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The President should establish an Office of Ethics in the executive branch with adequate resources to address the problems of the enforcement of and compliance with ethical standards and financial disclosure systems. The Office should: issue uniform and clearly stated ethical standards of conduct and financial disclosure regulations; develop financial disclosure forms needed to enforce conflict-of-interest matters; make periodic audits of the effectiveness of agency financial disclosure systems on a sample basis to check initial and followup procedures; establish a formal advisory service to disseminate general opinions on matters of ethical conduct; provide criteria for positions requiring disclosure statements; administer the financial disclosure system for Presidential appointees under section 401 of Executive Order 11222; report annually to the President and Congress on the effectiveness of the ethics program and recommend changes; investigate and resolve ethical conduct matters unresolved at the agency level; and provide a continuing program of information and education for Federal employees. (author/QM)

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STATEMENT OF ELMER B. STAATS  
COMPTROLLER GENERAL OF THE UNITED STATES  
BEFORE THE  
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS  
ON  
S.555 - PUBLIC OFFICIAL INTEGRITY  
ACT OF 1977

Mr. Chairman and Members of the Committee:

I appreciate your invitation to discuss our views on title III of this bill which would establish a financial disclosure system for top-level officers and employees of the three branches of the Federal Government. The provisions of this title are well known to the members of this Committee, and I shall not take time to summarize them.

During the past three years, our office has issued some 20 reports concerning the financial disclosure systems and standard of conduct regulations of Executive Branch departments and agencies. These reviews have revealed serious weaknesses in agency systems, due, in part, to the lack of enforcement authority and effective monitoring.

As a result of these reviews, we issued a summary report on February 28, 1977, recommending that the President send a statement to the heads of all executive departments and agencies setting forth a firm commitment to the highest standards of ethical conduct. We recommended that he establish an Office of Ethics in the executive branch with adequate resources to address the problems of enforcement and compliance.

Among its responsibilities, we believe this office should

- Issue uniform and clearly stated ethical standards of conduct and financial disclosure regulations as discussed in GAO reports.
- Develop financial disclosure forms so that all relevant information is obtained concerning employee interests needed to enforce conflict-of-interest matters.
- Make periodic audits of the effectiveness of agency financial disclosure systems on a sample basis to see that they include appropriate procedures for collecting and reviewing statements, and followup procedures to preclude conflicts of interest.
- Establish a formal advisory service to render opinions on matters of ethical conduct so that all agencies are advised of such opinions.
- Provide criteria for positions requiring disclosure statements.
- Administer the financial disclosure system for Presidential appointees under section 401 of Executive Order 11222.
- Report annually to the President and the Congress on the effectiveness of the ethics program and recommend changes or additions to applicable laws as appropriate.
- Investigate and resolve ethical conduct matters unresolved at the agency level, including allegations against a Federal employees.
- Provide a continuing program of information and education for Federal employees.

We believe that much more personal financial information needs to be disclosed by Federal employees if the agencies are to avoid employee conflicts of interest.

We are pleased to see that S. 555 incorporates many of our suggestions and recommendations. It proposes a supervising ethics office for each branch of the Federal Government. The bill also centralizes responsibilities in the supervising ethics office in each of the branches of Government. This will

allow the responsible officers of each branch to review the reports to determine whether apparent or potential conflicts of interest exist with the employees' official duties.

#### RESPONSIBILITY FOR AUDITS AND CONSISTENCY

S. 555, if enacted, would give GAO responsibility for

- developing a uniform financial disclosure form;
- auditing at least one report, during each term, filed by the President, Vice President, and Civil Service and Ethics Commission;
- approving the audit regulations of each supervising ethics office in the executive branch and the judicial branch;
- conducting random audits of not more than five percent of the reports filed with the supervising ethics office of the Senate and House of Representatives (other than those filed by a Member);
- auditing at least one report filed by each Member of the Senate and the House of Representatives during each six-year period;
- auditing at least once every six years, at least one report filed during the term of a justice or judge of the United States; and
- reporting the findings of each audit conducted to the individual being audited and that individual's supervising ethics office.

At the time S. Res. 110 and various financial disclosure bills were prepared, I strongly emphasized that requiring GAO to audit the disclosure statements of Members and employees of Congress could place GAO in a most difficult position in view of our day-to-day dealings with these same Members and employees.

Although the Senate passed S. Res. 110 on April 1, my views have not changed. I fully believe that giving GAO this audit responsibility could sow seeds of friction and distrust and develop an adversary relationship with individual Members of Congress which could do great damage to the overall effectiveness of the General Accounting Office by endangering the close relationship which this Office must have with Members, committees, and staffs of the Congress.

The Congress has long looked to GAO to provide impartial and objective information, evaluations of how well program policies are being implemented by the executive agencies and to provide it with suggestions for how these programs could be more economical, more efficient, and more effective. Our role is that of an oversight arm and an evaluator for the Congress. I do not believe that investigation of the financial transactions of individual members of Congress is consistent with this role.

I recommend most strongly, therefore, that the responsibility for auditing the disclosure statements of Members and employees of the Congress not be placed with the Comptroller General. In my January 28, 1977, letter to the President of the Senate, I presented alternatives to this provision.

One alternative which I believe is consistent with the proposed Ethics in Government Act submitted by the President to the Congress on May 3 would be to establish by statute points of responsibility in each of the three branches of the Government which would have responsibility for receiving, reviewing, and follow up of the financial disclosure and ethics provisions of S.555. The President has proposed that the Congress establish within the Civil Service Commission an Office of Government Ethics to be headed by a Presidential appointee, confirmed by the Senate, who would issue general guidelines to the executive agencies on defining conflicts of interest and how these conflicts can be resolved; make recommendations to the President on changes needed in laws and regulations governing conflicts of interest; monitor compliance by agencies and individuals with established requirements; and promote better understanding of the ethical standards required for the conduct of executive branch responsibilities.

Under this approach, I suggest that S.555 might be amended to place the responsibility for the judicial branch in the Administrative Office of the U.S. Courts and responsibility for the House in a committee designated by the House and for the Senate, in a committee designated by the Senate. Other employees within the legislative branch would file their statements with the designated committee of the Senate rather than with the Civil Service Commission as provided by S.555.

The General Accounting Office would, of course, monitor the entire program on behalf of the Congress and make recommendations from time to time as to ways in which the program could be strengthened, including the possible need for change in legislation or rules and regulations issued by the responsible authorities.

A second approach is the establishment by statute of a Government-wide independent commission on ethics and financial disclosure for the three branches of Government to be responsible for insuring the uniform and consistent administration of the financial disclosure requirements of S.555. This Commission could be responsible for (1) recommending consistent procedures, (2) auditing, (3) and rendering advisory opinions and counsel on potential conflict of interest matters. Again the General Accounting Office could be given responsibility for maintaining oversight of the financial disclosure system.

This Commission might be composed of 9 members appointed by the President of the United States as follows:

- 2 to be appointed from a list submitted by the majority and minority leaders of the Senate;
- 2 to be appointed from a list submitted by the majority and minority leaders of the House of Representatives;

--2 to be appointed from a list submitted by the  
Judicial Conference of the United States; and  
--3 to be appointed separately by the President,  
but not more than two members should be of the  
same political party.

Members of the Commission should serve for terms of two  
years, and should meet at least once a month. Members of  
this important body should be chosen on the basis of their  
experience, integrity, impartiality and the high degree of  
credibility they could bring to the Commission.

This part-time body of distinguished citizens could  
be supported by a full-time executive who might be selected  
by the Commission or by the President with Senate approval.  
I believe the establishment of such a Commission would re-  
sult in the most effective disclosure system for the Federal  
Government.

We believe that if disclosure reports were filed with  
such Commission, and a copy with individual agencies, the  
objective sought could be achieved with minimal disruption  
and costs and could be merged with existing systems in each  
branch. Such a system would also enable the responsible  
officers of each branch to review the reports to determine

whether apparent or potential conflicts of interest occur with the employees' official duties. Such reviews are extremely important and are currently required to be performed by each agency in the executive branch. It is essential that the agency head continue to be held accountable for any questionable interests. Agency heads, also, are in a better position to know and to make judgments as to what specific financial interests an employee should not have, based on his current responsibilities. In the event the Congress should not favor the establishment of an independent Commission, I believe that all authority for regulations, advisory opinions, and independent audit of statements should be placed in the supervising ethics office within each branch of the Government. The General Accounting Office could be given responsibility for maintaining oversight of these systems.

BALANCING PRIVACY CONSIDERATIONS  
WITH PUBLIC DISCLOSURE

While the Senate and the House of Representatives have decided to have public disclosure of financial interests of its Members, we believe that as legislation is considered for the three branches of Government, the Congress should continue to balance conflict-of-interest and public disclosure concerns with the rights of individuals to privacy.

Obviously, the Congress faces a difficult dilemma in seeking to accommodate the public policy considerations underlying requirements for public disclosure of personal financial information and the right of personal privacy which affects all of us. This dilemma is somewhat that same as is inherent in the public policy aims of the Freedom of Information Act and the Privacy Act of 1974--the one promoting openness in Government administration and the other carefully spelling out the basis upon which "private" information in the hands of the Government may be used and disclosed.

Here the primary concern is promoting confidence in public officials through a code of ethics and full disclosure of their personal financial status. Aside from any philosophical or ethical objections which might be voiced against such disclosure, there are difficult problems that need to be considered--problems which, to our mind, are avoidable without undermining the overall objective being pursued.

It is suggested disclosure not be automatic but on a request basis and that there be notice to the individual that disclosure of his financial report has been made and to whom. Prior to inspecting or receiving a copy of any financial report, we believe the requestor should be required to present a written request giving his name; address; names and addresses of the persons or organizations, if any, or on whose behalf he

is making the request; and the intended use of the financial report.

In line with this, I believe that certain provisions that were included in S.495, passed by the Senate in the 94th Congress, should be included in section 305(b) of this bill. These provisions would make it illegal for any person to inspect or obtain a copy of any report.

- (a) for any unlawful purpose;
- (b) for any commercial purpose;
- (c) to determine or establish the credit rating of any individual; or
- (d) for use directly or indirectly in the solicitation of money for any political, charitable, or other purpose.

The Attorney General should also be authorized to bring a civil suit against any person who inspects or obtains such reports for any of these purposes.

#### OTHER MATTERS

Section 304(a) should be amended to state that candidates for the Senate should file with the committee designated by the Senate, candidates for the House of Representatives with the committee designated by that body, and candidates for the offices of President and Vice President with the Civil Service and Ethics Commission.

Section 307(a)(1) would require all employees compensated at a rate equal to or in excess of the minimum rate prescribed for employees in grade GS-13 to file confidential disclosure reports. We estimate that this would require approximately 120,000 more statements than are currently being filed Government-wide. Currently about 80,000 statements are filed Government-wide. With a new requirement for filing of more information and the increased number of reports to be filed, we doubt if the cost and time required for an agency to effectively review so many statements has been adequately considered.

We would prefer that each agency be given discretionary authority to require statements from those employees, compensated at a rate below the GS-16 level and members of the uniformed services below 0-7, that the head of the agency determines has duties similar to those in section 307(a)(2)(A). The supervising ethics office as part of its oversight responsibility could insure that agencies are properly identifying employees who should be required to file. Here again GAO audit and oversight could point up cases where it believes filings should be made.

This concludes my prepared statement. I will be happy to answer any questions.