and candidates to file financial disclosure reports. Which category were you in for the 1980 filing?

(1) Senator's staff, compensated at or above GS-16 level (currently \$47,889 per year) including political fund designees

(2) Senate committee staff

(3) Representative's staff, compensated at or above GS-16 level (currently \$47,889 per year)

(4) Designated principal assistant of a Representative with no staff compensated at or above GS-16 level (currently \$47,889 per year)

(5) House committee staff

(6) Congressional candidate

(7) GAO employee

(8) Employee of other legislative branch agency (i.e. GPO, CBO).

(9) Other (_____)
specify

2. Did you fill out your own disclosure report this year or did someone else assist in the preparation of your forms? (Check all that apply.)

(1) I prepared them myself

(1) Attorney

(1) Accountant

(1) Another staff member

(1) Someone else (_____)
specify

3. How many hours would you estimate were required to prepare your 1980 forms?

_____ Hours

4. Approximately how much cost did you incur in complying with financial disclosure reporting requirements in 1980?

\$ _____ Legal fees

\$ _____ Accountant fees

\$ _____ Other costs

5. Did you or the preparer of your disclosure report request any assistance in preparing your 1980 financial disclosure report? If so, whom did you contact? (Check all that apply.)

- No assistance requested (Go to 9.)
- Secretary of the Senate
- Senate Ethics Committee
- Clerk of the House
- House Committee on Standards of Official Conduct
- Other (_____)
specify

6. What was the nature of the request for assistance?

7. Did the assistance provided adequately answer your questions?

- Yes
- No

8. Were requests for assistance responded to promptly?

- Yes
- No

9. Were you aware of the availability of any interpretative rulings or opinions (formal or informal) regarding the public financial disclosure requirements set forth in the law?

- Yes
- No

10. Under Title I of the Ethics in Government Act the following groups are required to file financial disclosure reports:

- Senators and Representatives
- High level (\$47,889 per year or more) congressional staff
- Designated principal assistants of members with no high level staff
- Congressional candidates
- High level (\$47,889 per year or more) employees of legislative branch agencies

Do you feel that there are any additional congressional or legislative branch individuals who may have positions of sufficient influence to warrant their being required to file financial disclosure reports?

- Yes (Go to 11.)
- No (Go to 12.)

11. Please identify the type of positions that you had in mind in answering the previous question.

12. The act defines high level employees as those who are A) compensated at a level at or above grade 16 of the General Schedule (currently \$47,889 per year) and B) work for more than 60 days in a calendar year. Do you feel that these thresholds are appropriate for identifying individuals who have to file, or should they be raised or lowered?

- A. \$47,889 is about right
 \$ _____ would be better
- B. 60 days is about right
 _____ days would be better

13. Listed below are the categories of information which must be disclosed and their associated thresholds. For each category please indicate the following: (A) whether or not the category is necessary given that the purpose of financial disclosure is to allow the public to identify potential conflicts of interest, (B) whether or not you found the required information particularly difficult to provide and (C) whether you think the associated reporting threshold is appropriate.

Information category	(A)		(B)		(C)		
	<u>Necessary</u>	<u>Not necessary</u>	<u>Difficult to provide</u>	<u>Not difficult to provide</u>	<u>Current threshold</u>	<u>About right</u>	<u>Threshold should be</u>
a. Income from salary (excluding current U.S. Government employment), pensions and honoraria	(1)	(2)	(1)	(2)	\$100	___	\$ ___
b. Income from dividends, interest, rent or capital gains, including trusts or other financial arrangements	(1)	(2)	(1)	(2)	\$100	___	\$ ___
c. Gifts of transportation, lodging, food or entertainment (excluding individual gifts valued at \$35 or less)	(1)	(2)	(1)	(2)	\$250	___	\$ ___
d. Gifts other than transportation, lodging, food, or entertainment. (excluding individual gifts valued at \$35 or less)	(1)	(2)	(1)	(2)	\$100	___	\$ ___
e. Reimbursements for travel related expenses	(1)	(2)	(1)	(2)	\$250	___	\$ ___
f. Interest in real or personal property. (real estate either held individually, jointly or by virtue of partnership or corporate arrangement)	(1)	(2)	(1)	(2)	\$1,000	___	\$ ___
g. Savings accounts or certificates of deposit	(1)	(2)	(1)	(2)	\$5,000	___	\$ ___
h. Stocks, bonds, commodities futures, notes receivable, etc.	(1)	(2)	(1)	(2)	\$1,000	___	\$ ___
i. Liabilities to any creditor and revolving charge accounts	(1)	(2)	(1)	(2)	\$10,000	___	\$ ___
j. Purchase, sale or exchange in real property, stocks, bonds, commodities futures or other forms of security	(1)	(2)	(1)	(2)	\$1,000	___	\$ ___

14. Disclosure report filers currently must provide information regarding positions held as:

- Officer
- Director
- Trustee
- Partner
- Proprietor
- Representative
- Employee, or
- Consultant

of any:

- Corporation
- Firm
- Partnership

or other:

- Business enterprise
- Nonprofit organization
- Labor organization

or other institution other than the U.S. government.

Please indicate A) whether or not you think disclosure of such information is necessary to allow for the identification of potential conflicts of interest, and then B) whether or not you found such information difficult to provide.

- A.
- (1) Necessary
 - (2) Not necessary
- B.
- (1) Difficult to provide
 - (2) Not difficult to provide

15. Disclosure report filers are also required to provide information describing any agreements or arrangements with respect to:

- Future employment
- A leave of absence during period of Government service
- Continuation of payments by former employers, or
- Continuing participation in an employee welfare or benefit plan maintained by a former employer.

Please indicate A) whether or not you think disclosure of such information is necessary to allow for the identification of potential conflicts of interest, and then B) whether or not you found such information particularly difficult to provide.

- A.
- (1) Necessary
 - (2) Not necessary
- B.
- (1) Difficult to provide
 - (2) Not difficult to provide

16. How far in advance of the May 15 filing deadline should the reporting forms and instructions be sent out in order to allow a reasonable period of time for their completion?

_____ Weeks

17. If you filed late (after May 15, 1980, or more than 30 days after being employed or becoming a candidate) and have not been granted an extension for filing, please indicate your reasons for filing late.

18. Current requirements also include information on the financial interests and holdings of spouse and dependent children. Please indicate A) whether or not you think the disclosure of such information is necessary to allow for the identification of potential conflicts of interest, and then B) whether or not you found such information difficult to provide.

A.

 (1) Necessary

 (2) Not necessary

B.

 (1) Difficult to provide

 (2) Not difficult to provide

19. Do you think the level of detail required for information on the financial interests and holdings of spouse and dependent children is appropriate?

 (1) Too much information is required

 (2) The information required is about right (Go to 21.)

 (3) Not enough information is required

 (4) Don't know (Go to 21.)

20. What changes, if any, do you think are needed in the information required for your spouse and dependent children? Please explain why you feel these changes are needed.

(Go to 21.)

The following questions (21 - 35) are designed to obtain your opinions as to the adequacy of the law and whether the law should be modified to reflect the following disclosure changes. For the most part such changes would require additional disclosure from reporting individuals.

	Yes <u>(1)</u>	No <u>(2)</u>	Don't know <u>(3)</u>
21. P.L. 95-521 does not require a new employee filing from an individual who was employed in the legislative branch of government (with no break in service) immediately before assuming a new legislative branch position; however, individuals from other branches of government must file a disclosure report as a new employee.			
Should legislative branch individuals, with no break in employment service and not in a previously covered position, be subject to the new employee filing requirement?	<u>(1)</u>	<u>(2)</u>	<u>(3)</u>
22. P.L. 95-521 does not require a reporting individual to report the interests of adult dependents.			
A. Should the disclosure provisions require reporting of adult dependents' interests and holdings?	<u>(1)</u>	<u>(2)</u>	<u>(3)</u>
B. Should such interest be reported and valued similarly to spouse interests?	<u>(1)</u>	<u>(2)</u>	<u>(3)</u>
23. Disclosure provisions do not require new employees, candidates, and dependent children to report both categories of gifts.			
Should gifts be required to be reported by these individuals?	<u>(1)</u>	<u>(2)</u>	<u>(3)</u>
24. The law does not require that gifts (both types) valued at less than \$35 be aggregated.			
Should gifts from <u>one</u> source be aggregated if under \$35?	<u>(1)</u>	<u>(2)</u>	<u>(3)</u>
25. P.L. 95-521 does not require reimbursements be reported from new employees, candidates, and dependent children.			
Should reimbursements received by these individuals be required to be reported?	<u>(1)</u>	<u>(2)</u>	<u>(3)</u>
26. P.L. 95-521 does not require that a category of value be assigned to reimbursements.			
Should reimbursements from different sources be assigned a category of value?	<u>(1)</u>	<u>(2)</u>	<u>(3)</u>
27. Disclosure law does not require individuals to disclose the identity of partners of a partnership in which they are engaged.			
Should reporting individuals be required to disclose the names of the partners engaged in the partnership activity?	<u>(1)</u>	<u>(2)</u>	<u>(3)</u>

	Yes (1)	No (2)	Don't know (3)
28. The law does not spell out how different partnerships (whether general or limited) or closely held corporate interests should be disclosed (e.g. partnership set up for holding real estate and/or securities as opposed to partnerships set up for trade or business, i.e. a restaurant or hardware store).			
A. Should the law specifically spell out how these interests be reported?	(1)	(2)	(3)
B. Should a reporting individual's interests in <u>each asset and liability</u> and associated <u>transactions</u> be disclosed for these interests?	(1)	(2)	(3)
29. P.L. 95-521 does not require the disclosure of interest rates as part of the description of a liability.			
Is this a significant enough element to require from reporting individuals?	(1)	(2)	(3)
30. The law is void of any language that would require the reporting of contingent liabilities or endorser or guarantor of a loan.			
Should contingent liabilities be required to be disclosed?	(1)	(2)	(3)
31. The law requires interests in the continuing participation in an employee welfare or benefit plan maintained by a former employer be reported. This includes pension fund interests.			
Should pensions be reported from former employers in cases where the reporting individual has contributed to the pension fund as a former employee?	(1)	(2)	(3)
32. The law does not require that spouse and dependent children report non-governmental positions.			
Should positions of this sort be reported by spouse and dependent children?	(1)	(2)	(3)
33. <i>Honorary positions</i> are not required to be reported pursuant to the provisions of the law.			
Could sufficient conflict of interest prevail that would warrant the reporting of these types of positions?	(1)	(2)	(3)
34. The law does not specify a preferential method for valuing different property interests.			
Should the law specify the methods for valuing interests in real property in the order of their desirability instead of giving the discretion to the reporting individual?	(1)	(2)	(3)
35. No report is required for (earned) income received by dependent children.			
Should the reporting of earned income be required from dependent children similar to that of the spouse requirement?	(1)	(2)	(3)

GAO is required to make recommendations about the need for random audits of public financial disclosure reports for completeness and accuracy. Completeness and accuracy audits would involve verification that the information in the disclosure report was correct and that no additional information should have been reported. This type of audit would require access to personal financial records and tax returns, as well as interviews with persons familiar with the filer's financial affairs.

36. In view of the purpose of public financial disclosure, do you believe regularly scheduled random audits for completeness and accuracy should be conducted?

- Yes
- (1) No (Go to 42.)
- (2)

37. Why do you think such audits are needed?

38. Who should be subject to such audits? (Check either yes or no for each type of filer.)

	<u>Yes</u>	<u>No</u>
a. Members of Congress	(1)	(2)
b. Congressional staff members	(1)	(2)
c. Congressional candidates	(1)	(2)
d. Legislative branch employees	(1)	(2)

39. Who should perform these audits?

- (1) Senate Ethics Committee and House Committee on Standards of Official Conduct
- (2) Secretary of Senate and Clerk of House
- (3) GAO
- (4) CPA firm
- (5) Other (_____)
specify
- (6) Don't know

40. Should the results of each audit be made public?

- (1) Yes
- (2) No (Go to 43.)

41. Why do you think individual audit results should be made public? (Answer and go to 43.)

42. Why don't you think such audits should be conducted? (Check all that apply.)

- (1) Audits aren't needed
- (1) Would be an invasion of privacy
- (1) Would cost too much
- (1) Other (_____)
specify

43. What improvements do you feel should be made in the public financial disclosure form and/or instructions to simplify or enhance the reporting of required information?
44. What, if any, additional information other than that discussed in questions 21-35, should be required in the law to enable the public to monitor conflicts of interest?
45. Overall, what do you think of the administration of the legislative branch disclosure system? Please include suggestions for improvement based on your observations and experience.

Review of Legislative Branch Financial Disclosure

SURVEY OF SENATE AND HOUSE MEMBERS



OFFICIAL GOVERNMENT BUSINESS

**U.S. GENERAL ACCOUNTING OFFICE
SURVEY OF SENATE AND HOUSE MEMBERS**

INSTRUCTIONS

We appreciate your taking time from a busy schedule to participate in this survey. It is part of our effort to satisfy the mandated requirements of the 1978 Ethics in Government Act. Not everyone is intended to answer all the questions. Please follow the "Go to" instructions so you will only answer questions relevant to you.

The questions below reflect only the reporting requirements of the Ethics in Government Act of 1978. Indicate your answers by making a check (✓) mark, entering a number, or writing a brief response as appropriate. If you need more space to answer certain questions, please attach additional pages and indicate to which questions they apply.

Please return the questionnaire in the envelope provided. If you have any questions, contact Mr. Pasquale Esposito at (202) 275-5140. Again, thank you for your time and cooperation.

1. Please indicate your status within the Congress by selecting the appropriate answers in a, b, and c below:

a. Democrat
(1)

Republican
(2)

Independent
(3)

b. Senator
(1)

Representative
(2)

c. Less than 8 years in Congress
(1)

Between 8 and 16 years in Congress
(2)

More than 16 years in Congress
(3)

2. Did you fill out your own disclosure report this year or did someone else assist in the preparation of your forms? (Check all that apply.)

I prepared them myself
(1)

I was assisted by:

An attorney
(1)

An accountant
(1)

A congressional staffer
(1)

Someone else (please specify) _____
(1) _____

3. How many hours would you estimate were required to prepare your 1980 forms?

Hours

4. Approximately how much did it cost you to comply with the requirements for financial disclosure reporting this year?

\$ Legal fees

\$ Accountant fees

\$ Other costs

5. Did you, or did the preparer of your disclosure report, request any assistance in preparing your 1980 financial disclosure report?

- Yes
(1)
- No (Go to 8.)
(2)

6. What was the nature of your request(s) for assistance?

7. For each source of assistance listed that was contacted, please indicate a) if the assistance provided adequately answered your questions and b) if the assistance was provided promptly?

Source of assistance	Assistance adequate		Assistance prompt	
	Yes (1)	No (2)	Yes (1)	No (2)
Secretary of the Senate	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)
Senate Ethics Committee	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)
Clerk of the House	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)
House Committee on Standards of Official Conduct	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)
Other (please specify) _____	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)

8. Were you aware of any interpretative rulings or opinions (formal or informal) regarding the public financial disclosure requirements set forth in the law?

- Yes
(1)
- No
(2)

9. Under Title I of the Ethics in Government Act the following groups are required to file financial disclosure reports:

- Senators and Representatives
- High level (\$47,889 per year or more) congressional staff
- Designated principal assistants of members with no high level staff
- Congressional candidates
- High level (\$47,889 per year or more) employees of legislative branch agencies

*Do you feel that there are any additional congressional or legislative branch individuals who may have positions of sufficient influence to warrant their being required to file financial disclosure reports?

- Yes
(1)
- No (Go to 11.)
(2)

10. Please identify the type of positions that you had in mind in answering the previous question.

11. The act defines high level employees as those who are compensated at or above grade 16 of the General Schedule (currently \$47,889 per year), and work for more than 60 days in a calendar year. Do you feel that these thresholds are appropriate for identifying individuals who have to file, or should they be raised or lowered?

- a. \$47,889 is about right
\$ _____ would be better
- b. 60 days is about right
_____ days would be better

12. Listed below are the categories of information which must be disclosed and their associated thresholds. For each category please indicate the following: (A) whether or not the category is necessary assuming that the purpose of financial disclosure is to allow the public to identify potential conflicts of interest, (B) whether or not you found the required information particularly difficult to provide and (C) whether you think the associated reporting threshold is appropriate.

Information category	(A)		(B)		(C)		
	Necessary (1)	Not necessary (2)	Difficult to provide (1)	Not difficult to provide (2)	Current threshold	About right	Threshold should be
a. Income from salary (excluding current U.S. Government employment), pensions and honoraria	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$100	<input type="checkbox"/>	\$ _____
b. Income from dividends, interest, rent or capital gains, including trusts or other financial arrangements	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$100	<input type="checkbox"/>	\$ _____
c. Gifts of transportation, lodging, food or entertainment (excluding individual gifts valued at \$35 or less)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$250	<input type="checkbox"/>	\$ _____
d. Gifts other than transportation, lodging, food, or entertainment. (excluding individual gifts valued at \$35 or less)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$100	<input type="checkbox"/>	\$ _____
e. Reimbursements for travel related expenses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$250	<input type="checkbox"/>	\$ _____
f. Interest in real or personal property. (real estate either held individually, jointly or by virtue of partnership or corporate arrangement)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$1,000	<input type="checkbox"/>	\$ _____
g. Savings accounts or certificates of deposit	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$5,000	<input type="checkbox"/>	\$ _____
h. Stocks, bonds, commodities futures, notes receivable, etc.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$1,000	<input type="checkbox"/>	\$ _____
i. Liabilities to any creditor and revolving charge accounts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$10,000	<input type="checkbox"/>	\$ _____
j. Purchase, sale or exchange in real property, stocks, bonds, commodities futures or other forms of security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	\$1,000	<input type="checkbox"/>	\$ _____

<p>13. Disclosure report filers currently must provide information regarding such positions held as:</p> <ul style="list-style-type: none"> — Officer — Director — Trustee — Partner of any: — Corporation — Firm — Partnership <ul style="list-style-type: none"> — Proprietor — Representative — Employee, or — Consultant or other: — Business enterprise — Nonprofit organization — Labor organization <p>or other institution other than the U.S. government.</p> <p>Please indicate a) whether or not you think disclosure of such information is necessary to allow for the identification of potential conflicts of interest, and then b) whether or not you found such information difficult to provide.</p> <p>a. <input type="checkbox"/> Necessary (1)</p> <p><input type="checkbox"/> Not necessary (2)</p> <p>b. <input type="checkbox"/> Difficult to provide (1)</p> <p><input type="checkbox"/> Not difficult to provide (2)</p>	<p>14. Filers of disclosure reports are also required to provide information describing any agreements or arrangements with respect to:</p> <ul style="list-style-type: none"> — Future employment — A leave of absence during period of Government service — Continuation of payments by former employers, or — Continuing participation in an employee welfare or benefit plan maintained by a former employer. <p>Please indicate a) whether or not you think disclosure of such information is necessary to allow for the identification of potential conflicts of interest, and then b) whether or not you found such information particularly difficult to provide.</p> <p>a. <input type="checkbox"/> Necessary (1)</p> <p><input type="checkbox"/> Not necessary (2)</p> <p>b. <input type="checkbox"/> Difficult to provide (1)</p> <p><input type="checkbox"/> Not difficult to provide (2)</p> <p>15. How far in advance of the May 15 filing deadline should the reporting forms and instructions be sent out in order to allow reasonable time for their completion?</p> <p><input type="checkbox"/> Weeks</p> <p>16. If you filed late (after May 15, 1980) and have not been granted an extension for filing, please indicate your reasons for filing late.</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
---	--

17. Current requirements also call for disclosing information on the financial interests and holdings of spouse and dependent children. Please indicate a) whether or not you think the disclosure of such information is necessary to allow for the identification of potential conflicts of interest, and then b) whether or not you found such information difficult to provide.

a. Necessary (1)
 Not necessary (2)

b. Difficult to provide (1)
 Not difficult to provide (2)

18. Do you think the level of detail required for information on the financial interests and holdings of spouse and dependent children is appropriate?

Too much information is required (1)
 The information required is about right (2) (Go to 20.)
 Not enough information is required (3)
 Don't know (Go to 20.) (4)

19. What changes, if any, do you think are needed in the information required for your spouse and dependent children? (Please explain why you feel these changes are needed.)

The Ethics in Government Act requires GAO to study the need for random audits of public financial disclosure reports for completeness and accuracy. Completeness and accuracy audits would involve verifying the correctness and completeness of the reports. This type of audit would require access to personal financial records and tax returns, as well as interviews with persons familiar with the filer's financial affairs.

20. Do you believe regularly scheduled confidential random audits for completeness and accuracy should be conducted?

Yes (1)
 No (Go to 24.) (2)

21. Who should be subject to such audits? (Check either yes or no for each type of filer.)

	Yes	No
a. Members of Congress	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)
b. Congressional staff members	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)
c. Congressional candidates	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)
d. Legislative branch employees	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)

22. Who should perform these audits?

Senate Ethics Committee and House Committee (1) on Standards of Official Conduct
 Secretary of Senate and Clerk of House (2)
 GAO (3)
 CPA firm (4)
 Other (_____) (5) *Specify*
 Don't know (6)

23. Should the results of each individual's audit be made public?

Yes (Go to 25.) (1)
 No (Go to 25.) (2)

<p>24. Why don't you think such audits should be conducted? (Check all that apply.)</p> <p><input type="checkbox"/> Audits aren't needed (1)</p> <p><input type="checkbox"/> Would be an invasion of privacy (1)</p> <p><input type="checkbox"/> Would cost too much (1)</p> <p><input type="checkbox"/> Other (please specify) (1)</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>25. If one of your staff members were randomly selected to have their disclosure report audited for completeness and accuracy, to which of the following should the audit findings be available? (Check all that apply.)</p> <p><input type="checkbox"/> Ethics Committee (1)</p> <p><input type="checkbox"/> Employing Member (1)</p> <p><input type="checkbox"/> Public (1)</p> <p><input type="checkbox"/> Staff member audited (1)</p> <p>26. Of what value would the results of an audit of your staff member be to you?</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>27. Who do you believe should be responsible for informing your staff about public disclosure reporting requirements and monitoring their compliance. (Check all that apply.)</p> <p><input type="checkbox"/> Ethics Committee (1)</p> <p><input type="checkbox"/> Employing Member (1)</p> <p><input type="checkbox"/> Other (_____) (1) <i>Specify</i></p> <p><input type="checkbox"/> Don't know (1)</p>	<p>28. Have you informed all your employees (including new employees), who are subject to financial disclosure, about their responsibility to comply with the financial disclosure requirements as set forth in House/Senate rule (P.L. 95-521)?</p> <p><input type="checkbox"/> Yes (1)</p> <p><input type="checkbox"/> No (Go to 30.) (2)</p> <p>29. Please describe how you do this.</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>30. Independently of the Ethics Committee, do you (personally or through an assistant) determine which of your employees are required to file financial disclosure reports?</p> <p><input type="checkbox"/> Yes (1)</p> <p><input type="checkbox"/> No (Go to 32.) (2)</p> <p>31. How do you determine this?</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>32. Do you (or an assistant) verify that all employees, who are required to file, have in fact actually filed?</p> <p><input type="checkbox"/> Yes (1)</p> <p><input type="checkbox"/> No (2)</p> <p>33. Do you review your employees' disclosure reports to determine whether there are any conflicts of interest?</p> <p><input type="checkbox"/> Yes (1)</p> <p><input type="checkbox"/> No (2)</p>
---	---

34. How many employees from your personal staff were required to file a public financial disclosure report this year because they were compensated at or above the GS-16 level (currently \$47,889)?

- Don't know (X)
- None (0)
- Employees (Go to 43.)

Questions 35 to 40 are intended only for Representatives. Senators should go directly to question 41.

35. The law requires that you designate an employee as a principal assistant for purposes of filing a public financial disclosure report if you do not have an employee compensated at or above the GS-16 level. Did you designate one or more principal assistants for this year's filing?

- Yes (1)
- No (Go to 40.) (2)

36. How many principal assistants did you designate?

- One (Go to 38.) (1)
- More than one (X) → Principal Assistants

37. Why did you designate more than one principal assistant? (Check all that apply.)

- Same pay (1)
 - Same duties (1)
 - In potential conflict of interest position (1)
 - Other reasons (please specify) (1)
-
-

38. What criteria did you use to select your principal assistant(s)? (Check all that apply.)

- High salary (1)
 - Nature of duties (1)
 - Other criteria (please specify) (1)
-
-
-

39. What were the position titles or major duties of the employees from your personal staff who filed public financial disclosure reports this year? (Check all that apply and Go to 41.)

- Office manager/staff director (1)
 - Press aide (1)
 - Administrative assistant (1)
 - Legislative assistant (1)
 - Secretarial/clerical (1)
 - Counsel (1)
 - Other (please specify) (1)
-
-
-

40. Why was a principal assistant not designated for this year's filing? (Check all that apply.)

- Didn't know it was required (1)
 - Didn't feel any staff member had a potential (1) conflict of interest
 - Other reasons (please specify) (1)
-
-
-

The following questions (41-58) solicit your opinions about certain provisions of the existing disclosure law and about whether or not they should be changed. For the most part such changes would require additional disclosure from reporting individuals.

	Yes (1)	No (2)	Don't know (3)
41. Currently an individual, paid at or above the salary threshold, going from an executive branch agency to a member's staff must file a disclosure report within 30 days of their new employment while an individual moving from a legislative branch agency to a member's staff is not required to file as a new employee. Should the law require a new employee filing in both situations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
42. The law does not require reporting on the interests of adult dependents. Should it?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
43. Should adult dependent's interests be reported and valued similarly to spouse interests?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
44. The law does not require new employees, candidates, and dependent children to report gifts including travel, lodging, food or entertainment. Should it?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
45. The law does not require reporting the total value of individual gifts from one source which are valued at less than \$35 each. Should it?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
46. The law does not require new employees, candidates, and dependent children to report reimbursements. Should it?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
47. The law does not require that a category of value be assigned to reimbursements. Should it?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
48. The law does not require individuals to disclose the identity of the partners in a general partnership. Should it?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
49. The law does not spell out how different partnerships (whether general or limited) or closely held corporate interests should be disclosed (e.g. partnership set up for holding real estate and/or securities as opposed to partnerships set up for trade or business, i.e. a restaurant or hardware store). Should it?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
50. Should a reporting individual's interest in each <u>asset</u> and <u>liability</u> and associated <u>transactions</u> be disclosed for general or limited partnerships and closely held corporate interests?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
51. The law does not require the disclosure of interest rates as part of the description of a liability. Should it?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
52. The law does not require the reporting of contingent liabilities or status as an endorser or guarantor of a loan. Should it?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
53. The law requires reporting of pensions from former employers in cases where the reporting individual has contributed to the pension fund as a former employee. Should it?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
54. The law does not require that spouse and dependent children report non-governmental positions. Should it?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
55. The law does not require the reporting of honorary positions. Should it?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
56. The law does not specify which methods are preferred for valuing different property interests. Should it?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
57. No report is required for earned income received by dependent children. Should it be required?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
58. The law currently requires members without GS-16 level staff to designate at least one principal assistant to file a disclosure report. Would you designate additional staff if the law were changed to allow members with GS-16 level staff to do so at their discretion? (Such individuals would be subject to the provisions of the law.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

59. What improvements do you feel should be made in the public financial disclosure form and/or instructions to simplify or enhance the reporting of required information?

60. What, if any, additional information, other than that discussed in questions 41-58, should be required in the law to enable the public to monitor conflicts of interest?

61. Overall, what do you think of the administration of the legislative branch disclosure system? *(Please include suggestions for improvement based on your observations and experience.)*

Legislative Branch Financial Disclosure

SURVEY OF DISCLOSURE REPORT REQUESTERS



OFFICIAL GOVERNMENT BUSINESS

U.S. GENERAL ACCOUNTING OFFICE

SURVEY OF DISCLOSURE REPORT REQUESTERS

INSTRUCTIONS

We appreciate your taking time from a busy schedule to participate in this survey. It is part of our effort to satisfy the mandated requirements of the 1978 Ethics in Government Act. Not everyone is intended to answer all the questions. Please follow the "Go to" instructions so you will only answer questions relevant to you.

The questions below reflect only the reporting requirements of the Ethics in Government Act of 1978. Indicate your answers by making a check (✓) mark, entering a number, or writing a brief response as appropriate. If you need more space to answer certain questions, please attach additional pages and indicate to which questions they apply.

Please return the questionnaire in the envelope provided. If you have any questions, contact Mr. Pasquale Esposito at (202) 275-5140. Again, thank you for your time and cooperation.

1. How did you initially find out that financial disclosure reports were available? (Check all that apply.)

- (1) a. Through the media
- (1) b. Familiarity with the legislation
- (1) c. Told by a friend or colleague
- (1) d. Other (_____) specify

2. Which of the following did you represent when obtaining the 1980 financial disclosure reports? (Check all that apply.)

- (1) a. Self
- (1) b. Public interest group
- (1) c. Specific industry, organization, lobby
- (1) d. Mass media (radio, TV, newspaper, magazine)
- (1) e. Other (_____) specify

3. For what purpose(s) were the financial disclosure reports obtained? (Check all that apply.)

- (1) a. Conflict of interest determination
- (1) b. Net worth estimation
- (1) c. Other purpose (_____) specify

4. Under Title I of the Ethics in Government Act the following groups are required to file financial disclosure reports:

- Senators and Representatives
- High level (\$47,889 per year or more) congressional staff
- Designated principal assistants of members with no high level staff
- Congressional candidates
- High level (\$47,889 per year or more) employees of legislative branch agencies

Do you feel that there are any additional congressional or legislative branch individuals who may have positions of sufficient influence to warrant their being required to file financial disclosure reports?

- (1) Yes
- (2) No (Go to 6.)

5. Please identify the type of positions that you had in mind in answering the previous question.

6. The act defines high level employees as those who are compensated at or above grade 16 of the General Schedule (currently \$47,889 per year), and work for more than 60 days in a calendar year. Do you feel that these thresholds are appropriate for identifying individuals who have to file, or should they be raised or lowered?

- a. \$47,889 is about right
\$_____ would be better
- b. 60 days is about right
_____ days would be better

7. Listed below are the categories of information which must be disclosed and their associated thresholds. For each category please indicate the following: (A) whether or not the category is necessary assuming that the purpose of financial disclosure is to allow the public to identify potential conflicts of interest and (B) whether you think the associated reporting threshold is appropriate.

Information category	(A)		(B)		
	Necessary (1)	Not necessary (2)	Current threshold	About right	Threshold should be
a. Income from salary (excluding current U.S. Government employment), pensions and honoraria	<input type="checkbox"/>	<input type="checkbox"/>	\$100	<input type="checkbox"/>	\$ _____
b. Income from dividends, interest, rent or capital gains, including trusts or other financial arrangements	<input type="checkbox"/>	<input type="checkbox"/>	\$100	<input type="checkbox"/>	\$ _____
c. Gifts of transportation, lodging, food or entertainment (excluding individual gifts valued at \$35 or less)	<input type="checkbox"/>	<input type="checkbox"/>	\$250	<input type="checkbox"/>	\$ _____
d. Gifts other than transportation, lodging, food, or entertainment. (excluding individual gifts valued at \$35 or less)	<input type="checkbox"/>	<input type="checkbox"/>	\$100	<input type="checkbox"/>	\$ _____
e. Reimbursements for travel related expenses	<input type="checkbox"/>	<input type="checkbox"/>	\$250	<input type="checkbox"/>	\$ _____
f. Interest in real or personal property. (real estate either held individually, jointly or by virtue of partnership or corporate arrangement)	<input type="checkbox"/>	<input type="checkbox"/>	\$1,000	<input type="checkbox"/>	\$ _____
g. Savings accounts or certificates of deposit	<input type="checkbox"/>	<input type="checkbox"/>	\$5,000	<input type="checkbox"/>	\$ _____
h. Stocks, bonds, commodities futures, notes receivable, etc.	<input type="checkbox"/>	<input type="checkbox"/>	\$1,000	<input type="checkbox"/>	\$ _____
i. Liabilities to any creditor and revolving charge accounts	<input type="checkbox"/>	<input type="checkbox"/>	\$10,000	<input type="checkbox"/>	\$ _____
j. Purchase, sale or exchange in real property, stocks, bonds, commodities futures or other forms of security	<input type="checkbox"/>	<input type="checkbox"/>	\$1,000	<input type="checkbox"/>	\$ _____

8. Disclosure report filers currently must provide information regarding such positions held as:

- Officer -Proprietor
 - Director -Representative
 - Trustee -Employee, or
 - Partner -Consultant
- of any: or other:
- Corporation -Business enterprise
 - Firm -Nonprofit organization
 - Partnership -Labor organization

or other institution other than the U.S. government.

Please indicate whether or not you think disclosure of such information is necessary to allow for the identification of potential conflicts of interest.

- Necessary
(1)
- Not necessary
(2)

9. Filers of disclosure reports are also required to provide information describing any agreements or arrangements with respect to:

- Future employment
- A leave of absence during period of Government service
- Continuation of payments by former employers, or
- Continuing participation in an employee welfare or benefit plan maintained by a former employer.

Please indicate whether or not you think disclosure of such information is necessary to allow for the identification of potential conflicts of interest.

- Necessary
(1)
- Not necessary
(2)

10. Current requirements also call for disclosing information on the financial interests and holdings of spouse and dependent children. Please indicate whether or not you think the disclosure of such information is necessary to allow for the identification of potential conflicts of interest.

- Necessary
(1)
- Not necessary (Go to 13.)
(2)

11. Do you think the level of detail required for information on the financial interests and holdings of spouse and dependent children is appropriate?

- Too much information is required
(1)
- The information required is about right
(2) (Go to 13.)
- Not enough information is required
(3)
- Don't know (Go to 13.)
(4)

12. What changes, if any, do you think are needed in the information required for spouse and dependent children? (Please explain why you feel these changes are needed.)

The Ethics in Government Act requires GAO to study the need for random audits of public financial disclosure reports for completeness and accuracy. Completeness and accuracy audits would involve verifying the correctness and completeness of the reports. This type of audit would require access to personal financial records and tax returns, as well as interviews with persons familiar with the filer's financial affairs.

13. Do you believe regularly scheduled confidential random audits for completeness and accuracy should be conducted?

- Yes
(1)
- No (Go to 17.)
(2)

14. Who should be subject to such audits?
(Check either yes or no for each type of filer.)

	<u>Yes</u>	<u>No</u>
a. Members of Congress	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)
b. Congressional staff members	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)
c. Congressional candidates	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)
d. Legislative branch employees	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)

15. Who should perform these audits?

- Senate Ethics Committee and House Committee on Standards of Official Conduct (1)
- Secretary of Senate and Clerk of House (2)
- GAO (3)
- CPA firm (4)
- Other (_____) (5)
Specify
- Don't know (6)

16. Should the results of each individual's audit be made public?

- Yes (Go to 18.) (1)
- No (Go to 18.) (2)

17. Why don't you think such audits should be conducted? (Check all that apply.)

- Audits aren't needed (1)
- Would be an invasion of privacy (1)
- Would cost too much (1)
- Other (please specify) (1)

18. Copies of trust instruments for qualified blind trusts, a list of assets initially deposited in the trust and a list of assets subsequently placed in trust or sold are available to the public for examination, although not as part of financial disclosure reports?

Were you aware of this availability?

- Yes (1)
- No (Go to 20.) (2)

19. Have you ever requested any of these documents?

- Yes (Go to 21.) (1)
- No (Go to 21.) (2)

20. Would you have requested any of these documents if you had known they were available?

- Yes (1)
- No (2)
- Don't know (3)

21. Do you think these documents should be part of the financial disclosure reports?

- Yes (1)
- No (2)
- Don't know (3)

The following questions (22-38) solicit your opinions about certain provisions of the existing disclosure law and about whether or not they should be changed. For the most part such changes would require additional disclosure from reporting individuals.

	Yes	No	Don't know
	(1)	(2)	(3)
22. Currently an individual, paid at or above the salary threshold, going from an executive branch agency to a member's staff must file a disclosure report within 30 days of their new employment while an individual moving from a legislative branch agency to a member's staff is not required to file as a new employee. Should the law require a new employee filing in both situations?	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (3)
23. The law does not require reporting on the interests of adult dependents. Should it?	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (3)
24. Should adult dependent's interests be reported and valued similarly to spouse interests?	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (3)
25. The law does not require new employees, candidates, and dependent children to report gifts including travel, lodging, food or entertainment. Should it?	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (3)
26. The law does not require reporting the total value of individual gifts from one source which are valued at less than \$35 each. Should it?	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (3)
27. The law does not require new employees, candidates, and dependent children to report reimbursements. Should it?	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (3)
28. The law does not require that a category of value be assigned to reimbursements. Should it?	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (3)
29. The law does not require individuals to disclose the identity of the partners in a general partnership. Should it?	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (3)
30. The law does not spell out how different partnerships (whether general or limited) or closely held corporate interests should be disclosed (e.g. partnership set up for holding real estate and/or securities as opposed to partnerships set up for trade or business, i.e. a restaurant or hardware store). Should it?	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (3)
31. Should a reporting individual's interest in each <u>asset</u> and <u>liability</u> and associated <u>transactions</u> be disclosed for general or limited partnerships and closely held corporate interests?	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (3)
32. The law does not require the disclosure of interest rates as part of the description of a liability. Should it?	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (3)
33. The law does not require the reporting of contingent liabilities or status as an endorser or guarantor of a loan. Should it?	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (3)
34. The law requires reporting of pensions from former employers in cases where the reporting individual has contributed to the pension fund as a former employee. Should it?	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (3)
35. The law does not require that spouse and dependent children report non-governmental positions. Should it?	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (3)
36. The law does not require the reporting of honorary positions. Should it?	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (3)
37. The law does not specify which methods are preferred for valuing different property interests. Should it?	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (3)
38. No report is required for earned income received by dependent children. Should it be required?	<input type="checkbox"/> (1)	<input type="checkbox"/> (2)	<input type="checkbox"/> (3)

39. Please indicate the approximate number of different financial disclosure reports you obtained during 1980 by filling in the appropriate boxes. Distinguish those requested through the mail from those requested in person.

SENATE				
	Senators	Their staffs	Senate candidates	Employees of GAO, OTA, Cost Accounting Standards Board, National Commission on Air Quality, Office of the Attending Physician
In person				
By mail				

HOUSE OF REPRESENTATIVES				
	Congressmen	Their staffs	House candidates	Employees of CBO, GPO, Library of Congress, Botanic Gardens, Architect of the Capitol
In person				
By mail				

40. How many of the financial disclosure reports you requested in person were provided to you at that time?

<u>SENATE</u>		<u>HOUSE</u>
<input type="checkbox"/> (1)	Does not apply, did not request reports in person	<input type="checkbox"/> (1)
<input type="checkbox"/> (2)	All	<input type="checkbox"/> (2)
<input type="checkbox"/> (3)	Most	<input type="checkbox"/> (3)
<input type="checkbox"/> (4)	Some	<input type="checkbox"/> (4)
<input type="checkbox"/> (5)	None	<input type="checkbox"/> (5)

41. What was the explanation given (if any) for not providing the requested reports?

42. For the financial disclosure reports you requested by mail, what was the typical time between sending your request and receiving the reports?

<u>SENATE</u>		<u>HOUSE</u>
<input type="checkbox"/> (1)	Does not apply, did not request reports by mail	<input type="checkbox"/> (1)
<input type="checkbox"/> (2)	Less than 7 days	<input type="checkbox"/> (2)
<input type="checkbox"/> (3)	7 - 13 days	<input type="checkbox"/> (3)
<input type="checkbox"/> (4)	14 - 20 days	<input type="checkbox"/> (4)
<input type="checkbox"/> (5)	21 days or more	<input type="checkbox"/> (5)

43. Were the respective Senate and House offices eventually able to provide you with copies of all the reports you requested?

<u>SENATE</u>		<u>HOUSE</u>
<input type="checkbox"/> (1)	Yes	<input type="checkbox"/> (1)
<input type="checkbox"/> (2)	No	<input type="checkbox"/> (2)
<input type="checkbox"/> (3)	Does not apply, none requested	<input type="checkbox"/> (3)

44. For those reports you have not received (if any), what reasons were given?

45. In addition to yourself, how many others made some use of the specific 1980 disclosure reports you obtained.

Number of others who used reports

46. Do you anticipate requesting financial disclosure reports to be filed next year?

Definitely (Go to 48.)
(1)

Probably (Go to 48.)
(2)

Probably not
(3)

Definitely not
(4)

47. Why don't you think you will request disclosure reports next year?

48. What improvements do you feel should be made in the public financial disclosure form and/or instructions to simplify or enhance the reporting of required information?

49. What, if any, additional information, other than that discussed in questions 22-38, should be required in the law to enable the public to monitor conflicts of interest?

STATE SECRETARY QUESTIONNAIRE

Instructions

Most of the questions require filling in a number, percent, or dollar value. For others only a check (✓) mark is necessary. In a few cases a brief written response is needed. If you cannot answer the questions in the space provided, please attach additional pages, properly numbering each response according to the question to which it applies.

Please complete the questionnaire and return it, using the envelop provided, within the next 2 weeks. Should you need any assistance or clarification call Mr. Pasquale Esposito at (202) 275-5140.

State Code

1. For each of the following categories of individuals indicate how many disclosure reports your office received from the Secretary of the U.S. Senate and Clerk of the U.S. House of Representatives during calendar year 1979.
 - a. Senators from your state? _____
 - b. Candidates for Senator from your state? _____
 - c. Representatives from your state? _____
 - d. Candidates for Representative from your state? _____

Please indicate on a separate attachment the name of each individual for whom you have received a disclosure report and the date your office received the report.

2. How long will these public financial disclosure reports be retained by your office?
 - _____ Year (s)
 - _____ Don't know, policy not yet established
3. Does your office now keep or intend to keep records of the requests made by the public for copies of the disclosure reports?
 - _____ Yes
 - _____ No

4. How many requests for disclosure reports did your office receive during calendar year 1979? (If your office does not keep records please provide an estimate.)
 - _____ Requests

5. What percent of the calendar year 1979 requests were walk-in and what percent came through the mail or by telephone?
 - a. Walk-in requests _____ %
 - b. Mail and telephone requests _____ %

6. What percent of the calendar year 1979 requests came from out of state?
 - _____ %

7. What percent of the calendar year 1979 requests were made by each of the following groups?
 - a. Journalists _____ %
 - b. Public interest groups _____ %
 - c. Private citizens _____ %
 - d. Other (_____) _____ %
specify
 - e. Other (_____) _____ %
specify

8. What information, if any, do you now require or plan to require of persons requesting disclosure reports before filling their requests? (Check all that apply.)
 - _____ a. None
 - _____ b. Name
 - _____ c. Address
 - _____ d. Employer/occupation
 - _____ e. Intended use
 - _____ f. Other (_____) _____ %
specify
 - _____ g. Other (_____) _____ %
specify

Please enclose a copy of the form requestors are required to complete if one is used.

9. Are requestors required to pay for copies of disclosure reports?

- Yes
No (Go to 11.)

10. How much per report or per page are requestors charged?

\$ per report
\$ per page

11. How long does it usually take between the time mail requests are received and the requested reports are mailed out?

- 1 day
2-3 days
4-5 days
6-10 days
More than 10 days

12. Section 104(e) of Title I of the Ethics in Government Act of 1978 states that it is illegal for any person to obtain or use a disclosure report--

- for any unlawful purpose;
for any commercial purpose other than by news and communications media for dissemination to the general public;
for determining or establishing the credit rating of any individual; or
for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

Does your office inform requestors of these statutory restrictions?

- Yes
No (Go to 14.)

13. Please describe the means used by your office to inform requestors of the restrictions on the use of disclosure reports.

Four horizontal lines for describing the means used.

14. Has any attempt been made to publicize the availability of disclosure reports in your state? (Check all that apply.)

- No attempt
Radio
Television
Print media
Other (specify)

Please enclose a copy of any publicity materials used, if available.

15. Has your office ever received an inquiry from any Federal offices regarding the public availability of such reports?

- No (Go to 17.)
Yes, from (specify)

16. What were the reasons for the Federal inquiry?

Four horizontal lines for describing the reasons for the Federal inquiry.

17. Have you received any instructions from the Secretary of the Senate or Clerk of the House regarding the maintenance or disposition of the financial disclosure forms?

___ Yes (please enclose a copy)

___ No

18. How much do you estimate it costs your State to maintain, process, and dispose of copies of Members' of Congress and congressional candidates' public financial disclosure reports?

\$ _____ per year

_____ Don't know

19. Use the space below to make any additional observations or comments you think are relevant to the topic of public financial disclosure reporting.

20. Please provide the name and phone number of person(s) in your Office who can answer any additional questions we may have on this topic.

(Name)

(Number)

Before returning the questionnaire please be sure that the requested materials are enclosed including:

- a. Attachment indicating names and dates, Members of Congress and candidates disclosure reports were received.
- b. A copy of the form used by requestors.
- c. A copy of any publicity materials used.
- d. A copy of any instructions received from the Secretary of the Senate or Clerk of the House.

STATE ETHICS OFFICIAL QUESTIONNAIRE

Instructions

Answer the following questions by making a check () mark, filling in the appropriate number, or writing a brief statement when necessary. If you cannot answer the questions in the space provided, please attach additional pages, properly numbering each response according to the question to which it applies. Please coordinate the completion of this survey with any other organizations in your State if they can better provide answers to certain questions. Return the completed questionnaire in the envelope provided within 2 weeks. If you have any questions contact Mr. Pasquale Esposito at (202) 275-5140.

State Code

1. What type of financial disclosure reports are officials in the legislative branch of your State government required to file? (For this and following questions consider State level officials only, not county, city or other lower level jurisdictions.)

<u>Category of Official</u>	No Disclosure	Confidential Disclosure	Public Disclosure
a. Legislators	___	___	___
b. Candidates for Elective Office	___	___	___
c. Legislative branch employees	___	___	___
d. Other:	___	___	___
(_____) specify			

(If no disclosure is required of legislative branch officials or candidates go directly to question 18.)

2. What criteria are used to determine which legislative branch employees must file a disclosure report? (Check all that apply and provide additional information requested.)

- ___ Does not apply--legislative branch employees are not required to file.
- ___ All State level legislative branch employees are required to file.
- ___ Only those at or above salary/grade thresholds must file. (Indicate threshold salary or salary at threshold grade)
\$ _____ (per year)
- ___ Only those in certain positions or with certain responsibilities are required to file. (Specify nature of positions or responsibilities)

3. How often are legislators and legislative branch employees required to file financial disclosure reports?

	<u>Legislators</u>	<u>Legislative Branch Employees</u>
Every 6 months	___	___
Annually	___	___
Every 2 years	___	___
Other interval	___	___
(specify) _____		
Does not apply no disclosure	___	___

4. How many legislative branch officials filed disclosure reports during calendar year 1979? (Enter the appropriate number in each of the boxes below.)

Category of Official

- a. Legislators _____
- b. Candidates for Elective Office _____
- c. Legislative branch employees _____
- d. Other (_____)
(specify) _____

GAO is required to make recommendations about the need for audits of public financial disclosure reports. In general two types of audits could be considered—audits for completeness and accuracy and audits to determine conflicts of interest. Both would be performed by an independent group and would be in addition to any supervisory review of disclosure reports. For the purposes of this questionnaire, reviews to verify that all necessary items on a disclosure report are filled out and that there are no obvious inconsistencies or misinterpretations of instructions are not considered audits.

Completeness and accuracy audits involve verification that the information in the disclosure report was correct and that no additional information should have been reported but was omitted. This type of audit can require access to personal financial records, tax returns, and interviews with persons familiar with the filer's financial affairs.

Conflict of interest audits involve a comparison of the information provided in the disclosure report with the filer's job duties and responsibilities. A determination would be made about whether or not any conflicts of interest exist.

5. Are any audits of legislative branch disclosure reports currently performed in your State on a regularly scheduled basis? (Check all that apply.)

- _____ No audits are conducted. (Go to question 15.)
- _____ Audits are only conducted in response to specific allegations or complaints. (Go to question 15.)
- _____ Regularly scheduled completeness and accuracy audits are conducted.
- _____ Regularly scheduled conflict of interest audits are conducted.

6. Are these audits of legislative branch disclosure reports specifically required by your State ethics/disclosure laws or regulations?

- _____ Yes
- _____ No, but the intent/legislative history of the relevant laws clearly calls for them.
- _____ No, but they have been determined to be necessary by the State office charged with implementing the legislation.

7. Please describe briefly the reasons why audits of legislative branch financial disclosure reports are conducted in your State.

Completeness and Accuracy: _____

Conflict of Interest: _____

8. How many audits of legislative branch disclosure reports were conducted during calendar year 1979? (Enter the appropriate number in each of the boxes below.)

<u>Category of Official</u>	<u>Type of Audit</u>	
	<u>Completeness and Accuracy</u>	<u>Conflict of Interest</u>
a. Legislators	_____	_____
b. Candidates for Elective Office	_____	_____
c. Legislative branch employees	_____	_____
d. Other (_____) specify	_____	_____

9. If some of the categories of legislative branch officials shown in question 8 are audited and others are not, please explain the reasons why.

Completeness and Accuracy: _____

Conflict of Interest: _____

10. Are these audits conducted by governmental or private organizations?

- a. Completeness and Accuracy Audits:
- ___ Does not apply—this type of audit not conducted
 - ___ Governmental
 - ___ Private

- b. Conflict of Interest Audits:
- ___ Does not apply—this type of audit not conducted
 - ___ Governmental
 - ___ Private

11. What is the name of the organization(s) that conduct(s) audits of your State's financial disclosure reports?

- a. Completeness and accuracy audits:
- _____
- _____

- b. Conflict of interest audits:
- _____
- _____

12. Approximately how many staff years were expended by professional personnel in calendar year 1979 audits?

- a. Completeness and accuracy audits:
- ___ Staff Years
- b. Conflict of interest audits:
- ___ Staff Years

13. What was the total cost for audits during calendar year 1979?

- a. Completeness and accuracy audits:
- \$ _____
- b. Conflict of interest audits:
- \$ _____

Please enclose a copy of the procedures or audit programs associated with these audits.

14. Are the results of individual's audits available to the public?

- a. Completeness and accuracy audits:
- ___ Does not apply—this type of audit not conducted
 - ___ Yes
 - ___ No
- b. Conflict of interest audits:
- ___ Does not apply—this type of audit not conducted
 - ___ Yes
 - ___ No

15. If regularly scheduled audits of legislative branch disclosure reports are not currently conducted, is it likely they will be in the future?

	Type of Audit	
	Completeness and Accuracy	Conflict of Interest
Does not apply such audits are currently conducted	___	___
Definitely yes	___	___
Probably yes	___	___
Uncertain	___	___
Probably no	___	___
Definitely no	___	___

16. Listed below are several possible reasons why legislative branch financial disclosure reports are not audited for completeness and accuracy. Please indicate the relative importance of each in the case of your State.

<u>Such audits are/would be:</u>	<u>Not Important</u>	<u>Somewhat Important</u>	<u>Very Important</u>
a. Prohibited by law	---	---	---
b. Too expensive	---	---	---
c. An inconvenience to filers	---	---	---
d. A violation of filers privacy rights	---	---	---
e. Not necessary (please indicate why)	---	---	---

f. Other (please specify)	---	---	---

17. Listed below are several possible reasons why legislative branch financial disclosure reports are not audited for conflict of interest. Please indicate the relative importance of each in the case of Your State.

<u>Such audits are/would be:</u>	<u>Not Important</u>	<u>Somewhat Important</u>	<u>Very Important</u>
a. Prohibited by law	---	---	---
b. Too expensive	---	---	---
c. An inconvenience	---	---	---
d. A violation of filers privacy rights	---	---	---
e. Not necessary (please indicate why)	---	---	---

f. Other (please specify)	---	---	---

18. Are any audits of executive branch disclosure reports currently performed in your State on a regularly scheduled basis? (Check all that apply.)

- Does not apply--financial disclosure is not required in the executive branch (Go to question 20.)
- No audits are conducted (Go to question 20.)
- Audits are only conducted in response to specific allegations or complaints. (Go to question 20.)
- Regularly scheduled completeness and accuracy audits are conducted
- Regularly scheduled conflict of interest audits are conducted

19. Please describe briefly the reasons why audits of executive branch financial disclosure reports are conducted in your State.

Completeness and Accuracy: _____

Conflict of Interest: _____

20. Are any audits of judicial branch disclosure reports currently performed in your State on a regularly scheduled basis? (Check all that apply.)

- Does not apply--financial disclosure is not required in the judicial branch (Go to question 22.)
- No audits are conducted (Go to question 22.)
- Audits are only conducted in response to specific allegations or complaints (Go to question 22.)
- Regularly scheduled completeness and accuracy audits are conducted.
- Regularly scheduled conflict of interest audits are conducted.

21. Please describe briefly the reasons why audits of judicial branch financial disclosure reports are conducted in your State.

Completeness and Accuracy: _____

Conflict of Interest: _____

22. Please summarize your thoughts on the value of audits of disclosure reports to:

a. the public

Completeness and Accuracy: _____

Conflict of Interest: _____

b. filers' supervisors

Completeness and Accuracy: _____

Conflict of Interest: _____

c. ethics officials

Completeness and Accuracy: _____

Conflict of Interest: _____

23. Does your organization fall within one of the branches of State government or is it independent?

___ legislative branch

___ executive branch

___ judicial branch

___ independent

24. Please indicate the name and phone number of person(s) in your office whom we may contact should it be necessary to obtain additional information.

(Name)

(Phone)

Please enclose a copy of the relevant State ethics/disclosure law(s).

TABLE 2

Respondents Who Prepared Their Own Disclosure
Reports and the Extent of Assistance Needed

	<u>Members of Congress</u>		<u>Legislative branch employees</u>		<u>Legislative branch agencies</u>	<u>Congressional candidates</u>
	<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>		
	(percent)					
Did you fill out your own disclosure report this year or did someone else assist in the preparation of your forms? (Check all that apply.)						
I prepared them myself	12.0	41.5	93.5	100.0	98.1	76.9
I was assisted by:						
An attorney	18.0	4.0	-	-	-	1.1
An accountant	36.0	16.1	1.7	-	0.3	16.9
Staff	64.0	43.1	1.7	-	-	7.4
Someone else	8.0	3.2	3.1	-	1.6	1.1

TABLE 3

Respondents' Opinions of How Far In Advance
Disclosure Forms Should Be Available Before
the May 15 Filing Due Date

	<u>Members of Congress</u>		<u>Legislative branch employees</u>			<u>Congressional candidates</u>
	<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>	<u>Legislative branch agencies</u>	
	(percent)					
1-3 weeks	2.1	6.9	4.9	1.5	4.6	14.3
4-6 weeks	31.2	51.7	55.7	65.8	54.1	67.5
7-9 weeks	33.3	21.1	27.9	24.6	22.2	1.9
10-12 weeks	20.8	15.1	8.2	5.9	15.0	10.7
13-15 weeks	6.2	1.3	-	1.1	1.2	2.5
16-26 weeks	4.2	3.9	3.2	1.1	3.0	3.1
52 weeks	2.1	-	-	-	-	-

Note: Columns do not total due to rounding.

TABLE 4

Respondents Who Requested Financial DisclosureAssistance When Completing Their Forms

<u>Source of assistance</u>	<u>Member of Congress</u>		<u>Legislative branch employees</u>			<u>Congressional candidates</u>
	<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>	<u>Legislative branch agencies</u>	
	(percent)					
None requested	56.9	69.4	78.8	88.7	93.5	75.7
Secretary of the Senate	7.8	1.6	3.4	-	-	0.5
Senate Ethics Committee	43.1	1.6	18.0	-	-	5.6
Clerk of the House	-	9.6	-	1.1	3.2	9.0
House Ethics Committee	-	28.6	-	10.3	0.8	-
Other	2.0	3.2	4.8	-	3.2	14.3

TABLE 5
Respondents Who Requested Disclosure Assistance
and Their Opinions of the Adequacy and
Promptness of Assistance Provided

<u>Source of assistance</u>	<u>Members of Congress</u>		<u>Legislative branch employees</u>				<u>Congressional candidates</u>
	<u>House</u>		<u>Senate</u>		<u>Legislative branch agencies</u>		
	<u>Adeq.</u>	<u>Prompt.</u>	<u>Adeq.</u>	<u>Prompt.</u>	<u>Adeq.</u>	<u>Prompt.</u>	
Secretary of the Senate	100.0	100.0	-	-	-	-	-
Senate Ethics Committee	94.7	100.0	-	100.0	-	-	100.0
Clerk of the House	-	-	89.5	100.0	-	100.0	100.0
House Ethics Committee	-	-	95.2	100.0	-	100.0	100.0
Other	100.0	100.0	100.0	100.0	100.0	61.2	100.0

(percent)

TABLE 6
Respondents Who Were Aware of the Availability
of Interpretative Rulings

<u>Members of Congress</u>		<u>Legislative branch employees</u>		<u>Congressional</u>
<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>	<u>candidates</u>
67.4	47.2	54.2	59.6	45.2
(percent.)				

Were you aware of any interpretative rulings or opinions (formal or informal) regarding the public financial disclosure requirements set forth in the law?

TABLE 7

Respondents' Estimates of Time Needed to Prepare
Their Disclosure Reports

	<u>Members of Congress</u>		<u>Legislative branch employees</u>			<u>Congressional candidates</u>
	<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>	<u>Legislative branch agencies</u>	
	(percent)					
How many hours would you estimate were required to prepare your 1980 report?						
Less than 1 hour	13.7	11.5	7.8	34.8	19.7	8.4
1 hour	-	19.4	34.4	38.4	36.6	26.4
2 hours	7.8	23.4	32.8	16.1	21.0	24.7
3-4 hours	19.6	17.0	17.2	5.7	18.3	16.9
5-10 hours	27.4	17.1	7.9	4.9	3.8	11.3
Over 10 hours	31.4	11.5	-	-	0.6	12.4

TABLE 8

Respondents' Costs Incurred to ComplyWith 1980 Filing Requirements

	<u>Members of Congress</u>		<u>Legislative branch employees</u>			<u>Congressional candidates</u>
	<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>	<u>Legislative branch agencies</u>	
	(percent)					
Total costs for complying with the 1980 filing requirements						
None	72.5	82.9	92.2	98.6	94.4	74.7
Under \$100	-	4.4	4.7	0.7	3.1	20.8
\$100-\$200	4.0	6.7	1.6	0.7	2.5	0.6
\$201-\$500	13.7	3.6	1.6	-	-	-
Over \$500	9.8	2.4	-	-	-	3.9

TABLE 9

Breakdown of Respondents' Costs Incurred to Comply With 1980 Disclosure Requirements

	<u>Legislative branch employees</u>				(percent)
	<u>Members of Congress</u>	<u>Senate</u>	<u>House</u>	<u>Legislative branch agencies</u>	
<u>Senate</u>					
<u>House</u>					
<u>Congressional candidates</u>					

Approximately how much did it cost you to comply with the 1980 financial disclosure requirements?

<u>Legal fees</u>							
None	90.2	98.0	98.4	100.0	99.2	97.8	
Under \$100	-	-	-	-	-	-	
\$100-\$200	-	2.0	1.6	-	0.8	-	
Over \$200	9.8	-	-	-	-	2.2	
<u>Accountant fees</u>							
None	78.4	86.9	96.9	100.0	99.7	93.3	
Under \$100	-	3.2	-	-	-	2.2	
\$100-\$200	4.0	5.5	3.1	-	0.3	0.6	
Over \$200	17.6	4.4	-	-	-	3.9	
<u>Other costs</u>							
None	96.1	96.8	93.8	98.6	95.5	80.9	
Under \$100	2.0	1.2	6.2	0.7	3.1	18.5	
\$100-\$200	-	0.4	-	0.7	1.4	-	
Over \$200	2.0	1.6	-	-	-	0.6	

TABLE 10
Respondents' Opinions on the Necessity of the Disclosure
Provisions and Difficulty to Comply With Them

Disclosure category	Members of Congress		Legislative branch employees		Congressional candidates	Report users							
	Senate	House	Senate	Legislative branch agencies									
	<u>Nec.</u>	<u>Dif.</u>	<u>Nec.</u>	<u>Dif.</u>	<u>Nec.</u>	<u>Dif.</u>							
Income from salary (excluding current U.S. Government employment), pensions, and honoraria	88.0	2.1	90.3	3.2	89.1	1.7	89.4	0.8	91.2	0.6	81.1	1.9	100.0
Income from dividends, interest, rent or capital gains (including trusts or other financial arrangements)	84.0	12.2	87.3	13.8	82.5	15.5	81.8	9.0	88.4	10.1	83.4	25.0	96.2
Gifts of transportation, lodging, food, or entertainment (excluding individual gifts valued at \$35 or less)	76.6	42.9	77.7	35.7	85.7	27.6	85.0	22.5	91.3	15.3	75.7	47.4	96.1
Gifts other than transportation, lodging, food, or entertainment (excluding individual gifts valued at \$35 or less)	91.8	31.9	86.3	26.4	92.1	15.8	88.6	17.7	95.1	12.1	81.1	32.2	98.7

(percent)

TABLE 10 (cont.)

Disclosure category	Legislative branch employees												Report users Nec.
	Members of Congress				Legislative branch agencies				Congressional candidates		Nec.		
	Senate		House		Senate		House		Nec.	Dif.			
Nec.	Dif.	Nec.	Dif.	Nec.	Dif.	Nec.	Dif.	Nec.	Dif.	Nec.	Dif.		
	(percent)												
Reimbursements for travel related expenses	49.0	27.1	58.9	19.8	69.4	16.4	57.3	5.9	81.0	9.4	59.2	23.3	93.4
Interest in real or personal property (real estate either held individually, jointly, or by virtue of partnership or corporate arrangement)	82.0	22.4	78.4	21.9	74.2	17.5	79.2	13.0	84.9	10.5	84.5	15.4	98.7
Savings accounts or certificates of deposit	71.4	-	62.9	4.2	61.3	5.6	49.6	4.7	57.8	2.7	68.0	6.1	92.0
Stocks, bonds, commodities futures, notes receivable, etc.	93.9	6.3	87.7	13.3	73.0	10.7	83.6	8.0	89.1	11.4	87.6	12.8	97.3
Liabilities to any creditor and revolving charge accounts	82.0	8.3	78.0	15.7	79.4	10.7	69.5	10.9	75.7	9.2	67.4	15.9	94.6
Purchase, sale, or exchange in real property, stocks, bonds, commodities futures, or other forms of security	88.0	19.1	84.1	19.2	69.8	17.9	82.2	8.4	86.9	17.8	82.2	18.4	100.0

86

TABLE 10 (cont.)

Disclosure category	Legislative branch employees												Report users Nec.
	Members of Congress				Legislative branch agencies				Congressional candidates		Report users Nec.		
	Senate		House		Senate		House		Nec.	Dif.			
Nec.	Dif.	Nec.	Dif.	Nec.	Dif.	Nec.	Dif.	Nec.	Dif.	Nec.			

(percent)

Disclosure category

Disclosure report filers currently must provide information regarding positions held other than U.S. governmental positions.

85.1 15.2 85.8 1.1 88.9 - 88.8 3.8 96.4 3.3 82.7 20.5 98.7

Filers of disclosure reports are also required to provide information describing any agreements or arrangements regarding future employment, a leave of absence during period of Government service, continuation of payments by former employers, or continuing participation in an employee welfare or benefit plan maintained by a former employer.

81.3 13.6 81.8 12.6 84.1 7.3 81.6 3.6 88.8 7.8 69.5 23.5 96.2

Current requirements also call for disclosing information on the financial interests and holdings of spouse and dependent children.

58.3 43.5 57.9 31.4 50.8 25.0 51.6 19.0 78.1 13.6 62.6 39.5 85.7

TABLE 11

Respondents' Opinions on the Level of Detail Required For
and Dependent Children Disclosure

	<u>Legislative branch employees</u>				
	<u>Members of Congress</u>		<u>Legislative branch agencies</u>		
	<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>	<u>agencies</u>

----- (percent) -----

100

Do you think the level of detail required for information on the financial interests and holdings of spouse and dependent children is appropriate?

Too much information is required.	44.7	36.8	41.3	32.1	22.8
The information required is about right.	51.1	45.0	41.3	45.4	50.7
Not enough information is required.	-	2.1	-	1.8	1.7
Do not know.	4.3	16.1	17.5	20.6	24.8

TABLE 12

Reporting Thresholds Suggested By Respondents

	<u>Members of Congress</u>		<u>Legislative branch employees</u>			<u>Congressional candidates</u>	<u>Report users</u>
	<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>	<u>Legislative branch agencies</u>		
	(percent)						
Income from salary (excluding current U.S. Government employment), pensions, and honoraria.							
\$100	48.9	66.5	58.2	59.6	50.1	52.9	85.9
\$200-\$500	27.7	15.6	18.1	19.0	15.2	13.2	7.7
\$1,000-\$5,000	23.4	17.9	23.7	21.4	34.6	33.8	6.4
Income from dividends, interest, rent, or capital gains (including trusts or other financial arrangements).							
Under \$100	-	-	-	-	-	-	1.3
\$100	50.0	62.3	53.6	53.9	44.3	59.6	89.3
\$200-\$500	30.4	14.4	19.7	21.2	19.4	12.8	5.3
\$501-\$999	-	-	-	-	-	2.8	-
\$1,000-\$5,000	19.6	23.3	26.8	25.0	36.5	24.8	4.0

TABLE 12 (cont.)

	<u>Members of Congress</u>		<u>Legislative branch employees</u>			<u>Congressional candidates</u>	<u>Report users</u>
	<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>	<u>Legislative branch agencies</u>		
	(percent)						
Gifts of transportation, lodging, food or entertainment (excluding individual gifts valued at \$35 or less).							
Under \$100	-	0.5	1.8	-	3.6	-	6.8
\$100-\$160	-	2.3	5.3	4.1	8.7	12.0	27.0
\$250	58.1	67.7	73.7	72.6	66.7	75.9	60.8
\$350-\$500	34.9	19.8	14.1	16.2	6.9	5.3	4.1
\$501-\$999	-	-	-	-	0.7	-	-
\$1,000-\$7,000	7.0	9.7	5.3	7.0	13.3	6.8	1.4
Gifts other than transportation, lodging, food, or entertainment (excluding individual gifts valued at \$35 or less)							
\$10-\$50	-	-	1.8	2.4	3.3	-	5.5
\$100	56.5	73.5	74.5	72.2	72.5	76.6	87.9
\$200-\$500	41.3	21.4	20.0	20.5	13.2	16.0	5.5
\$1,000-\$5,000	2.2	5.1	3.6	4.9	11.0	7.3	1.4

TABLE 12 (cont.)

	Members of Congress		Legislative branch employees		Congressional candidates	Report users
	Senate	House	Senate	House		
Reimbursements for travel related expenses						
Under \$100	-	-	-	-	-	5.8
\$100-\$150	-	1.0	1.9	1.0	-	23.1
\$250	78.9	74.4	80.8	78.9	87.1	68.1
\$350-\$500	13.2	14.5	9.6	17.0	-	2.9
\$501-\$999	2.6	-	-	-	3.2	-
\$1,000-\$5,000	5.3	10.1	7.7	3.0	9.6	-
Interests in real or personal property (real estate either held individually, jointly, or by virtue of partnership or corporate arrangement)						
Under \$250	-	-	-	-	3.8	4.0
\$250 - \$500	-	1.0	-	-	3.0	5.3
\$1,000	57.1	77.6	74.5	80.0	73.7	88.0
\$2,000 - \$5,000	33.4	14.3	18.2	11.6	18.0	2.7
\$5,001 - \$10,000	-	5.2	5.5	6.5	0.8	-
Over \$10,000	9.5	1.9	1.8	1.9	0.8	-

(percent)

TABLE 12 (cont.)

	<u>Legislative branch employees</u>				
	<u>Members of Congress</u>		<u>Legislative branch agencies</u>		
	<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>	<u>agencies</u>
	(percent)				
Savings accounts or certificates of deposit					
Under \$1,000	-	0.5	-	-	-
\$1,000-\$3,000	4.7	5.5	4.2	3.3	4.0
\$5,000	90.5	82.5	83.3	81.1	76.6
\$10,000-\$25,000	4.8	10.5	12.5	15.6	16.4
Over \$25,000	-	1.0	-	-	3.0
Stocks, bonds, commodities futures, notes receivable, etc.					
Under \$250	-	-	-	-	1.6
\$250-\$500	-	0.4	-	-	0.7
\$1,000	67.4	78.8	81.1	82.7	67.9
\$2,000-\$5,000	27.9	17.5	13.2	13.6	23.2
\$5,001-\$10,000	4.7	1.9	5.7	2.8	4.4
Over \$10,000	-	1.4	-	0.9	2.2
Liabilities to any creditor and revolving charge accounts					
Under \$1,000	-	0.5	-	-	0.7
\$1,000-\$5,000	17.1	9.3	19.1	12.4	10.5
\$10,000	82.9	87.3	80.3	84.8	82.1
\$15,000-\$25,000	-	2.9	-	2.0	6.0
Over \$25,000	-	-	-	1.0	0.7

TABLE 12 (cont.)

	Members of Congress		Legislative branch employees			Congressional candidates	Report users
	Senate	House	Senate	House	Legislative branch agencies		
Purchase, sale, or exchange in real property, stocks, bonds, commodities futures, or other forms of security	-	-	-	-	2.0	0.8	10.7
\$100 - \$500	-	1.0	-	-	-	3.0	-
\$501 - \$900	-	-	-	-	-	81.9	88.0
\$1,000	58.5	74.8	80.8	71.6	68.0	9.8	1.3
\$2,000-\$5,000	36.6	18.1	7.7	21.7	20.5	4.5	-
\$5,001-\$10,000	4.9	5.2	9.6	5.7	7.6	-	-
Over \$10,000	-	1.0	1.9	0.9	2.0	-	-
Days of service for required filers	2.4	2.6	6.3	3.2	7.5	9.1	10.3
30 days or less	83.3	86.8	79.2	80.8	76.8	80.3	88.2
60 days	14.3	10.6	12.5	16.1	13.8	9.8	1.5
90-180 days	-	-	2.1	-	1.8	0.8	-
Over 180 days	-	-	-	-	-	-	-
Salary level for required filers	8.7	10.7	13.8	26.2	9.3	5.4	4.2
Under \$25,000	87.0	84.4	81.0	69.4	75.2	75.5	23.0
\$25,000-\$45,000	4.3	4.9	1.7	4.4	14.2	5.4	73.0
\$47,889	-	-	-	-	-	-	-
Over \$50,000	-	-	-	-	-	-	-

(percent)

TABLE 13

Respondents Who Felt That Additional Positions Should
Be Subject to Financial Disclosure Requirements

<u>Members of Congress</u>		<u>Legislative branch employees</u>			<u>Congressional</u>	<u>Report</u>
<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>	<u>branch agencies</u>	<u>candidates</u>	<u>users</u>
(percent)						

Under title I of the Ethics in Government Act, the following groups are required to file financial disclosure reports:

- Senators and Representatives.
- High-level (\$47,889 per year or more) congressional staff.
- Designated principal assistants of Members without high-level staff.
- Congressional candidates.
- High-level (\$47,889 per year or more) employees of legislative branch agencies.

Do you feel that there are additional congressional or legislative branch individuals who may have positions of sufficient influence to warrant their being required to file financial disclosure reports?
(Yes responses)

5.9	6.8	16.0	11.9	8.3	10.9	30.4
-----	-----	------	------	-----	------	------

TABLE 14

Respondents' Opinions of the Need For

Additional Disclosure Requirements

		<u>Legislative branch employees</u>													
		<u>Members of Congress</u>		<u>Legislative branch agencies</u>		<u>Congressional candidates</u>		<u>Report users</u>							
		<u>House</u>		<u>Senate</u>		<u>House</u>		<u>Senate</u>							
		<u>Do not</u>	<u>Do not</u>	<u>Do not</u>	<u>Do not</u>	<u>Do not</u>	<u>Do not</u>	<u>Do not</u>	<u>Do not</u>						
		<u>Yes</u>	<u>know</u>	<u>Yes</u>	<u>know</u>	<u>Yes</u>	<u>know</u>	<u>Yes</u>	<u>know</u>						
		34.9	16.3	36.3	21.1	32.8	15.6	42.7	16.3	61.9	13.3	43.3	20.7	61.0	10.4
		11.4	4.5	19.0	4.4	27.0	4.8	19.9	5.7	41.6	3.4	28.7	9.8	55.8	6.5
		17.4	2.2	20.6	7.0	30.4	5.4	20.9	10.4	43.1	7.0	21.7	15.5	54.7	6.7

(percent)

Currently an individual, paid at or above the salary threshold, going from an executive branch agency to a Member's staff must file a disclosure report within 30 days of employment, while an individual moving from a legislative branch agency to a Member's staff is not required to file as a new employee. Should the law require a new employee to file in both situations?

The law does not require reporting the interests of adult dependents. Should it?

Should adult dependents' interests be reported and valued similarly to spouses' interests?

TABLE 14 (cont.)

	Legislative branch employees												
	Members of Congress					Legislative branch agencies					Report users		
	Senate	House	Do not know	Yes	No	Senate	House	Do not know	Yes	No			
	Do not know	Yes	Do not know	Yes	No	Do not know	Yes	Do not know	Yes	No	Do not know	Yes	No
	6.5	28.4	7.9	37.5	7.8	30.9	12.1	49.8	16.9	30.3	13.9	61.8	3.9
	-	-	4.3	25.0	1.6	15.8	3.2	32.1	3.5	18.8	6.1	18.7	1.3
	10.9	8.7	24.0	4.4	22.2	7.9	24.9	39.8	16.2	16.2	11.2	53.3	6.7
	13.0	4.3	24.6	7.0	33.3	14.3	28.4	39.8	24.3	26.1	13.0	65.8	7.9

(percent)

The law does not require new employees, candidates, and dependent children to report gifts including travel, lodging, food, or entertainment. Should it?

The law does not require reporting the total value of individual gifts from one source which are valued at less than \$35. Should it?

The law does not require new employees, candidates, and dependent children to report reimbursements. Should it?

The law does not require that a category of value be assigned to reimbursement. Should it?

TABLE 14 (cont.)

	Legislative branch employees													
	Members of Congress				Legislative branch agencies				Congressional candidates		Report users			
	Senate		House		Senate		House		Do not		Do not		Do not	
	Do not	Do not	Do not	Do not	Do not	Do not	Do not	Do not	Do not	Do not	Do not	Do not	Do not	Do not
Yes	know	Yes	know	Yes	know	Yes	know	Yes	know	Yes	know	Yes	know	

(percent)

The law does not require individuals to disclose the identity of the partners in a general partnership. Should it?

37.0 8.7 42.9 7.4 50.0 3.1 34.1 6.1 61.2 13.0 45.6 4.1 88.2 3.9

The law does not spell out how different partnerships (whether general or limited) or closely held corporate interests should be disclosed (e.g., partnership set up for holding real estate and/or securities as opposed to partnerships set up for trade or business, e.g., a restaurant or hardware store). Should it?

39.1 8.7 39.2 13.7 48.4 14.1 36.0 22.5 55.3 21.3 50.3 9.5 76.0 13.3

Should a reporting individual's interest in each asset and liability and associated transactions be disclosed for general or limited partnerships and closely held corporate interests?

28.9 8.9 28.9 17.5 24.2 14.5 19.5 29.4 35.1 23.7 46.3 6.7 69.3 13.3

TABLE 14 (cont.)

	Legislative branch employees																	
	Members of Congress				Senate				House				Legislative branch agencies		Congressional candidates		Report users	
	Senate		House		Senate		House		Senate		House		Do not	Do not	Do not	Do not		
	Yes	know	Yes	know	Yes	know	Yes	know	Yes	know	Yes	know	Yes	know	Yes	know		
	(percent)																	
The law does not require the disclosure of interest rates as part of the description of a liability. Should it?	37.0	10.9	25.5	7.8	26.6	3.1	16.2	11.9	27.2	13.9	25.5	10.3	68.0	6.7				
The law does not require the reporting of contingent liabilities or status as an endorser or guarantor of a loan. Should it?	32.6	8.7	29.7	10.9	32.8	9.4	24.0	18.9	41.8	17.9	33.7	13.6	65.3	10.7				
The law requires reporting of pensions from former employers in cases where the reporting individual had contributed to the pension fund as a former employee. Should it?	37.0	4.3	27.3	11.5	25.0	9.4	17.9	9.3	30.0	9.0	26.6	11.2	62.7	6.7				
The law does not require that spouse and dependent children report nongovernmental positions. Should it?	17.4	2.2	17.8	6.1	17.2	-	17.6	6.1	39.4	5.5	20.1	10.1	60.0	2.7				
The law does not require the reporting of honorary positions. Should it?	2.2	2.2	9.6	2.6	15.6	9.4	14.0	14.4	28.4	20.4	34.9	8.9	41.3	5.3				

TABLE 14 (cont.)

	Legislative branch employees																	
	Members of Congress				Senate				House				Legislative branch agencies		Congressional candidates		Report users	
	Senate		House		Senate		House		Senate		House		Legislative branch agencies		Congressional candidates		Report users	
	Do not Yes know	Do not Yes know	Do not Yes know	Do not Yes know	Do not Yes know	Do not Yes know	Do not Yes know	Do not Yes know	Do not Yes know	Do not Yes know	Do not Yes know	Do not Yes know	Do not Yes know	Do not Yes know	Do not Yes know	Do not Yes know		
	(percent)																	
The law does not specify which methods are preferred for valuing different property interests. Should it?	26.1	2.2	22.1	16.0	18.8	15.6	19.4	20.8	33.7	14.7	22.5	15.4	70.7	9.3				
No report is required for earned income received by dependent children. Should it?	4.3	2.2	13.5	7.0	17.2	4.7	14.4	3.9	28.8	6.2	18.4	5.3	43.8	5.5				
The law currently requires Members without GS-16 level staff to designate at least one principal assistant to file a disclosure report. Would you designate additional staff if the law were changed to allow Members with GS-16 level staff to do so at their discretion? (Such individuals would be subject to the provisions of the law.)	18.2	20.5	21.4	20.5	-	-	-	-	-	-	-	-	-	-				

TABLE 15 (cont.)

	Members of Congress		Legislative branch employees			Congressional candidates	Report users
	Senate	House	Senate	House	Legislative branch agencies		
Who should perform these audits?							
Senate Ethics Committee Or House Ethics Committee	23.1	23.7	15.0	7.6	1.7	7.8	3.6
Secretary of the Senate or Clerk of the House	7.7	21.5	-	7.7	-	1.6	1.8
GAO	46.2	32.3	75.0	51.9	57.5	59.4	70.9
CPA firm	23.1	9.7	5.0	22.8	16.5	23.4	20.0
Other	-	2.2	-	-	3.5	-	-
Do not know	-	10.8	5.0	10.1	20.8	7.8	3.6
Should the results of each individual audit be made public? (Yes responses)	33.3	43.2	20.0	34.2	30.1	62.5	86.2
Why do you not think such audits should be conducted?							
Audits are not needed.	60.6	46.5	40.5	38.8	41.2	29.7	21.1

(percent)

TABLE 15 (cont.)

	<u>Members of Congress</u>		<u>Legislative branch employees</u>			<u>Congressional candidates</u>	<u>Report users</u>
	<u>Senate</u>	<u>House</u>	<u>Senate</u>	<u>House</u>	<u>Legislative branch agencies</u>		
	----- (percent) -----						
Audits would be an invasion of privacy	33.3	52.8	66.7	58.7	73.3	49.5	47.4
Audits would cost too much	39.4	43.0	52.4	50.8	54.2	50.5	47.4
Other reasons	21.2	18.3	14.3	14.7	17.5	16.8	36.8
If one of your staff members were randomly selected to have his/her disclosure report audited for completeness and accuracy, to which of the following should the audit findings be available?							
Ethics Committee	66.1	59.7	-	-	-	-	-
Employing Member	68.1	71.2	-	-	-	-	-
Public	10.6	11.9	-	-	-	-	-
Staff member audited	72.4	72.6	-	-	-	-	-

TITLE I OF THE
ETHICS IN GOVERNMENT ACT OF
1978
AS AMENDED BY
PUBLIC LAW 96-19 AND 96-28

STATEMENT

The Ethics in Government Act of 1978 was approved October 26, 1978 as Public Law 95-521. The first three titles of the Act provide for financial disclosure by officials and key employees of each of the three branches of the Government. Title IV of the Act provides for an Office of Government Ethics. Title V of the 1978 Act amended section 207 of title 18 of the United States Code, which section bars certain activity by former officers and employees of the United States. Title VI of Public Law 95-521 amended title 28 of the United States Code to provide authority and procedures for the appointment of a special prosecutor. Finally, title VII of the Act provided for the establishment of an Office of Senate Legal Counsel.

In the 96th Congress on June 13, 1979, H.R. 2805 was enacted into law as Public Law 96-19. This new law amended titles I, II, and III of Public Law 95-521 to make clarifications and corrections to the provisions in each of those titles relating to financial disclosure. These clarifications and corrections were drafted as the result of suggestions received by the House Committee on the Judiciary and the Senate Committee on Governmental Affairs, and the House Committee on Post Office and Civil Service. The suggested changes and clarifications were prompted by problems encountered by those charged with the Administration and implementation of the law's requirements as to financial disclosure.

On June 22, 1979, the bill S. 869 was approved as Public Law 96-28. This law changed the provisions of title V of Public Law 95-521 which amended section 207 of title 18, United States Code, as of July 1, 1979. Section 207 of title 18 places restrictions on the activities of executive branch officers and employees often they leave government service.

The text of Public Law 95-521 as set forth in this Committee Print reflects the changes made by both Public Law 96-19 and Public Law 96-28, and has been prepared by the Committee on the Judiciary to show the law as it was amended by these recent enactments.

PUBLIC LAW 95-521, 95TH CONGRESS AS AMENDED BY PUBLIC LAW 96-19 AND PUBLIC LAW 96-28

AN ACT To establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ethics in Government Act of 1978".

**TITLE I—LEGISLATIVE PERSONNEL FINANCIAL
DISCLOSURE REQUIREMENTS**

COVERAGE

SEC. 101. (a) Each Member in office on May 15 of a calendar year shall file on or before May 15 of that calendar year a report containing the information as described in section 102(a).

(b)(1) Any individual who is an officer or employee of the legislative branch described in subsection (e) during any calendar year and performs the duties of his position or office for a period in excess of sixty days in that calendar year shall file on or before May 15 of the succeeding year a report containing the information described in section 102(a) if such individual is or will be such an officer or employee on such May 15.

(2) Any individual whose employment as an officer or employee described in subsection (e) is terminated in any calendar year may be required—

(A) under the rules of the House of Representatives, if such individual would, but for such termination, file a report with the Clerk pursuant to section 103(a), or

(B) under the rules of the Senate, if such individual would, but for such termination, file a report with the Secretary pursuant to section 103(b),

to file a financial disclosure report covering (i) that part of such calendar year during which such individual was employed as such an officer or employee, and (ii) the preceding calendar year if the report required by paragraph (1) covering that calendar year has not been filed.

(c) Within thirty days of assuming the position of an officer or employee described in subsection (e), an individual other than an individual who was employed in the legislative branch immediately before he assumed such position, shall file a report containing the information as described in section 102(b) unless the individual has left another position described in subsection (e) within thirty days prior to assuming his new position. The provisions of the preceding sentence shall not apply to an individual who, as determined by the designated committee of the Senate or the designated committee of the House, as appropriate, is not reasonably expected to perform the duties of his office or position for more than sixty days in a calendar year, except that if he performs the duties of his office or position for more than sixty days in a calendar year, the report required by the preceding sentence shall be filed within fifteen days of the sixtieth day. This subsection shall take effect on January 1, 1979.

(d) Within thirty days of becoming a candidate in a calendar year for any election for the office of Member, or on or before May 15 of that calendar year, which ever is later, but in no event later than seven days prior to the election, and on or before May 15 of each successive year the individual continues to be a candidate, an individual shall file a report containing the information as described in section 102(b).

Notwithstanding the preceding sentence, in any calendar year in which an individual continues to be a candidate for any office but all elections for such office relating to such candidacy were held in prior calendar years, such individual need not file a report unless he becomes a candidate for another vacancy in that office or another office during that year.

(e) The officers and employees referred to in subsections (b) and (c) are—

(1) each officer or employee of the legislative branch who is compensated at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS-16 of the General Schedule; and

(2) at least one principal assistant designated for purposes of this section by each Member who does not have an employee compensated at a rate equal to or in excess of the annual rate of basic pay in effect for grade GS-16 of the General Schedule.

For the purposes of this title, the legislative branch includes the Architect of the Capitol, the Botanic Gardens, the Congressional Budget Office, the Cost Accounting Standards Board, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of the Attending Physician, National Commission on Air Quality, and the Office of Technology Assessment.

(f) Reasonable extensions of time for filing any report may be granted by the designated committee of the Senate with respect to those filing with the Secretary and by the designated committee of the House of Representatives with respect to those filing with the Clerk but in no event may the extension granted to a Member or candidate result in a required report being filed later than seven days prior to an election involving the Member or candidate. If the day on which a report is required to be filed falls on a weekend or holiday, the report may be filed on the next business day.

(g) Notwithstanding the dates specified in subsection (d) of this section, an individual who is a candidate in calendar year 1978 shall file the report required by such subsection not later than November 1, 1978, except that a candidate for the Senate who has filed a report as of such date pursuant to the Rules of the Senate need not file the report required by subsection (d) of this section.

(h) The designated committee of the House of Representatives, or the designated committee of the Senate, as the case may be, may grant a publicly available request for a waiver of any reporting requirement under this section for an individual who is expected to perform or has performed the duties of his office or position for less than one hundred and thirty days in a calendar year, but only if such committee determines that—

(1) such individual is not a full-time employee of the Government,

(2) such individual is able to provide services specially needed by the Government,

(3) it is unlikely that the individual's outside employment or financial interests will create a conflict of interest, and

(4) public financial disclosure by such individual is not necessary in the circumstances.

CONTENTS OF REPORTS

Sec. 102. (a) Each report filed pursuant to subsections (a) and (b) of section 101 shall include a full and complete statement with respect to the following:

(1)(A) The source, type, and amount or value of income (other than income referred to in subparagraph (B)) from any source (other than from current employment by the United States Government), and the source, date, and amount of honoraria from any source, received during the preceding calendar year, aggregating \$100 or more in value.

(B) The source and type of income which consists of dividends, interest, rent, and capital gains, received during the preceding calendar year which exceeds \$100 in amount or value, and an indication of which of the following categories the amount or value of such item of income is within:

- (i) not more than \$1,000,
- (ii) greater than \$1,000 but not more than \$2,500,
- (iii) greater than \$2,500 but not more than \$5,000,
- (iv) greater than \$5,000 but not more than \$15,000,
- (v) greater than \$15,000 but not more than \$50,000,
- (vi) greater than \$50,000 but not more than \$100,000, or
- (vii) greater than \$100,000.

(2)(A) The identity of the source and a brief description of any gifts of transportation, lodging, food, or entertainment aggregating \$250 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any food, lodging, or entertainment received as personal hospitality of any individual need not be reported, and any gift with a fair market value of \$35 or less need not be aggregated for purposes of this subparagraph.

(B) The identity of the source, a brief description, and the value of all gifts other than transportation, lodging, food, or entertainment aggregating \$100 or more in value received from any source other than a relative of the reporting individual during the preceding calendar year, except that any gift with a fair market value of \$35 or less need not be aggregated for purposes of this subparagraph.

(C) The identity of the source and a brief description of reimbursements received from any source aggregating \$250 or more in value and received during the preceding calendar year.

(D) In an unusual case, a gift need not be aggregated under subparagraph (A) or (B) if a publicly available request for a waiver is granted.

(3) The identity and category of value of any interest in property held during the preceding calendar year in a trade or business, or for investment or the production of income, which has a fair market value which exceeds \$1,000 as of the close of the preceding calendar year, excluding any personal liability owed to the reporting individual by a relative or any deposits aggregating \$5,000 or less in a personal savings account. For purposes of this

paragraph, a personal savings account shall include any certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union, or similar financial institution.

(4) The identity and category of value of the total liabilities owed to any creditor other than a relative which exceed \$10,000 at any time during the preceding calendar year, excluding—

(A) any mortgage secured by real property which is a personal residence of the reporting individual or his spouse;

(B) any loan secured by a personal motor vehicle, household furniture, or appliances, which loan does not exceed the purchase price of the item which secures it.

With respect to revolving charge accounts, only those with an outstanding liability which exceeds \$10,000 as of the close of the preceding calendar year need be reported under this paragraph.

(5) Except as provided in this paragraph, a brief description, the date, and category of value of any purchase, sale, or exchange during the preceding calendar year which exceeds \$1,000—

(A) in real property, other than property used solely as a personal residence of the reporting individual or his spouse; or

(B) in stocks, bonds, commodities futures, and other forms of securities.

Reporting is not required under this paragraph of any transaction solely by and between the reporting individual, his spouse, or dependent children.

(6) The identity of all positions held on or before the date of filing during the current calendar year as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. This paragraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature.

(7) A description of the date, parties to, and terms of any agreement or arrangement with respect to (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service; (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employer.

(b) Each report filed pursuant to subsections (c) and (d) of section 101 shall include a full and complete statement with respect to the information required by—

(1) paragraph (1) of subsection (a) for the year of filing and the preceding calendar year,

(2) paragraphs (3) and (4) of subsection (a) as of the date specified in the report but which is less than thirty-one days before the filing date, and

(3) paragraph (6) and, in the case of reports filed under section 101(c), paragraph (7) of subsection (a) as of the filing date but for periods described in such paragraphs.

(c)(1) The categories for reporting the amount of value or the items covered in paragraphs (3), (4) and (5) of subsection (a) are as follows:

- (A) not more than \$5,000;
- (B) greater than \$5,000 but not more than \$15,000;
- (C) greater than \$15,000 but not more than \$50,000;
- (D) greater than \$50,000 but not more than \$100,000;
- (E) greater than \$100,000 but not more than \$250,000; and
- (F) greater than \$250,000.

(2) For the purposes of paragraph (3) of subsection (a) if the current value of an interest in real property (or an interest in a real estate partnership) is not ascertainable without an appraisal, an individual may list (A) the date of purchase and the purchase price of the interest in the real property, or (B) the assessed value of the real property for tax purposes, adjusted to reflect the market value of the property used for the assessment if the assessed value is computed at less than 100 percent of such market value, but such individual shall include in his report a full and complete description of the method used to determine such assessed value, instead of specifying a category of value pursuant to paragraph (1) of this subsection. If the current value of any other item required to be reported under paragraph (3) of subsection (a) is not ascertainable without an appraisal, such individual may list the book value of a corporation whose stock is not publicly traded, the net worth of a business partnership, the equity value of an individually owned business, or with respect to other holdings, any recognized indication of value, but such individual shall include in his report a full and complete description of the method used in determining such value. In lieu of any value referred to in the preceding sentence, an individual may list the assessed value of the item for tax purposes, adjusted to reflect the market value of the item used for the assessment if the assessed value is computed at less than 100 percent of such market value, but a full and complete description of the method used in determining such assessed value shall be included in the report.

(d)(1) Except as provided in the last sentence of this paragraph, each report shall also contain information listed in paragraphs (1) through (5) of subsection (a) respecting the spouse or dependent child of the reporting individuals as follows:

(A) The source of items of earned income earned by a spouse from any person which exceed \$1,000 and, with respect to a spouse or dependent child, all information required to be reported in subsection (a)(1)(B) with respect to income derived from any asset held by the spouse or dependent child and reported pursuant to paragraph (3). With respect to earned income, if the spouse is self-employed in business or a profession, only the nature of such business or profession need be reported.

(B) In the case of any gifts received by a spouse which are not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of gifts of transportation, lodging, food, or entertainment and a brief description and the value of other gifts.

(C) In the case of any reimbursements received by a spouse which are not received totally independent of the spouse's relationship to the reporting individual, the identity of the source and a brief description of each such reimbursement.

(D) In the case of items described in paragraphs (3) through (5), all information required to be reported under these paragraphs other than items (i) which the reporting individual certifies represent the spouse's or dependent child's sole financial interest or responsibility and which the reporting individual has no knowledge of, (ii) which are not in any way, past or present, derived from the income, assets, or activities of the reporting individual, and (iii) from which the reporting individual neither derives, nor expects to derive, any financial or economic benefit.

Each report referred to in subsection (b) of this section shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph.

(2) No report shall be required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations of an individual arising from the dissolution of his marriage or the permanent separation from his spouse.

(e)(1) Except as provided in paragraph (2), each reporting individual shall report the information required to be reported pursuant to subsections (a) and (b) of this section with respect to the holdings of and the income from a trust or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, such individual, his spouse, or any dependent child.

(2) A reporting individual need not report the holdings of or the source of income from any of the holdings of—

(A) any qualified blind trust (as defined in paragraph (3)); or

(B) a trust—

(i) which was not created directly by such individual, his spouse, or any dependent child, and

(ii) the holdings or sources of income of which such individual, his spouse, and any dependent child have no knowledge of,

but such individual shall report the category of the amount of income received by him, his spouse, or any dependent child from the trust under subsection (a)(1)(B) of this section.

(3) For purposes of this subsection, the term "qualified blind trust" includes any trust in which a reporting individual, his spouse, or any dependent child has a beneficial interest in the principal or income, and which meets the following requirements:

(A) The trustee of the trust is a financial institution, an attorney, a certified public accountant, a broker, or an investment adviser, who (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust who)—

(i) is independent of and unassociated with any interested party so that the trustee cannot be controlled or influenced in the administration of the trust by any interested party,

(ii) is not or has not been an employee of any interested party, or any organization affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party, and

(iii) is not a relative of any interested party.

(B) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the supervising ethics office of the reporting individual.

(C) The trust instrument which establishes the trust provides that—

(i) except to the extent provided in subparagraph (B) of this paragraph, the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

(ii) the trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

(iii) the trustee shall promptly notify the reporting individual and his supervising ethics office when the holdings of any particular asset transferred to the trust by any interested party are disposed of or when the value of such holding is less than \$1,000;

(iv) the trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

(v) an interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law or to provide the information required by subsection (a)(1)(B) of this section but such report shall not identify any asset or holding;

(vi) except for communications which solely consist of requests for distributions of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (I) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (II) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which

notification directs that the asset not be held by the trust, or (III) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and (vii) the interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this subsection.

(D) The proposed trust instrument and the proposed trustee is approved by the reporting individual's supervising ethics office. For purposes of this subsection "interested party" means a reporting individual, his spouse, and any dependent child if the reporting individual, his spouse, or dependent child has a beneficial interest in the principal or income of a qualified blind trust; "broker" has the meaning set forth in section 3(a)(4) of the Securities and Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); "investment adviser" includes any investment adviser who, as determined under regulations prescribed by the supervising ethics office, is generally involved in his role as such an adviser in the management or control of trusts; and "supervising ethics office" means the designated committee of the House of Representatives for those who file the reports required by this title with the Clerk and the designated committee of the Senate for those who file the reports required by this title with the Secretary.

(4) An asset placed in a trust by an interested party shall be considered a financial interest of the reporting individual, for the purposes of section 208 of title 18, United States Code, and any other conflict of interest statutes or regulations of the Federal Government, until such time as the reporting individual is notified by the trustee that such asset has been disposed of, or has a value of less than \$1,000.

(5)(A) The reporting individual shall, within thirty days after a qualified blind trust is approved by his supervising ethics office, file with such office a copy of—

(i) the executed trust instrument of such trust (other than those provisions which relate to the testamentary disposition of the trust assets), and

(ii) a list of the assets which were transferred to such trust, including the category of value of each asset as determined under subsection (c)(1) of this section.

(B) The reporting individual shall, within thirty days of transferring an asset (other than cash) to a previously established qualified blind trust, notify his supervising ethics office of the identity of each such asset and the category of value of each asset as determined under subsection (c)(1) of this section.

(C) Within thirty days of the dissolution of a qualified blind trust, a reporting individual shall—

(i) notify his supervising ethics office of such dissolution, and

(ii) file with such office a copy of a list of the assets of the trust

at the time of such dissolution and the category of value under subsection (c) of this subsection of each such asset.

(D) Documents filed under subparagraphs (A), (B), and (C) of this paragraph and the lists provided by the trustee of assets placed in the trust by an interested party which have been sold shall be made available to the public in the same manner as a report is made available under section 104, and the provisions of that section shall apply with respect to such documents and lists.

(E) A copy of each written communication with respect to the trust under paragraph (3)(C)(vi) shall be filed by the person initiating the communication with the reporting individual's supervising ethics office within five days of the date of the communication.

(6)(A) A trustee of a qualified blind trust shall not knowingly or negligently (i) disclose any information to an interested party with respect to such trust that may not be disclosed under paragraph (3) of this subsection; (ii) acquire any holding the ownership of which is prohibited by the trust instrument; (iii) solicit advice from any interested party with respect to such trust, which solicitation is prohibited by paragraph (3) of this subsection or the trust agreement; or (iv) fail to file any document required by this subsection.

(B) A reporting individual shall not knowingly or negligently (i) solicit or receive any information with respect to a qualified blind trust of which he is an interested party that may not be disclosed under paragraph (3)(C) of this subsection, or (ii) fail to file any document required by this subsection.

(C)(i) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who knowingly and willfully violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed \$5,000.

(ii) The Attorney General may bring a civil action in any appropriate United States District Court against any individual who negligently violates the provisions of subparagraph (A) or (B) of this paragraph. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed \$1,000.

(7) Any trust which is in existence prior to the date of the enactment of this Act shall be considered a qualified blind trust if—

(A) the supervising ethics office determines that the trust was a good faith effort to establish a blind trust;

(B) the previous trust instrument is amended or, if such trust instrument does not by its terms permit amendment, all parties to the trust instrument, including the reporting individual and the trustee, agree in writing that the trust shall be administered in accordance with the requirements of paragraph (3)(C) and a trustee is (or has been) appointed who meets the requirements of paragraph (3); and

(C) a copy of the trust instrument (except testamentary provisions), a list of the assets previously transferred to the trust by an interested party and the category of value of each such asset at the time it was placed in the trust, and a list of assets

previously placed in the trust by an interested party which have been sold are filed and made available to the public as provided under paragraph (5) of this subsection.

(f) Political campaign funds, including campaign receipts and expenditures, need not be included in any report filed pursuant to this title.

(g) A report filed pursuant to subsection (a) or (b) of section 101 need not contain the information described in subparagraphs (A), (B), and (C) of subsection (a)(2) with respect to gifts and reimbursements received in a period when the reporting individual was not a Member or an officer or employee of the Federal Government.

FILING OF REPORTS; DUTIES OF CLERK AND SECRETARY

SEC. 103. (a) The reports required by section 101 of Representatives, Delegates to Congress, the Resident Commissioner from Puerto Rico, officers and employees of the House, candidates seeking election to the House, and officers and employees of the Architect of the Capitol, the Botanic Gardens, the Congressional Budget Office, the Government Printing Office, and the Library of Congress shall be filed with the Clerk.

(b) The reports required by section 101 of Senators, officers and employees of the Senate, candidates seeking election to the Senate, and officers and employees of the General Accounting Office, the Cost Accounting Standards Board, the Office of Technology Assessment, National Commission on Air Quality, and the Office of the Attending Physician shall be filed with the Secretary.

(c) A copy of each report filed by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk or Secretary, as the case may be, to the appropriate State officer as designated in accordance with section 316(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 439(a)) of the State represented by the Member or in which the individual is a candidate, as the case may be, within the seven-day period beginning the day that the report is filed with the Clerk or Secretary.

(d)(1) A copy of each report filed under this title with the Clerk shall be sent by the Clerk to the designated committee of the House of Representatives within the seven-day period beginning the day that the report is filed.

(2) A copy of each report filed with the Secretary shall be sent by the Secretary to the designated committee of the Senate.

(e) In carrying out their responsibilities under this title, the Clerk and the Secretary shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis a complete list of names and addresses of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible.

(f) In order to carry out their responsibilities under this title, the designated committee of the House of Representatives, and the designated committee of the Senate, shall develop reporting forms and may promulgate rules and regulations.

ACCESSIBILITY OF REPORTS

SEC. 104. (a) Except as provided in the second sentence of this subsection, within fifteen calendar days after a report is filed with the Clerk under this title, the Clerk shall make such report available for public inspection at reasonable hours. With respect to reports required to be filed by May 15 of any year, such reports shall be made available for public inspection within fifteen calendar days after May 15 of such year. A copy of any such report shall be provided by the Clerk to any person upon request.

(b) Except as provided in the second sentence of this subsection, within fifteen days after a report is filed with the Secretary under this title, the Secretary shall make such report available for public inspection at reasonable hours. With respect to reports required to be filed by May 15 of any year, such reports shall be made available for public inspection within fifteen calendar days after May 15 of such year. A copy of any such report shall be provided by the Secretary to any person upon request.

(c)(1) Notwithstanding subsections (a) and (b), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

(A) that person's name, occupation, and address;

(B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

(C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

(2) Any person requesting a copy of a report may be required to pay a reasonable fee to cover the cost of reproduction or mailing of such report, excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined by the Clerk or Secretary that waiver or reduction of the fee is in the public interest because furnishing the information may be considered as primarily benefiting the public.

(d) Any report filed under this title with the Clerk or Secretary shall be available to the public for a period of six years after receipt of the report. After such six-year period the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(d) and was not subsequently elected, such reports shall be destroyed one year after the individual is no longer a candidate for election to the office of Member unless needed in an ongoing investigation.

(e)(1) It shall be unlawful for any person to obtain or use a report—

(A) for any unlawful purpose;

(B) for any commercial purpose other than by news and communications media for dissemination to the general public;

(C) for determining or establishing the credit rating of any individual; or

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

(2) The Attorney General may bring a civil action against any person who obtains or uses a report for any purpose prohibited in paragraph (1). The court in which such action is brought may assess against such person a penalty in any amount not to exceed \$5,000. Such remedy shall be in addition to any other remedy available under statutory or common law.

REVIEW AND COMPLIANCE PROCEDURES

SEC. 105. (a) The designated committee of the House of Representatives and the designated committee of the Senate shall establish procedures for the review of reports sent to them under section 103 (d)(1) and section 103(d)(2) to determine whether the reports are filed in a timely manner, are complete, and are in proper form. In the event a determination is made that a report is not so filed, the appropriate committee shall so inform the reporting individual and direct him to take all necessary corrective action.

(b) In order to carry out their responsibilities under this title the designated committee of the House of Representatives and the designated committee of the Senate, have power, within their respective jurisdictions, to render any advisory opinion interpreting this title, in writing, to persons covered by this title. Notwithstanding any other provisions of law, the individual to whom a public advisory opinion is rendered in accordance with this subsection, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who, after the issuance of the advisory opinion, acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any sanction provided in this title.

FAILURE TO FILE OR FALSIFYING REPORTS

SEC. 106. The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 102. The court in which such action is brought may assess against such individual a civil penalty in any amount not to exceed \$5,000. No action may be brought under this section against any individual with respect to a report filed by such individual in calendar year 1978 pursuant to section 101(d).

DEFINITIONS

SEC. 107. For the purposes of this title, the term—

(1) "income" means all income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (and net income if the individual elects to include it); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

(2) "relative" means an individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and shall be deemed to include the fiance or fiancee of the reporting individual;

(3) "gift" means a payment, advance, forbearance, rendering, or deposit of money, or any thing of value, unless consideration of equal or greater value is received by the donor, but does not include—

(A) bequest and other forms of inheritance;

(B) suitable mementos of a function honoring the reporting individual;

(C) food, lodging, transportation, and entertainment provided by State and local governments, or political subdivisions thereof, by a foreign government within a foreign country, or by the United States Government;

(D) food and beverages consumed at banquets, receptions, or similar events;

(E) consumable products provided by home-State businesses to a Member's office for distribution; or

(F) communications to the offices of a reporting individual including subscriptions to newspapers and periodicals;

(4) "honoraria" has the meaning given such term in the Federal Election Campaign Act of 1971;

(5) "value" means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by the reporting individual;

(6) "personal hospitality of any individual" means hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family or on property or facilities owned by that individual or his family;

(7) "dependent child" means, when used with respect to any reporting individual, any individual who is a son, daughter, stepson, or stepdaughter and who—

(A) is unmarried and under age 21 and is living in the household of such reporting individual; or

(B) is a dependent of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1954;

(8) "reimbursement" means any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

(A) provided by the United States Government, the District of Columbia, or any State or political subdivision thereof;

(B) required to be reported by the reporting individual under section 7342 of title 5, United States Code; or

(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(9) "candidate" means an individual, other than a Member, who seeks nomination for election, or election, to the Congress 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, (A) if he has taken the action necessary under the law of a State to qualify himself for nomination for election, or election, or (B) if he or his principal campaign committee has taken action to register or file campaign reports required by section 304(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a));

(10) "Clerk" means the Clerk of the House of Representatives;

(11) "Secretary" means the Secretary of the Senate;

(12) "Member" means a United States Senator, a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico;

(13) "election" means (A) a general, special, primary, or run-off election, or (B) a convention or caucus of a political party which has authority to nominate a candidate;

(14) "officer or employee of the House" means any individual, other than a Member, whose compensation is disbursed by the Clerk;

(15) "officer or employee of the Senate" means an individual, other than a Senator or the Vice President, whose compensation is disbursed by the Secretary; and

(16) "designated committee of the House of Representatives" and "designated committee of the Senate" means the committee of the House or Senate, as the case may be, assigned responsibility for administering the reporting requirements of this title.

OTHER LAWS

SEC. 108. The provisions added by this title, and the regulations issued thereunder, shall supersede and preempt any State or local law with respect to financial disclosure by reason of holding the office of Member or candidacy for Federal office or employment by the United States Government.

GENERAL ACCOUNTING OFFICE STUDY

SEC. 109. (a) Before November 30, 1980, and regularly thereafter, the Comptroller General of the United States shall conduct a study to determine whether this title is being carried out effectively and whether timely and accurate reports are being filed by individuals subject to this title.

(b) Within thirty days after completion of the study, the Comptroller General shall transmit a report to each House of Congress containing a detailed statement of his findings and conclusions, together with his recommendations for such legislative and administrative actions as he deems appropriate. The first such study shall include the Comptroller General's findings and recommendations on the feasibility and potential need for a requirement that systematic random audits be conducted of financial disclosure reports filed under this title, including a thorough discussion of the type and nature of audits that might be conducted; the personnel and other costs of

audits; the value of an audit to Members, the appropriate House and Senate committees, and the public; and, if conducted, whether a governmental or nongovernmental unit should perform the audits, and under whose supervision.

SUMMARY OF REPORTED FINDINGS OF AUDITS OF SENATERULE 42 DISCLOSURE REPORTS

I.	No. of reports issued	100
II.	No. of reports containing findings by category of disclosure. (Represents the number of reports in which finding appeared.)	
	--Real property	19
	--Personal property	87
	--Liabilities	43
	--Contingent liabilities	5
	--Non-governmental positions	38
	--Agreements for future employment or continuation of payment or benefits	1
	--Other	1
III.	Nature of findings by category of disclosure. (Represents the kind of findings associated with the omissions and inaccuracies found and not the total number of item findings (e.g., does not indicate the number of stocks, bonds, etc., involved in the finding.)	

	<u>Frequency of occurrence</u>	<u>Range of value category</u>	<u>Instruction clear?</u>
<u>REAL PROPERTY</u>			
<u>Omissions:</u>			
Undeveloped land	2	I	Yes
Dependent's interest in real estate	2	I-II	Yes
Personal residences (note a)	7	III-IV	Yes
<u>Inaccuracies:</u>			
Inaccurately disclosed/valued interest in real estate	4	I-III	Yes
Inaccurately valued personal residence (note a)	2	IV-V	Yes
Incorrectly disclosed interests not meeting threshold	1	Not applicable	Yes
Incorrectly disclosed real estate purchased after 1/1/78	1	Not applicable	Yes
Inaccurately valued remainder interest in real estate	1	IV	Yes
Incorrectly disclosed real estate under wrong category	1	Not applicable	Yes
<u>PERSONAL PROPERTY</u>			
<u>Omissions:</u>			
Interests in Senate/Civil Service retirement programs	56	I-IV	No
Interests in retirement programs of former employers (note b)	4	I-II	No
Self retirement programs (note b)	1	I	No
Savings accounts/certificates of deposits (note c)	15	I-II	Yes
Stocks and bonds	12	I-II	Yes

	<u>Frequency of occurrence</u>	<u>Range of value category</u>	<u>Instruction clear?</u>
Mutual funds	3	I-II	Yes
Notes and accounts receivable	7	I-II	Yes
Limited partnership interests	1	III	Yes
Pensions and annuities	6	I-III	Yes
Business equipment	4	I-II	Yes
Closely held corporate interests	3	I-III	Yes
Trusts interests	1	II-III	Yes
Remainder interests in real estate/securities	3	I-IV	Yes
Real estate partnerships	1	Not available	Yes
Interests in inheritances	1	Not available	Yes
Mineral interests	1	II	Yes

Inaccuracies:

Improperly disclosed and/or valued savings/certificates of deposits	18	I-III	Yes
Improperly disclosed/valued securities	17	I-V	Yes
Improperly disclosed/valued real estate/securities partnerships	12	I-VII	Yes
Improperly disclosed/valued closely held corporations	7	I-VII	Yes
Incorrectly disclosed securities not meeting threshold	17	Not applicable	Yes
Incorrectly disclosed savings/certificates of deposits not meeting threshold	8	Not applicable	Yes
Improperly disclosed/valued interests in trusts	5	I-V	Yes
Interests reported under wrong category	4	Not applicable	Yes (note d)
Incorrectly disclosed nonreportable interests	3	Not applicable	Yes

	<u>Frequency of occurrence</u>	<u>Range of value category</u>	<u>Instruction clear?</u>
Failed to value interest in retirement or annuity	2	II-III	No
Inaccurately valued life estate in real estate	1	III	Yes
Inaccurately valued business equipment	1	III	Yes
Various minor inaccuracies	5	Not applicable	Yes

LIABILITIES (note e)Omissions:

Auto and other vehicle loans (note f)	4	I-II	Yes
Loans against cash surrender value of life insurance	8	I-III	No
Student loans	1	I	Yes
Mortgages on personal residences (note f)	3	II-V	Yes
Personal, business, accounts payable, and mortgage notes (purposes of loans not known)	15	I-IV	Yes
Partnership debts	1	I-VI	Yes

Inaccuracies:

Improperly disclosed/valued demand notes, personal loans and mortgages	11	I-VIII	Yes
Improperly disclosed/valued life insurance loans	4	I-III	Yes
Improperly disclosed interests in partnership debts	1	Not applicable	Yes
Incorrectly identified creditor of loan	3	Not applicable	Yes
Inaccurately valued mortgage of residence (notes e and f)	3	III-IV	Yes

	<u>Frequency of occurrence</u>	<u>Range of value category</u>	<u>Instruction clear?</u>
<u>CONTINGENT LIABILITIES</u>			
(note g)			
<u>Omissions:</u>			
Contingently liable as loan guarantor and/or comaker	3	Not required to be reported under old Senate rule 42	Yes
Partnership debts	2	"	Yes
<u>Inaccuracies:</u>			
None	-	-	-
<u>NON-GOVERNMENTAL POSITIONS</u>			
<u>Omissions:</u>			
Proprietorship position as a lecturer/speaker (note h)	11	Not required to be reported under old Senate rule 42	Yes
Proprietorship position as a writer	1	"	Yes
Position as chairman of private commission	1	"	Yes
Wife's position on the board of directors of a parochial school	1	"	Yes
Position as a consultant to nonprofit organization	1	"	Yes
Dependents' positions as employees of miscellaneous organizations	13	"	Yes
Commissioner of County Government Commission	1	"	Yes
Partnership positions	7	"	Yes
Wife's position as teacher	3	"	Yes
Uncompensated advisor to consumer lobby groups	1	"	Yes

	<u>Frequency of occurrence</u>	<u>Range of value category</u>	<u>Instruction clear?</u>
Officer of a closely held corporation	2	Not required to be reported under old Senate rule 42	Yes
Wife's position as president/trustee/boardmembers of non-profit organizations	2	"	Yes
Trustee/board position of school/college	3	"	Yes
Proprietor of farm activities	2	"	Yes
Board position as director of radio station	1	"	Yes
<u>Inaccuracies:</u>			
None	-	-	-
<u>AGREEMENTS FOR FUTURE EMPLOYMENT OR CONTINUATION OF PAYMENTS OR BENEFITS</u>			
<u>Omissions:</u>			
None	-	-	-
<u>Inaccuracies:</u>			
Incorrectly disclosed agreements for future employment under wrong category	1	Not required to be reported under old Senate rule 42	Yes

a/Not required to be reported by Public Law 95-521.

b/House disclosure instructions indicate that retirement interest is not considered a reportable interest. Senate instructions require the reporting of this data.

c/Only deposits aggregating more than \$5,000 must be reported under Public Law 95-521.

d/Instructions pertaining to one of the four inaccuracies were not clear.

e/Under Public Law 95-521, threshold for value starts at \$10,000.

f/Not required to be reported under Public Law 95-521.

g/Public Law 95-521 does not specify the reportability of contingent liabilities. House disclosure instructions specifically excludes this item.

h/On June 12, 1979, Senate Ethics Committee ruled that honoraria-type activities do not constitute a proprietorship position, even though a reporting individual may file a sole proprietorship form for tax purposes reporting his income/expenses.

APPLICABLE CATEGORIES OF VALUEFORMER SENATE RULE 42

Category	I	Not more than \$5,000
Category	II	\$5,001 - \$15,000
Category	III	\$15,001 - \$50,000
Category	IV	\$50,001 - \$100,000
Category	V	\$100,001 - \$250,000
Category	VI	\$250,001 - \$500,000
Category	VII	\$500,001 - \$1,000,000
Category	VIII	\$1,000,001 - \$2,000,000
Category	IX	\$2,000,001 - \$5,000,000
Category	X	Over \$5,000,000

HOUSE AND SENATE BILLS INTRODUCED CONTAININGAUDIT PROVISIONSHouse bills

H.R.1--Financial Disclosure Act, introduced January 4, 1977,
and later became known as the Ethics in Government
Act of 1977.

H.R.9--Financial Disclosure Act, Introduced January 4, 1977.

H.R.946--	"	"	"	"	January 4, 1977.
H.R.948--	"	"	"	"	January 4, 1977.
H.R.2326--	"	"	"	"	January 24, 1977.
H.R.2716--	"	"	"	"	January 31, 1977.
H.R.4195--	"	"	"	"	March 1, 1977.
H.R.4949--	"	"	"	"	March 14, 1977.
H.R.4950--	"	"	"	"	March 14, 1977.
H.R.5061--	"	"	"	"	March 15, 1977.
H.R.5193--	"	"	"	"	March 17, 1977.
H.R.5583--	"	"	"	"	March 24, 1977.
H.R.6142--	"	"	"	"	April 6, 1977.

Senate bills

S.495--Watergate Reform Act of 1976, introduced January 30, 1975.

S.290--Federal Ethics Act of 1977, introduced January 18, 1977.

S.383--Financial Disclosure Act of 1977, introduced January 19,
1977.

S.555--Public Officials Integrity Act of 1977, introduced
February 1, 1977.

OTHER ISSUES WHICH SHOULD BE CONSIDEREDIF AUDITS ARE TO BE IMPLEMENTED

If the House and Senate begin auditing financial disclosure reports, they need to consider several issues, such as

- audit approach, extensiveness of the audit scope, and how many audits are necessary;
- selection criteria;
- who should be subject to audits;
- whether audit results should be made publicly available;
- whether Members and Committee Chairmen should be notified of audit results; and
- the organizational entity which will conduct and report the results of audits.

AUDIT APPROACH, SCOPE AND
NUMBER OF REQUIRED AUDITS

Audit approach, scope, and the number of required audits is the most important issue which will affect the resources needed to conduct audits. Approaches for examining disclosure reports can vary widely from only a cursory review (where the auditor will examine only those items which raise questions of propriety) to a more detailed review where the auditor verifies the accuracy and completeness of the entire disclosure report. As an intermediate approach, the auditor can select a certain percentage of the items reported for verification.

The scope of audits will vary depending on the filers' financial holdings and interests. As a minimum, to adequately conduct an audit, the following is required: (1) copies of individuals' Federal income tax returns along with supporting documentation for tax disclosures, (2) the freedom to contact and confirm the extent of individuals' financial holdings and interests with parties familiar with the financial interests of the audited individual, (3) documentation supporting items disclosed and those found to be omitted, and (4) public disclosure reports for the year of audit and prior years as needed. The auditor should not be restricted by either the individual subject to audit or by any rule of the House and Senate Ethics Committees.

Another matter which bears directly on costs of audits and staff resources pertains to the number of audits that should be conducted to ensure the integrity of the disclosure process. Under former Senate rule 42, we performed 100 audits on the basis

of selection criteria set forth in the rule. The number of annual audits that should be performed and the depth of the examination must be considered if audits are made part of the legislative branch financial disclosure system.

AUDIT SELECTION CRITERIA

Under the former Senate rule, audit selection criteria required that each Senator had to be audited at least once every 6 years but could not be subject to audit during an election year and 5 percent of Senate employees were to be randomly selected each year. These constraints (those placed on Senator audits) required us to develop a selection system where all Senators would have an equal chance of being selected for audit. Therefore, the formula that was used (which was approved by the the Members of the Senate Ethics Committee) to select Members would have caused every Member to be audited at least once during his/her 6-year term. Under this method, Members would not know when they would be subject to an audit, and it was very likely that Members would be audited at least two times during their 6-year term, with few Members being audited three or more times.

On the other extreme, an alternate selection approach would be to randomly select Members (ignoring any selection constraints as required under the former Senate rule) each year for audit. Although, under this totally random selection system, fewer Members will be subject to one audit during their 6-year terms than the formula we used, some Members would never get audited and more Members would be subject to multiple audits. For example, assume that an annual audit workload is approximately 25 Senators, then, over a 6-year period about 18 Senators would never be audited, 36 would be audited only once, and 46 would be subject to multiple audits. According to the selection method we developed to comply with the former Senate rule, with the same audit workload, approximately 62 Senators would be audited only one time, with 38 Senators subject to multiple audits.

The need to develop an audit selection criteria is even more important for selecting Members of the House. Because of the number of Congressmen and because they are elected every 2 years, there is a question as to the feasibility of auditing every House Member at least once during their term. If this is to be the criteria, then about 220 annual Member audits (or 439 audits in each 2-year period) will have to be performed in addition to House employee selections. If this criteria is used, there is no randomness in the Member selection process since all will have to be audited in their 2-year term. Also, Members, if not selected for audit during the first year, will know that they will be audited during the remaining year of their term, a potential criticism of the integrity of the audit selection process.

On the other hand, if the House adopts a criterion that Members should be audited at least once during a 6-year period, then the possibility exists that Members who do not serve for at least three terms may never be selected for audit. Another approach would be to establish beforehand, the number of audits to be performed and randomly select from the existing Member and employee populations.

The selection process affects the number of audits to be performed and should be considered by the House and Senate committees if audits are implemented.

IDENTIFICATION OF INDIVIDUALS WHO SHOULD BE SUBJECT TO AUDITS

Another matter that should be addressed if audits are to be made an integral part of the legislative branch disclosure system pertains to those individuals that should be subject to audits. As a minimum, we believe that Members, congressional employees, and legislative branch employees who are required to file annual disclosure reports should be subject to audits. However, a question exists whether candidates for congressional office should be subject to audits. Although on the surface there appears to be merit in auditing candidates, whether the House and Senate committees can exercise enforcement jurisdiction for audit noncompliance is not clear. If such audits are to extend to congressional candidates and legislative branch employees (other than congressional employees), it may be wise for the Congress to modify the law so as to provide for civil sanctions for audit noncompliance similar to that already contained in section 106 of Public Law 95-521 for violations of the filing requirement.

PUBLIC AVAILABILITY OF AUDIT RESULTS

Public availability of financial disclosure reports is the very essence of a public financial disclosure system. Such reports provide the basis that enable the public to judge the performance of public officials in view of their outside financial interests. Whether the results of audits should be made public depends upon whether the supervising committees have developed an effective system that would provide sufficient assurance to the public that individuals who have been audited have publicly corrected their disclosure reports when necessary. If such a system is not created or if the public cannot be reasonably assured that audited reports were corrected, it is very appropriate that the results of such audits be made available to allow the public to examine whether any omitted or inaccurately reported financial interests constitutes a potential conflict of interest or indication of unethical behavior.

We noted that the Senate Select Committee on Ethics had not established a system to ensure that all individuals have filed

amendments to their disclosure reports when audit recommendations requested that amendments be filed. Senate committee staff members told us that they were instructed to notify audited individuals via a form letter that the individual should file the appropriate amendment based on the audit report. However, this was not always done. As a result of the absence of a system, committee staff members did not know whether audited Members and employees made the necessary changes identified by the audits or if these changes were filed for public review. Further, we were told that since Senate Resolution 220 was adopted (Aug. 3, 1979) repealing the existing financial disclosure rule, no further action was taken to inform audited individuals after this time that amendments should be filed correcting their disclosure reports.

Audits conducted under former Senate rule 42 showed that numerous inaccuracies and omissions existed in audited disclosure reports which were not amended. We found that only 12 out of 24 Senators audited who were required to amend their reports, publicly filed amendments correcting their reports to conform with the audit results. Of the number of Senate employees who were audited and who were recommended to correct their reports (66), we found that only 33 publicly filed amendments correcting their reports on the basis of our audit findings. We also found that 3 of the 12 Senators who corrected their reports, attached copies of the audit reports for public viewing, and two others indicated that the amendments resulted from an audit of their disclosure reports. Regarding Senate employees, we found that seven individuals attached copies of their audit reports, while nine other publicly indicated that the amendments resulted from an audit of their disclosure reports.

Unless all amendments are filed and the House and Senate Ethics Committees have established an effective system to ensure that all amendments have been filed properly, we believe that audit reports should not be made publicly available. We favor this approach over total public availability because the reputation of individuals may be endangered due to inadvertent omissions or inaccuracies in their disclosure reports.

VALUE OF AUDITS TO MEMBERS

When considering the need to implement audits, both the House and Senate should consider the desirability of notifying Members of audit results. Such a practice will enable the Members to evaluate whether their staffs omitted any financial interests that would surface a potential or actual conflict of interest in view of the employee's duties and responsibilities. Audit results would allow Members to take the necessary corrective action by removing the employee from the actual or potential conflict, if one exists. Audits will also provide Members with an indication of whether an employee has a particular financial interest that may be prohibited by statute or House and Senate conduct rules.

AUDITS--WHO SHOULD CONDUCT THEM?

Under former Senate rule 42, we were directed to conduct audits of disclosure reports because the authors of Senate Resolution 110, believe that GAO was the most logical entity in the Federal Government to conduct such audits. However, we do not believe that we should conduct these audits since we do extensive work for individual Members as well as Committee Chairmen at their request. It is essential that our relationship be one of mutual confidence if our work is to be most effective. We were quite concerned that imposing such a requirement would produce an adversary relationship with potential damage to our overall effectiveness as an objective and nonpartisan review arm of the Congress. We emphatically believe that this rationale still applies to any audit requirement where we are responsible to conduct audits of legislative branch financial disclosure reports.

Audits, if performed, must be free of any restrictions if they are going to serve the intended function and preserve the integrity of the financial disclosure process. Both the House and Senate will have to consider whether

- a special congressional office should be created to conduct House and Senate audits,
- the staff of the Ethics Committees should be supplemented with additional capability so that they may be able to conduct audits,
- the staff of the Ethics Committees should be supplemented with auditors on temporary assignment from GAO and other Government agencies, or
- to contract with qualified public accountants.

Although we believe that oversight for the audit function is fundamentally the responsibility of both the House and Senate Ethics Committees, the Congress may want to consider contracting with qualified public accountants as the best approach to audits to avoid criticism that auditors employed by a congressional audit activity may not be sufficiently independent. Whatever group or organization that may ultimately perform the audits should report to these committees.

(964151)







AN EQUAL OPPORTUNITY EMPLOYER

**UNITED STATES
GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548**

**OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300**

**POSTAGE AND FEES PAID
U. S. GENERAL ACCOUNTING OFFICE**



**SPECIAL FOURTH CLASS RATE
BOOK**