

Sec. 2—Powers, Duties of the President Cl. 2—Treaties and Appointment of Officers

Financial Disclosure and Limitations.—The Ethics in Government Act of 1978⁵⁴⁰ requires high-level federal personnel to make detailed, annual disclosures of their personal financial affairs.⁵⁴¹ The aims of the legislation are to enhance public confidence in government, to demonstrate the high level of integrity of government employees, to deter and detect conflicts of interest, to discourage individuals with questionable sources of income from entering government, and to facilitate public appraisal of government employees' performance in light of their personal financial interests.⁵⁴² Despite assertions that employee privacy interests are needlessly invaded by the breadth of disclosures, to date judicial challenges have been unsuccessful, with one exception.⁵⁴³ The one provision that was invalidated was section 501(b),⁵⁴⁴ which prohibits Members of Congress and officers or employees of the government, regardless of salary level, from receiving any "honorarium," which the statute defines as "a payment of money or any thing of value for an appearance, speech or article (including a series of appearances, speeches, or articles if the subject matter is directly related to the individual's official duties or the payment is made because of the individual's status with the Government)"⁵⁴⁵ The Supreme Court held that this prohibition, even interpreted in accordance with the standards applicable to speech restrictions on government employees, was overbroad, as "[t]he speculative benefits the honoraria ban may provide the government are not sufficient to justify this crudely crafted burden of respondents' freedom to engage in expressive activities."⁵⁴⁶

Legislation Increasing Duties of an Officer.—Finally, "Congress may increase the powers and duties of an existing office without thereby rendering it necessary that the incumbent should be

⁵⁴⁰ Pub. L. 95-521, tits. I–III, 92 Stat. 1824–1861. The Act was originally codified in three different titles, 2, 5, and 28, corresponding to legislative, executive, and judicial branch personnel, but by Pub. L. 101-194, title II, 103 Stat. 1725 (1989), one comprehensive title, as amended, applying to all covered federal personnel was enacted. 5 U.S.C. App. §§ 101–111.

⁵⁴¹ See *Developments, supra*, 97 HARV. L. REV. at 1660–1669.

⁵⁴² 97 Harv. L. Rev. at 1661 (citing S. REP. 170, 95th Cong., 2d sess. (1978), 21–22).

⁵⁴³ 97 Harv. L. Rev. at 1664–69. The Ethics in Government Act also expanded restrictions on post-employment by imposing bans on employment, varying from a brief period to an out-and-out lifetime ban in certain cases. *Id.* at 1669–76. The 1989 revision enlarged and expanded on these provisions. 103 Stat. 1716–1724, amending 18 U.S.C. § 207.

⁵⁴⁴ 92 Stat. 1864 (1978), as amended, 103 Stat. 1760 (1989), as amended, 5 U.S.C. App. § 501(b).

⁵⁴⁵ 5 U.S.C. App. § 505(3).

⁵⁴⁶ *United States v. NTEU*, 513 U.S. 454, 477 (1995).