United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

April 22, 2008

The Honorable Richard B. Cheney
President of the Senate
Washington, DC 20510

Dear Mr. President:

The Office of Government Ethics is pleased to submit for introduction and referral to the appropriate committee the enclosed proposal "To amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to modernize the financial disclosure process for Federal personnel, and for other purposes." The proposed amendments implement many of the recommendations made by the Office of Government Ethics in its March 2005 report to Congress ("Office of Government Ethics Report to Congress Evaluating the Financial Disclosure Process for Employees of the Executive Branch and Recommending Improvements to It") and are more fully described in that report available at:

http://www.usoge.gov/pages/forms pubs otherdocs/fpo files/reports plans/rpogc fin dis 03 05.html

This proposal contains language that will streamline and simplify the public financial disclosure requirements applicable to senior officials of all three branches of the Federal Government. A public financial disclosure system for these officials has been in effect for almost 30 years. It has worked well, but, like many processes, the system is in need of updating to ensure its continued effectiveness in light of practical experience and application. These proposed amendments will serve to encourage qualified citizens to answer the call to public service but will not sacrifice the goals of public financial disclosure nor deny necessary information to those responsible for determining whether a conflict of interest exists, nor jeopardize public confidence in that review process.

The proposed amendments reflect the many changes that have occurred over the last 30 years in the manner and nature of investment by the American public, the practical necessity of increasing threshold reporting values to match the changed economy, and the experiences of those ethics professionals who have administered this system in identifying areas of overlap and

redundancy. The proposed amendments will continue and enhance the goals enunciated at the time the requirements were first instituted: to increase public confidence; to demonstrate the integrity of Government officials; to deter conflicts of interest from arising; to deter persons whose personal finances would not bear up to public scrutiny from entering public service; and to better enable the public to judge an official's performance in light of his or her outside interests.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this draft bill to the Congress.

A similar letter is being sent to the Speaker of the House of Representatives.

Sincerely,

Robert I. Cusick
Director

Enclosure

cc: The Honorable Joseph I. Lieberman
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
340 Dirksen Senate Office Building
Washington, DC 20510

A BILL

To amend the Ethics in Government Act of 1978 (5 U.S.C. App.) to modernize the financial disclosure process for Federal personnel, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ethics in Government Act Amendments of 2008".

SEC. 2. PUBLIC FINANCIAL DISCLOSURE OF FEDERAL PERSONNEL.

(a) PERSONS REQUIRED TO FILE.-Section 101(f)(6) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended-

(1) by striking "United States Postal Service and" and inserting "United States Postal Service,"; and

(2) by striking "United States Postal Service or Postal Rate Commission" and inserting "United States Postal Service who is designated as a member of the Postal Career Executive Service (PCES I or II), and each officer or employee of the Postal Regulatory Commission".

(b) CONTENTS OF REPORTS.-Section 102 of such Act is amended—

(1) in subsection (a)-

(A) in paragraph (1)-

(i) in subparagraph (A)-

(I) by striking "type, and amount" and inserting "description, and category of amount"; and

(II) by striking ", and the source, date, and amount of honoraria" and all that follows through the end of the subparagraph and inserting "received during the preceding calendar year, aggregating more than $500 in value, except that honoraria received during Government service by an officer or employee shall include, in addition to the source, the exact amount and date it was received.";

(ii) by striking subparagraph (B) and inserting the following:

"(B) The source, description, and category of amount or value of investment income which may include, but is not limited to, dividends, rents, interest, and capital gains, received during the preceding calendar year which exceeds $500 in amount or value."; and

(iii) by adding at the end the following new subparagraph:

"(C) The categories for reporting the amount or value for income covered in subparagraphs (A) and (B) of this paragraph are as follows:

"(i) greater than $500 but not more than $20,000,

"(ii) greater than $20,000 but not more than $100,000, or

"(iii) greater than $100,000.";

(B) in paragraph (2)(B), by striking "a travel itinerary, dates," and inserting "dates of travel";

(C) in paragraph (3)—

(i) by striking "$1,000" and inserting "$5,000"; and

(ii) by striking "or any deposits" and all that follows through the end of the paragraph and inserting "or any deposit accounts aggregating $100,000 or less in a financial institution, or any Federal Government securities aggregating $100,000 or less.";

(D) in paragraph (4)-

(i) in the matter preceding subparagraph (A), by striking "$10,000" and inserting "$20,000"; and

(ii) in the undesignated sentence following subparagraph (B), by striking "$10,000" and inserting "$20,000";

(E) by striking paragraph (5) and inserting the following:

"(5) Except as provided in this paragraph, a brief

description of any real property, other than property used solely as a personal residence of the reporting individual or his spouse, and stocks, bonds, commodities futures, and other forms of securities, if-

"(A) purchased, sold or exchanged during the preceding calendar year;

"(B) the value of the transaction exceeded $5,000; and

"(C) the property or security is not already required to be reported as a source of income pursuant to paragraph (1)(B) or as an asset pursuant to paragraph (3) of this section.

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

(F) in paragraph (6)-

(i) in subparagraph (A), by striking "two-year" and inserting "1-year";

(ii) in subparagraph (B)-

(I) in the matter preceding clause (i), by striking "$5,000 in any of the two calendar years" and inserting "$25,000 in the calendar year"; and

(II) by striking the undesignated

sentence following clause (ii); and

(iii) by adding at the end the following new subparagraphs:

"(C) Subparagraph (B) shall not require any individual to include in such report any information-

"(i) with respect to a person for whom services were provided by any firm or association of which such individual was a member, partner, or employee unless the individual was directly involved in the provision of such services;

"(ii) that is protected by a court order or is under seal; or

"(iii) that is considered confidential as a result of-

"(I) a privileged relationship established by a written confidentiality agreement entered into at the time the person retained the services of the individual, which expressly prohibits disclosure of the client's identity;

"(II) a grand jury proceeding or a non-public investigation, if there are no public filings, statements, appearances, or reports that identify the person for whom such individual is providing services; or

"(III) an applicable rule of professional conduct that prohibits disclosure of the information and that can be enforced by a professional licensing body."

(D) If an individual has excluded information pursuant to subsection (C), he shall disclose in his report that information has been withheld as privileged."; and

(G) in paragraph (7)-

(i) by striking "date, parties to," and inserting "parties to"; and

(ii) by adding at the end the following new sentence: "The description of any formal agreement for future employment shall include the date of that agreement.";

(2) in subsection (b)(1)-

(A) in subparagraph (A), by striking "paragraph (1)" and inserting "paragraphs (1) and (6)"; and

(B) in subparagraph (C), by striking "paragraphs (6) and (7)" and inserting "paragraph (7)";

(3) in subsection (d)-

(A) in paragraph (1)-

(i) in the matter preceding subparagraph (A), by striking "paragraphs (3), (4), (5), and (8)" and inserting "paragraph (3)"; and

(ii) by striking subparagraphs (A) through (J) and inserting the following:

"(A) greater than $5,000 but not more than $15,000;

"(B) greater than $15,000 but not more than $100,000; and

"(C) greater than $100,000."; and

(B) by adding at the end the following new paragraph:

"(3) The categories for reporting the amount or value of the items covered in paragraphs (4) and (8) of subsection (a) are as follows:

"(A) greater than $20,000 but not more than $100,000;

"(B) greater than $100,000 but not more than $1,000,000; and

"(C) greater than $1,000,000.";

(4) in subsection (e)(1)-

(A) by striking subparagraphs (A) and (B) and inserting the following:

"(A) The sources of earned income earned by a spouse, including honoraria, which exceed $1,000, except that, 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) All information required to be reported in subsection (a)(1)(B) with respect to investment income derived by a spouse or dependent child.";

(B) by striking subparagraph (F) and inserting the following:

"(F) Reports required by subsections (a), (b), and (c) of section 101 shall, with respect to the spouse and dependent child of the reporting individual, only contain information listed in paragraphs (1), (3), and (4) of subsection (a), as specified in this paragraph."; and

(C) by striking the undesignated sentence that follows subparagraph (F); and

(5) in subsection (f)—

(A) in paragraph (3)(A)—

(i) in clause (i)(I), by striking "associated" and inserting "affiliated"; and

(ii) in clause (ii)(I), by striking "associated" and inserting "affiliated";

(B) in paragraph (4)(B)(i)(I), by striking "well-diversified" and inserting "widely diversified";

(C) in paragraph (5)(C)(ii), by inserting ", and in the executive branch with the designated agency ethics official of the agency or department in which he is employed," after "office";

(D) by adding at the end the following new paragraph:

"(9)(A) A reporting individual described in subsection (a), (b), or (c) of section 101 shall not be required to report the assets or sources of income of any publicly available investment fund if-

"(i) the identity of such assets and sources of income is not provided to investors;

"(ii) the reporting individual neither exercises control over nor has the ability to exercise control over the fund;

"(iii) the reporting individual does not otherwise have knowledge of the individual assets of the fund; and

(I) the reporting individual provides written certification by the fund manager that individual assets of the fund are not disclosed to investors; or

"(II) the reporting individual has executed a written ethics agreement that contains a commitment to divest the interest in the investment fund no later than 90 days after the date of the agreement.

"The reporting individual shall file the written certification by the fund manager as an attachment to the report filed pursuant to section 101.

"(B) A reporting individual described in subsection (d) or (e) of section 101 shall not be required to report the assets or sources of income of any publicly available investment fund if he meets the requirements of subparagraph(A) (i), (ii), and (iii) and if:

(i) the interest in the investment fund is acquired, during the period to be covered by the report, involuntarily (such as through inheritance) or as a legal incident of marriage; or

(ii) (I) the individual qualified for the provisions of subparagraph (A) when he was a reporting individual described in (a), (b), or (c) of section 101; and

(II) the individual continues to meet the requirements of subparagraph (A) (i), (ii), and (iii); and

(III) the individual complied with the certification requirement in subparagraph (A)(iii)(I) when he was a reporting individual described in (a), (b), or (c) of section 101."

"(C) Failure to divest within the time specified

or within an extension period granted by the supervising ethics office for good cause shown shall result in an immediate requirement to report as specified in paragraph (1) of this subsection.".

(c) FILING OF REPORTS.—Section 103(h)(1)(A)(i) of such Act is amended--

(1) in subclause (I) by striking "the Copyright Royalty Tribunal" and inserting "the Office of Compliance"; and

(2) in subclause (II) by striking ",the Office of Technology Assessment,".

(d) FAILURE TO FILE OR LATE FILING OF REPORTS.—Section 104 of such Act is amended--

(1) in subsection (a)(1), by inserting before the period at the end of the second sentence "or order the individual to file or report any information required by section 102, or both"; and

(2) in subsection (a)(2)(B), by striking "or both." and inserting "ordered to file or report any information required by section 102, or all three."

(3) in subsection (d)-

(A) in paragraph (1)(B), by striking "$200" and inserting "$500"; and

(B) in paragraph (2), by striking "in extraordinary circumstances." and inserting "for good

cause shown.".

(e) CUSTODY OF AND PUBLIC ACCESS TO REPORTS.-Section 105 of such Act is amended--

(1) in subsection (a)-

(A) by striking paragraph (2);

(B) by striking "that (1) this" and inserting "that this";

(C) by striking "be revealing" and inserting "by revealing"; and

(D) by striking "interest; and" and inserting "interest.".

(f) REVIEW OF REPORTS.—Section 106(b) of such Act is amended—

(1) in paragraph (2)(A), by striking "to be submitted," and inserting "to be submitted to complete the report or to perform a conflict of interest analysis,"; and

(2) in paragraph (6)—

(A) by inserting "the designated agency ethics official of the U.S. Postal Service shall notify" after "Deputy Postmaster General,"; and

(B) by striking "Director of the Office of Government Ethics shall" and inserting "Director of the Office of Government Ethics, who then shall".

(g) AUTHORITY OF COMPTROLLER GENERAL.—Section 108 of such Act is amended—

(1) by striking subsection (b); and

(2) in subsection (a), by striking "(a)".

(h) DEFINITIONS.—Section 109 of such Act is amended—

(1) in paragraph (5)—

(A) in subparagraph (E), by striking "or" at the end;

(B) by adding at the end the following new subparagraphs:

"(G) items that are accepted pursuant to or are required to be reported by the reporting individual under section 7342 of title 5, United States Code; or"

"(H) meals, lodging, transportation, and other benefits, including free attendance at an event, when provided to an employee in connection with active political participation permitted by the Hatch Act Reform Amendments of 1993 at 5 U.S.C. 7323 by a political organization described in 26 U.S.C. 527(e);" and

(2) in paragraph (11)(H), by striking "Technology Assessment" and inserting "Compliance".

(3) in paragraph (15) -

(A) in subparagraph (B), by striking "or" at the end;

(B) in subparagraph (C), by adding "or" after the semicolon; and

(C) by adding at the end the following new subparagraph:

"(D) provided by a political organization described in 26 U.S.C. 527(e) in connection with an employee's active political participation as permitted by the Hatch Act Reform Amendments of 1993 at 5 U.S.C. 7323;".

(i) NOTICE OF ACTIONS TAKEN TO COMPLY WITH ETHICS AGREEMENTS.—Section 110 of such Act is amended—

(1) in subsection (a), by adding at the end the following new sentence: "If all actions agreed to have not been completed by the date of this notification, such notification shall continue on a monthly basis thereafter until the individual has met the terms of the agreement."; and

(2) in subsection (b), by striking "within the time prescribed in the last sentence of subsection (a)." and inserting "not later than the date specified in the agreement by which action by the individual must be taken, or not later than 90 days after the date of the agreement, if no date for action is so specified.".

SEC. 3. TECHNICAL AND CLERICAL AMENDMENTS.

The Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 101—

(A) in subsection (a), by striking "thirty days" both places it appears and inserting "30 days";

(B) in subsection (b)(1), by striking "five days" both places it appears and inserting "5 days";

(C) in subsection (c), by striking "thirty days" and inserting "30 days";

(D) in subsection (f)(8), by striking "government" and inserting "Government";

(E) in subsection (g)(1), by striking "ninety days" and inserting "90 days";

(F) in subsection (h)—

(i) in the matter preceding paragraph (1), by striking "sixty days" both places it appears and inserting "60 days"; and

(ii) in paragraph (1), by striking "fifteen days" and inserting "15 days"; and

(G) in subsection (i), by striking "one hundred and thirty days" and inserting "130 days" in the matter preceding paragraph (1);

(2) in section 102—

(A) in subsection (a)(3), by striking "spouse,," and inserting "spouse,";

(B) in subsection (b)(1)(B), by striking "thirty-one days" and inserting "31 days";

(C) in subsection (e)(1)(E)—

(i) by striking "items (i) which" and inserting "items which";

(ii) by striking "certifies represent" and inserting "certifies (i) represent";

(iii) by striking "(ii) which are" and inserting "(ii) are"; and

(iv) by striking "(iii) from which the reporting individual" and inserting "(iii) are ones from which he"; and

(D) in subsection (f)—

(i) in paragraph (3)(F), by striking "the effective date of title II of the Ethics Reform Act of 1989" and inserting "January 1, 1991,"; and

(ii) in paragraph (5)—

(I) in subparagraph (A), by striking "thirty days" and inserting "30 days" in the matter preceding clause (i);

(II) in subparagraph (B), by striking "thirty days" and inserting "30 days";

(III) in subparagraph (C), by striking "thirty days" and inserting "30 days" in the matter preceding clause (i); and

(IV) in paragraph (E), by striking "five days" and inserting "5 days";

(3) in section 103(h)(1)(A)(ii), by striking "the date of the enactment of the Ethics Reform Act of 1989—" and inserting "November 30, 1989—";

(4) in section 104(d)(1)(B), by striking "branch.." and inserting "branch.";

(5) in section 105(b)—

(A) in paragraph (1)—

(i) in the first sentence—

(I) by striking "thirty days" and inserting "30 days"; and

(II) by striking "as the case may be,," and inserting "as the case may be,"; and

(ii) in the third sentence, by inserting a comma after "as the case may be"; and

(B) in paragraph (3)(A), by striking "United States Marshall Service" and inserting "United States Marshals Service";

(6) in section 106(a)—

(A) in paragraph (1), by striking "sixty days" and inserting "60 days" both places it appears; and

(B) in paragraph (2), by striking "sixty days" and inserting "60 days"; and

(7) in section 110(a), by striking "three months" and inserting "90 days".

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall take effect on January 1 of the year following the date of enactment of this Act.

(b) LATER DATE.—If the date of enactment of this Act is on or after July 1 of any calendar year, the amendments made by this Act shall take effect on July 1 of the year following the date of enactment of this Act.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title.

This Act may be cited as the "Ethics in Government Act Amendments of 2008."

Section 2. Public Financial Disclosure of Federal Personnel.

Section 2(a). Section 101(f) of the Ethics in Government Act (hereinafter the "Act") describes the officers and employees who must file public financial disclosure reports. Section 2(a) of the proposal clarifies, by reference to the levels of the Postal Career Executive Service rather than to an amount of basic pay, those officers and employees of the United States Postal Service who must file.

Section 2(b)(1)(A)(i). Section 102(a)(1)(A) of the Act prescribes the source, type, and amount of earned income and certain investment income that the individual must report. Section 2(b)(1)(A)(i) of the proposal amends this requirement by eliminating the requirement to report exact amounts of earned income, except honoraria, and by substituting reporting by category of value; by raising the threshold reporting amount from $200 to "more than $500;" and by eliminating the confidential reporting requirement for recipients of payments in lieu of honoraria.

Section 2(b)(1)(A)(ii). Section 102(a)(1)(B) of the Act requires the individual to report the source and type of income consisting of dividends, rents, interest, and capital gains that exceed $200. Section 2(b)(1)(A)(ii) of the proposal permits the individual to report all investment income, regardless of type, by category of amount or value and raises the reporting threshold from $200 to $500.

Section 2(b)(1)(A)(iii). Section 2(b)(1)(A)(iii) of the proposal creates a new section 102(a)(1)(C) in the Act that sets forth the categories of amounts or values for reporting earned and investment income. This provision substitutes 3 categories for the current 11 categories used for certain types of investment income found in section 102(a)(1)(B) of the Act.

Section 2(b)(1)(B). Section 102(a)(2)(B) of the Act requires the individual to report the source of travel

reimbursements valued at greater than the minimum value established under the Foreign Gifts and Decorations Act (currently $335) and to provide a description of the travel (including an itinerary, dates, and nature of expenses provided). Section 2(b)(1)(B) of the proposal eliminates the requirement to report the travel itinerary.

Section 2(b)(1)(C). Section 102(a)(3) of the Act requires the individual to report interests in property held in a trade or business or held for investment or the production of income that has a fair market value in excess of $1,000, and interests in deposits aggregating $5,000 or more in a personal savings account. Section 2(b)(1)(C) of the proposal raises the reporting thresholds (from $1,000 to $5,000 for property; from $5,000 to $100,000 for deposit accounts) and establishes a reporting exclusion for Government securities aggregating $100,000 or less. Currently, interests in Government securities are treated like other personal property with a $1,000 reporting threshold.

Section 2(b)(1)(D). Section 102(a)(4) of the Act sets forth the reporting requirements for liabilities, including revolving charge accounts. Section 2(b)(1)(D) of the proposal raises the reporting threshold from $10,000 to $20,000.

Section 2(b)(1)(E). Section 102(a)(5) of the Act sets forth the reporting requirements for real property and securities that were purchased, sold, or exchanged during the preceding calendar year. Section 2(b)(1)(E) of the proposal increases the reporting threshold from $1,000 to $5,000, eliminates the need to report the date and category of value of the transaction, and eliminates the need to report the transaction if the asset is reported elsewhere as currently held or as a source of investment income.

Section 2(b)(1)(F). Section 102(a)(6)(A) of the Act sets forth the reporting requirements for certain positions (*e.g.*, officer, director, trustee, or partner) held outside the Government by the individual. Section 2(b)(1)(F)(i) of the proposal shortens the reporting period from 2 years plus the current year to 1 year plus the current year.

Section 102(a)(6)(B) of the Act requires a non-elected individual to report sources of compensation for personal services rendered by the reporting individual that are valued in excess of $5,000 for the 2 calendar years prior to and the calendar year in which the individual files his first report. Section 2(b)(1)(F)(ii) of the proposal raises the reporting threshold from $5,000 to $25,000 and shortens the reporting

period from 2 years plus the current year to 1 year plus the current year.

Additionally, section 2(b)(1)(F)(iii) of the proposal creates new provisions, sections 102(a)(6)(C) and (D), which address privileged relationships. Proposed section 102(a)(6)(C) of the Act, which contains the current requirements for reporting such "client" information when the services were provided by any firm or association of which the reporting individual was a member, partner, or employee, has been revised to more fully describe the privileged relationships that will qualify for an exception to this reporting requirement. In addition, proposed section 102(a)(6)(D) of the Act requires the filer to disclose if he has withheld any information as privileged.

Section 2(b)(1)(G). Section 102(a)(7) of the Act requires the individual to report the date of, the parties to, and the terms of any agreement or arrangement for future employment, leaves of absence, continuation of payments by a former employer, and continuing participation in an employee benefits plan maintained by a former employer. Section 2(b)(1)(G) of the proposal eliminates the requirement to report the date of such agreements or arrangements, except the date of a formal agreement for future employment.

Section 2(b)(2). Section 102(b)(1) of the Act provides for reporting periods for the reports filed by candidates, presidential nominees, and other new entrants. Section 2(b)(2) of the proposal makes certain conforming amendments that arise out of the changes to the shortened reporting periods for positions held and client-type information.

Section 2(b)(3). Section 102(d)(1) of the Act sets forth 11 categories of value for reporting assets, liabilities, transactions, and trusts. Section 2(b)(3)(A) of the proposal sets forth three new categories of value to be used for reporting assets, and section 2(b)(3)(B) of the proposal sets forth three new categories of value to be used for reporting liabilities and trusts. Transactions would no longer be referenced in section 102(d)(1) of the Act under this proposed revision.

Section 2(b)(4)(A). Section 102(e)(1) of the Act sets forth the special reporting requirements applicable to the earned income, assets, gifts, and reimbursements of a spouse or dependent child. Section 2(b)(4)(A) eliminates the requirement that amounts of honoraria earned by a spouse be reported, and aligns the investment income reporting period for filers, their

spouses, and dependent children by requiring their investment income to be reported for the full reporting period.

Section 2(b)(4)(B). Section 102(e)(1)(F) of the Act specifies that reports filed by nominees, candidates, and new entrants need only contain information regarding sources of income, assets, and liabilities of a spouse and dependent child. Section 2(b)(4)(B) of the proposal does not change the requirement, but eliminates certain specialized categories of value for that information.

Section 2(b)(5)(A). Section 102(f)(3)(A) sets forth the requirements for a qualified blind trust. Section 2(b)(5)(A) of the proposal does not change this requirement but substitutes the term "affiliated" for "associated" to describe more accurately the relationship that cannot exist between the trustee and the interested party.

Section 2(b)(5)(B). Section 102(f)(4) of the Act sets forth the requirements for a diversified blind trust. Section 2(b)(5)(B) of the proposal does not change current requirements, but adopts the more conventional modifier "widely diversified," as opposed to "well-diversified," when describing the requirements for the trust portfolio.

Section 2(b)(5)(C). Section 102(f)(5) of the Act sets forth the requirements for the public documents that must be filed in relation to a blind trust. Section 2(b)(5)(C) of the proposal also provides that, at the time of dissolution of the trust, executive branch personnel must file the list of assets with the designated agency ethics official of the agency in which they serve, as well as with the Office of Government Ethics as the supervising ethics office.

Section 2(b)(5)(D). This section sets forth new requirements that must be met in order to avoid the requirement to disclose the assets of publicly available investment funds. Proposed section 102(f)(9)(A) applies to new entrants, nominees, and candidates. This provision addresses the reporting requirements for investment vehicles, such as publicly available limited partnerships, where the individual may not have or be able to obtain the information about the underlying holdings necessary to complete a financial disclosure report. To meet the requirements of this provision, the identity of the underlying holdings of the fund is not provided to the investors, the individual cannot exercise control over the financial interests

of the fund, the individual does not otherwise have knowledge of the individual assets of the fund, and either the fund manager certifies that the individual assets are not disclosed to investors or the individual agrees in writing to divest his interest in the fund. If a fund manager's certificate is relied upon, the individual must attach it to his financial disclosure report.

Proposed section 102(f)(9)(B) sets forth the requirements that must be met by annual and termination report filers in order not to disclose the assets of certain investment funds either because the funds were acquired involuntarily during the reporting period and are otherwise described by subparagraph (A) or because the individual qualified for the provisions of subparagraph (A) when he was a new entrant, nominee, or candidate and he continues to meet the requirements and he complied with the certification requirement when he was a new entrant, nominee, or candidate.

Section 2(c). Section 103(h)(1)(A) of the Act specifies with whom the officers and employees of the legislative branch should file their reports. Section 2(c)(1) of the proposal removes the reference to the Copyright Royalty Tribunal and adds a reference to the Office of Compliance. Section 2(c)(2) removes the reference to the Office of Technology Assessment.

Section 2(d)(1). Section 104(a)(1) of the Act, as amended by Pub. L 110-81, provides for civil actions and penalties for knowing and willful falsification and willful failure to file or report information. Section 2(d)(1) of the proposal permits the court to order the individual to file or report any information required by section 102 of the Act, in addition to or in lieu of assessing a civil monetary penalty.

Section 2(d)(2). Section 104(a)(2) of the Act, as amended by Pub. L 110-81, provides for criminal actions and penalties for knowing and willful falsification and willful failure to file or report information. Section 2(d)(2) of the proposal permits the court to order the individual to file or report any information required by section 102 of the Act, in addition to or in lieu of criminal penalties.

Section 2(d)(3). Section 104(d) of the Act provides for a late filing fee of $200, as well as the authority to waive the fee. Section 2(d)(4) of the proposal increases the fee from $200 to $500 and changes the standard for a waiver from "extraordinary circumstances" to "good cause shown." Experience has shown a

"good cause" test to be more appropriate to meet the circumstances where a supervising ethics office has felt that the fee should be waived, particularly when the failure to file on a timely basis has not been the fault of the individual.

Section 2(e)(1). Section 105(a) of the Act authorizes agencies to make the reports filed available to the public and to except from public release certain reports filed by individuals engaged in intelligence activities. Section 2(e)(1) of the proposal does not change current requirements but deletes a reference to an independent counsel whose identity has not yet been disclosed. There are no longer any such independent counsels.

Section 2(f). Section 106(b) of the Act sets forth the procedures for reviewing a report for purposes of certification. Section 2(f) of the proposal does not change the review procedures but clarifies the purpose for which additional information may be requested. Additionally, the provision clarifies the responsibilities of the designated agency ethics official of the U.S. Postal Service when he believes that the Postmaster General or the Deputy Postmaster General has not complied with steps he has required of them to assure compliance with law and regulation.

Section 2(g). Section 108 of the Act provides the Comptroller General with access to any financial disclosure report for the purposes of carrying out his statutory responsibilities. Section 2(g) of the proposal does not change current law with regard to the Comptroller General's access to information but eliminates a current requirement that the Comptroller General conduct regular studies of the financial disclosure system.

Section 2(h). Section 109 of the Act defines the terms used in the Act. Section 2(h) of the proposal amends the definition of "gift" and "reimbursement" as well as making a technical correction. Proposed section 109(6)(G) clarifies that items accepted or required to be reported by the individual pursuant to the Foreign Gifts and Decorations Act are not considered gifts for purposes of a report required by the Act. Proposed section 109(6)(H) also excludes from the definition of a reportable gift any meals, lodging, transportation, and other benefits, including free attendance at an event, when provided by a political organization described in 26 U.S.C. 527(e) to an employee in connection with his permissible, active, political participation.

Proposed section 109(15)(D) excludes from the definition of reportable reimbursements under the Act any payment or thing of value provided to an employee by a political organization described in 26 U.S.C. 527(e) to cover the employee's travel-related expenses in connection with his permissible, active, political participation. As well, the provision removes the reference to the Office of Technology Assessment and adds a reference to the Office of Compliance in section 109(11)(H).

Section 2(i). Section 110(a) of the Act sets forth the notification requirements that must be followed by an individual who has agreed to take certain actions in order to avoid conflicts of interest. Section 2(i) of the proposal adds an additional monthly reporting requirement regarding compliance if all terms of the agreement have not been met by the date specified in the agreement or no later than 90 days following the date of the agreement. The additional reports must be filed until compliance is achieved.

Section 3. Technical and Clerical Amendments.

Section 103 makes technical and clerical amendments throughout title I of the Act.

Section 4. Effective Date.

Section 104 provides for the effective date of the proposal.