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Wrong

James S. Abourezk
 Birch Bayh
 Quentin N. Burdick
 Lawton Chiles
 Frank Church
 Alan Cranston
 Wendell H. Ford
 Mike Gravel
 Gary Hart
 Philip A. Hart
 Vance Hartke
 Floyd K. Haskell
 Mark O. Hatfield
 Ernest F. Hollings
 Walter D. Huddleston
 Hubert H. Humphrey
 Daniel K. Inouye
 Henry M. Jackson
 Edward M. Kennedy
 Gale W. McGee
 George S. McGovern
 Walter F. Mondale
 Joseph M. Montoya
 Frank E. Moss
 Edmund S. Muskie
 John O. Pastore
 Jennings Randolph
 Richard S. Schweiker
 John Sparkman
 John V. Tunney
 Harrison A. Williams, Jr.

Undecided

James B. Allen
 J. Glenn Beall, Jr.
 Lloyd Bentsen
 Joseph R. Biden, Jr.
 Edward W. Brooke
 Dale Bumpers
 Harry F. Byrd, Jr.
 Robert C. Byrd
 Howard W. Cannon
 Clifford P. Case
 Dick Clark
 John C. Culver
 John A. Durkin
 Thomas F. Eagleton
 James O. Eastland
 John Glenn
 Barry Goldwater
 William D. Hathaway
 Roman L. Hruska
 Jacob K. Javits
 J. Bennett Johnston
 Paul Laxalt
 Patrick J. Leahy
 Russell B. Long
 Warren G. Magnuson
 Mike Mansfield
 Charles McC. Mathias, Jr.
 John L. McClellan
 James A. McClure
 Thomas J. McIntyre
 Lee Metcalf
 Robert Morgan
 Gaylord Nelson
 Sam Nunn
 Bob Packwood
 James B. Pearson
 Claiborne Pell
 Charles H. Percy
 William Proxmire
 Abraham Ribicoff
 William V. Roth, Jr.
 John C. Stennis
 Ted Stevens
 Adlai E. Stevenson
 Richard Stone
 Stuart Symington
 Herman E. Talmadge
 John Tower
 Lowell P. Weicker, Jr.
 Milton Young

Right

Howard H. Baker, J
 Dewey Bartlett
 Henry Bellmon
 Bill Brock
 James L. Buckley
 Carl T. Curtis
 Robert Dole
 Pete V. Domenici
 Paul J. Fannin
 Hiram L. Fong
 Jake Garn
 Robert P. Griffin
 Clifford P. Hansen
 Jesse Helms
 Hugh Scott
 William L. Scott
 Robert T. Stafford
 Robert Taft, Jr.
 Strom Thurmond
 Milton Young



Hatch Act

-----, 3/6/75

10:20 Ken:

Mr. Buchen asked if you or someone over there could take care of this.

(3/6 memo from Jim Cannon re Hatch Act)

Eva



March 6, 1975

TO: Phil Buchen

FROM: Jim Cannon *Ji*

SUBJECT: Hatch Act

I understand that all members of the Domestic Council staff, with the exception of myself, come under the Hatch Act.

Can you give me your opinion of this? If the staff members do come under the Hatch Act, could you have someone on your staff give me a memorandum telling what they can and cannot do in a political way.

Many thanks.



THE WHITE HOUSE
WASHINGTON

3/11

For filing

EVA:

The attachments were two U. S.
Civil Service pamphlets --

"Federal Employees -- Political
Participation" (GC-46)

"Code of Federal Regulations"
(GC-41)

I only had one copy each.

Dawn

~~Put in file~~
~~"Federal"~~

THE WHITE HOUSE

WASHINGTON

March 11, 1975

MEMORANDUM FOR: JIM CANNON

FROM: KEN LAZARUS *KL*

SUBJECT: Hatch Act

You are correct in your understanding that you are personally exempt from the provisions of the Hatch Act (5 U. S. C. 7321, et seq.) insofar as it relates to active participation in political management and political campaigns. The Act specifically exempts from its ban on partisan political activity by Executive Branch personnel any "employee paid from the appropriation for the office of the President." Thus, the sole test in determining the applicability of the Act is which appropriation is used to pay the employee's salary. While the Civil Service Commission has interpreted this provision to exempt persons paid from appropriations to the White House Office and Special Assistance to the President (Office of the Vice President), it has determined that employees paid from other appropriations for the Executive Office of the President, including those of the Domestic Council, OTP, OMB and NSC, are subject to the Act. Likewise, all detailed employees are fully subject to the Act.

While you are paid from funds appropriated to the White House Office, I understand that the remainder of the Domestic Council staff is paid from its own appropriation and is, therefore, subject to the Act. In addition, all Executive Branch employees, regardless of how they are paid, are expressly prohibited from using their "official authority or influence for the purpose of interfering with or affecting the result of an election"

The attached materials from the Commission should be of some assistance in determining what conduct is permissible by employees subject to the Act.

Attachment

bcc: Phil Buchen ✓



March 6, 1975

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FROM: Jim Cannon *Jm*
SUBJECT: Hatch Act

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Many thanks.



THE WHITE HOUSE

WASHINGTON

Hotchk
Act

May 7, 1975

MEMORANDUM FOR:

DUDLEY CHAPMAN

FROM:

PHILIP BUCHEN

P.W.B.

SUBJECT:

Participation by Presidential
Appointees in Political
Activities

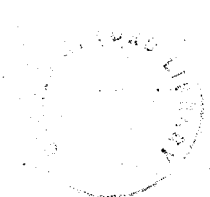
Frank Zarb, Administrator, FEA, has suggested that our office prepare a memo covering the above subject so that persons concerned may know what restrictions, if any, they should abide by in undertaking political activities.

Attached are pages from the Republican National Committee's recent publication of the Federal Election Law Manual but I think we have to go beyond identifying the employees who are not subject to the restrictions against taking part in political campaigns. We should also go into the question of whether such activities may be conducted through use of Federal facilities or in connection with an employee's official duty or on time when he might ordinarily be expected to perform official duties. Another possible issue is whether certain appointees should avoid political activities because of the nature of their positions such as the Secretary of State and the Secretary of Defense.

After you have some ideas of how to prepare a memo on the subject, please discuss them with me.

Attached also is a copy of a memo dated March 11 prepared by Ken Lazarus for Jim Cannon.

Attachments



*Hatch
Act*

THE WHITE HOUSE
WASHINGTON

3/11

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"Federal Employees -- Political
Participation" (GC-46)

"Code of Federal Regulations"
(GC-41)

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Dawn



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WASHINGTON

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Many thanks.



Calendar No. 496

94TH CONGRESS
1ST SESSION

H. R. 8617

[Report No. 94-512]

IN THE SENATE OF THE UNITED STATES

OCTOBER 22, 1975

Read twice and referred to the Committee on Post Office and Civil Service

DECEMBER 5 (legislative day, DECEMBER 2), 1975

Reported by Mr. MCGEE, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

To restore to Federal civilian and Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Federal Employees'
4 Political Activities Act of 1975".

5 SEC. 2. (a) Subchapter III of chapter 73 of title 5,
6 United States Code, is amended to read as follows:



1 "SUBCHAPTER III—POLITICAL ACTIVITIES

2 "§ 7321. Political participation

3 "It is the policy of the Congress that employees should
4 be encouraged to fully exercise, to the extent not expressly
5 prohibited by law, their rights of voluntary participation in
6 the political processes of our Nation.

7 "§ 7322. Definitions

8 "For the purpose of this subchapter—

9 "(1) 'employee' means any individual, including
10 the President and the Vice President, employed or
11 holding office in—

12 "(A) an Executive agency,

13 "(B) the government of the District of
14 Columbia,

15 "(C) the competitive service, or

16 "(D) the United States Postal Service or the
17 Postal Rate Commission;

18 but does not include a member of the uniformed services;

19 "(2) 'candidate' means any individual who seeks
20 nomination for election, or election, to any elective office,
21 whether or not such individual is elected, and, for the
22 purpose of this paragraph, an individual shall be deemed
23 to seek nomination for election, or election, to an elective
24 office, if such individual has—



1 “(A) taken the action required to qualify for
2 nomination for election, or election, or

3 “(B) received political contributions or made
4 expenditures, or has given consent for any other
5 person to receive political contributions or make ex-
6 penditures, with a view to bringing about such indi-
7 vidual's nomination for election, or election, to such
8 office;

9 “(3) ‘political contribution’—

10 “(A) means a gift, subscription, loan, advance,
11 or deposit of money or anything of value, made for
12 the purpose of influencing the nomination for elec-
13 tion, or election, of any individual to elective office
14 or for the purpose of otherwise influencing the re-
15 sults of any election;

16 “(B) includes a contract, promise, or agree-
17 ment, express or implied, whether or not legally
18 enforceable, to make a political contribution for any
19 such purpose; and

20 “(C) includes the payment by any person,
21 other than a candidate or a political organization
22 of compensation for the personal services of another
23 person which are rendered to such candidate or po-



1 litical organization without charge for any such
2 purpose;

3 “(4) ‘superior’ means an employee (other than the
4 President or the Vice President) who exercises super-
5- vision of, or control or administrative direction over,
6 another employee;

7 “(5) ‘elective office’ means any elective public of-
8 fice and any elective office of any political party or
9 affiliated organization; and

10 “(6) ‘Board’ means the Board on Political Activi-
11 ties of Federal Employees established under section 7327
12 of this title.

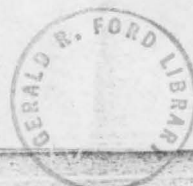
13 “§ 7323. Use of official authority or influence; prohibition

14 “(a) An employee may not directly or indirectly use
15 or attempt to use the official authority or influence of such
16 employee for the purpose of—

17 “(1) interfering with or affecting the result of any
18 election; or

19 “(2) intimidating, threatening, coercing, command-
20 ing, influencing, or attempting to intimidate, threaten,
21 coerce, command, or influence—

22 “(A) any individual for the purpose of inter-
23 fering with the right of any individual to vote as
24 such individual may choose, or of causing any indi-



1 vidual to vote, or not to vote, for any candidate or
2 measure in any election;

3 “(B) any person to give or withhold any politi-
4 cal contribution; or

5 “(C) any person to engage, or not to engage,
6 in any form of political activity whether or not such
7 activity is prohibited by law.

8 “(b) *Nothing in this section authorizes the use by any*
9 *employee of any information coming to him in the course of*
10 *his employment or official duties for any purpose where*
11 *otherwise prohibited by law.*

12 ~~“(b)~~ “(c) For the purpose of subsection (a) of this
13 section, ‘use of official authority or influence’ includes, but is
14 not limited to, promising to confer or conferring any benefit
15 (such as appointment, promotion, compensation, grant,
16 contract, license, or ruling), or effecting or threatening to
17 effect any reprisal (such as deprivation of appointment, pro-
18 motion, compensation, grant, contract, license, or ruling).

19 “§ 7324. **Solicitation; prohibition**

20 “An employee may not—

21 “(1) give or offer to give a political contribution
22 to any individual either to vote or refrain from voting,
23 or to vote for or against any candidate or measure, in
24 any election;

1 “(2) solicit, accept, or receive a political contribu-
2 tion to vote or refrain from voting, or to vote for or
3 against any candidate or measure, in any election;

4 “(3) knowingly give or hand over a political con-
5 tribution to a superior of such employee; or

6 “(4) knowingly solicit, accept, or receive, or be in
7 any manner concerned with soliciting, accepting, or
8 receiving, a political contribution—

9 “(A) from another employee (or a member
10 of another employee’s immediate family) with re-
11 spect to whom such employee is a superior; or

12 “(B) in any room or building occupied in the
13 discharge of official duties by—

14 “(i) an individual employed or holding
15 office in the Government of the United States, in
16 the government of the District of Columbia,
17 or in any agency or instrumentality of the
18 foregoing; or

19 “(ii) an individual receiving any salary or
20 compensation for services from money derived
21 from the Treasury of the United States.

22 “§ 7325. Political activities on ~~duty, etc.~~; *duty*; prohibition

23 “(a) An employee may not engage in political ac-
24 tivity—



1 " (1) while such employee is on duty,

2 " (2) in any room or building occupied in the dis-
3 charge of official duties by an individual employed or
4 holding office in the Government of the United States,
5 in the government of the District of Columbia, or in
6 any agency or instrumentality of the foregoing, or

7 " (3) while wearing a uniform or official insignia
8 identifying the office or position of such employee.

9 " (b) The provisions of subsection (a) of this section
10 shall not apply to—

11 " (1) the President and the Vice President;

12 " (2) an individual—

13 " (A) paid from the appropriation for the
14 White House Office,

15 " (B) paid from funds to enable the Vice Presi-
16 dent to provide assistance to the President, or

17 " (C) on special assignment to the White House
18 Office,

19 unless such individual holds a career or career-condi-
20 tional appointment in the competitive service; or

21 " (3) the Mayor of the District of Columbia, the
22 Chairman or a member of the Council of the District of
23 Columbia, as established by the District of Columbia
24 Self-Government and Governmental Reorganization Act.

*See
Claw*

*Andy
Lover
#3254*



1 "§ 7326. Leave for candidates for elective office

2 " (a) (1) An employee who is a candidate for elective
3 office shall, upon the request of such employee, be granted
4 leave without pay for the purpose of allowing such employee
5 to engage in activities relating to such candidacy.

6 " (2) Any employee who is a candidate for elective
7 office shall be placed on leave without pay effective begin-
8 ning on whichever of the following dates is the later:

9 " (A) the 90th day before any election (including
10 a primary election, other than a primary election in
11 which such employee is not a candidate) for that elec-
12 tive office, or

13 " (B) the day following the date on which the
14 employee became a candidate for elective office.

15 Such leave shall terminate on the day following the election
16 or the day following the date on which the employee is no
17 longer a candidate for elective office, whichever first occurs.
18 ~~The preceding sentence shall not apply to the extent an em-~~
19 ~~ployee is otherwise on leave. occurs, unless the employee is~~
20 ~~otherwise on leave.~~ The Civil Service Commission shall, upon
21 application, exempt from the application of this paragraph
22 any employee who is a candidate for any part-time elective
23 office.

24 " (b) Notwithstanding section 6302 (d) of this title,
25 an employee who is a candidate for elective office shall, upon



1 the request of such employee, be granted accrued annual
2 leave for the purpose of allowing such employee to engage
3 in activities relating to such candidacy. Such leave shall be
4 in addition to leave without pay of such employee under sub-
5 section (a) of this section.

6 “(c) An employee shall promptly notify the agency in
7 which he is employed upon becoming a candidate for elective
8 office and upon the termination of such candidacy.

9 “(d) The ~~foregoing~~ provisions of this section shall not
10 apply in the case of an individual who is an employee by
11 reason of holding an elective public office.

12 **“§ 7327. Board on Political Activities of Federal Employees**

13 “(a) There is established a board to be known as the
14 Board on Political Activities of Federal Employees. It shall
15 be the function of the Board to hear and decide cases regard-
16 ing violations of sections 7323, 7324, and 7325 of this title.

17 “(b) The Board shall be composed of 3 members, ap-
18 pointed by the President, by and with the advice and consent
19 of the Senate. One member shall be designated by the Pres-
20 ident as Chairman of the Board.

21 “(c) Members of the Board shall be chosen on the basis
22 of their professional qualifications from among individuals
23 who, at the time of their appointment, are employees (as de-
24 fined under section 7322 (1) of this title), except that not
25 more than 2 individuals of the same political party may be



1 appointed as members. Employees of the Civil Service Com-
2 mission shall be ineligible to be appointed to or to hold office
3 as members of the Board.

4 “(d) (1) Members of the Board shall serve a term of
5 3 years, except that of the members first appointed—

6 “(A) the Chairman shall be appointed for a term
7 of 3 years,

8 “(B) one member, designated by the President,
9 shall be appointed for a term of 2 years, and

10 “(C) one member, designated by the President,
11 shall be appointed for a term of 1 ~~year.~~ *year.*

12 An individual appointed to fill a vacancy occurring other
13 than by the expiration of a term of office shall be appointed
14 only for the unexpired term of the member such individual
15 will succeed. Any vacancy occurring in the membership of
16 the Board shall be filled in the same manner as in the case
17 of the original appointment.

18 “(2) If an employee who was appointed as a member
19 of the Board is separated from service as an employee he
20 may not continue as a member of the Board after the 60-
21 day period beginning on the date so separated.

22 “(e) The Board shall meet at the call of the Chairman.

23 “(f) All decisions of the Board with respect to the
24 exercise of its duties and powers under the provisions of this
25 subchapter shall be made by a majority vote of the Board.



1 “(g) A member of the Board may not delegate to any
2 person his vote nor, except as expressly provided by this
3 subchapter, may any decisionmaking authority vested in the
4 Board by the provisions of this subchapter be delegated to
5 any member or person.

6 “(h) The Board shall prepare and publish in the Fed-
7 eral Register written rules for the conduct of its activities,
8 shall have an official seal which shall be judicially noticed,
9 and shall have its office in or near the District of Columbia
10 (but it may meet or exercise any of its powers anywhere
11 in the United States).

12 “(i) The Civil Service Commission shall provide such
13 clerical and professional personnel, and administrative sup-
14 port, as the Chairman of the Board considers appropriate
15 and necessary to carry out the Board's functions under this
16 subchapter. Such personnel shall be responsible to the Chair-
17 man of the Board.

18 “(j) The Administrator of the General Services Ad-
19 ministration shall furnish the Board suitable office space ap-
20 propriately furnished and equipped, as determined by the
21 Administrator.

22 “(k) (1) Members of the Board shall receive no addi-
23 tional pay on account of their service on the Board.

24 “(2) Members shall be entitled to leave without loss of
25 or reduction in pay, leave, or performance or efficiency rat-



1 ing during a period of absence while in the actual perform-
2 ance of duties vested in the Board.

3 **“§ 7328. Investigation; procedures; hearing**

4 “(a) The Civil Service Commission shall investigate
5 reports and allegations of any activity prohibited by section
6 7323, 7324, or 7325 of this title. Any such investigation
7 shall terminate not later than 90 days after the date of its
8 commencement, except that such 90-day limitation may be
9 extended upon the written approval of the Board for the
10 period specified in such approval. If the Commission does
11 not make the notification required under subsection (c) of
12 this section before the close of the period for investigation,
13 subsections (c) (2) and (3) and (d) of this section, and
14 section 7329 of this title, shall not apply thereafter to the
15 employee involved with respect to the activities under
16 investigation.

17 “(b) As a part of the investigation of the activities of an
18 employee, the Commission shall provide such employee an
19 opportunity to make a statement concerning the matters
20 under investigation and to support such statement with any
21 documents the employee wishes to submit. An employee of
22 the Commission lawfully assigned to investigate a violation
23 of this subchapter may administer an oath to a witness at-
24 tending to testify or depose in the course of the investigation.

25 “(c) (1) If it appears to the Commission after investi-

1 gation that a violation of section 7323, 7324, or 7325 of
2 this title has not occurred, it shall so notify the employee and
3 the agency in which the employee is employed.

4 “(2) Except as provided in paragraph (3) of this sub-
5 section, if it appears to the Commission after investigation
6 that a violation of section 7323, 7324, or 7325 of this title
7 has occurred, the Commission shall submit to the Board and
8 serve upon the employee ~~a notice by certified mail, return~~
9 ~~receipt requested~~ *a written notice by certified mail* (or if
10 notice cannot be served in such manner, then by any method
11 calculated to reasonably apprise the employee)—

12 “(A) setting forth specifically and in detail the
13 charges of alleged prohibited activity;

14 “(B) advising the employee of the penalties pro-
15 vided under section 7329 of this title;

16 “(C) specifying a period of not less than 30 days
17 within which the employee may file with the Board a
18 written answer to the charges in the manner prescribed
19 by rules issued by the Board; and

20 “(D) advising the employee that unless the em-
21 ployee answers the charges, in writing, within the time
22 allowed therefor, the Board is authorized to treat such
23 failure as an admission by the employee of the charges
24 set forth in the notice and a waiver by the employee of
25 the right to a hearing on the charges.



1 “(3) If it appears to the Commission after investigation
2 that a violation of section 7323, 7324, or 7325 of this title
3 has been committed by—

4 “(A) the Vice President;

5 “(B) an employee appointed by the President by
6 and with the advice and consent of the Senate;

7 “(C) an employee whose appointment is expressly
8 required by statute to be made by the President;

9 “(D) the Mayor of the District of Columbia; or

10 “(E) the Chairman or a member of the Council of
11 the District of Columbia, as established by the District
12 of Columbia Self-Government and Governmental Re-
13 organization Act;

14 the Commission shall refer the case to the Attorney General
15 for prosecution under title 18, and shall report the nature and
16 details of the violation to the President and to the Congress.

17 “(d)(1) If a written answer is not ~~duly~~ filed within
18 the time allowed therefor, the Board may, without further
19 proceedings, issue its final decision and order.

20 “(2) If an answer is ~~duly filed~~, *filed within the time*
21 *allowed*, the charges shall be determined by the Board on
22 the record after a hearing conducted by a hearing examiner
23 appointed under section 3105 of this title, and, except as
24 otherwise expressly provided under this subchapter, in ac-
25 cordance with the requirements of subchapter II of chapter 5



1 of this title, notwithstanding any exception therein for matters
2 involving the tenure of an employee. The hearing shall be
3 commenced within 30 days after the answer is filed with the
4 Board and shall be conducted without unreasonable delay.
5 As soon as practicable after the conclusion of the hearing, the
6 examiner shall serve upon the Board, the Commission, and
7 the employee such examiner's recommended decision with
8 notice to the Commission and the employee of opportunity
9 to file with the Board, within 30 days after the date of such
10 notice, exceptions to the recommended decision. The Board
11 shall issue its final decision and order in the proceeding no
12 later than 60 days after the date the recommended decision
13 is served. The employee shall not be removed from active
14 duty status by reason of the alleged violation of this sub-
15 chapter at any time before the effective date specified by
16 the Board.

17 (e) (1) At any stage of a proceeding or investigation
18 under this subchapter, the Board may, at the written request
19 of the Commission or the employee, require by subpoena the
20 attendance and testimony of witnesses and the production
21 of documentary or other evidence relating to the proceeding
22 or investigation at any designated place, from any place in
23 the United States or any territory or possession thereof, the
24 Commonwealth of Puerto Rico, or the District of Columbia.
25 Any member of the Board may issue subpoenas and members



1 of the Board and any hearing examiner authorized by the
2 Board may administer oaths, examine witnesses, and receive
3 evidence. In the case of contumacy or failure to obey a sub-
4 pena, the United States district court for the judicial district
5 in which the person to whom the subpoena is addressed
6 resides or is served may, upon application by the Board,
7 issue an order requiring such person to appear at any desig-
8 nated place to testify or to produce documentary or other
9 evidence. Any failure to obey the order of the court may be
10 punished by the court as a contempt thereof.

11 “(2) The Board (or a member designated by the
12 Board) may order the taking of depositions at any stage of
13 a proceeding or investigation under this subchapter. Deposi-
14 tions shall be taken before an individual designated by the
15 Board and having the power to administer oaths. Testimony
16 shall be reduced to writing by or under the direction of the
17 individual taking the deposition and shall be subscribed by
18 the deponent.

19 “(3) (A) After requesting in writing and obtaining
20 the approval of the Attorney General, the Board may de-
21 termine that an employee’s attendance and testimony are
22 necessary to the carrying out of the Board’s functions under
23 this subchapter. For purposes of the preceding sentence, if
24 the Attorney General does not notify the Board in writing
25 within 30 days after the date on which a request for such



1 approval is made that the Board does not have his approval,
2 then such approval is deemed to have been given. Such
3 30-day period shall be extended an additional 10 days if
4 the Attorney General submits in writing to the Board the
5 reason for such extension.

6 “(B) If the Board makes a determination under sub-
7 paragraph (A) with respect to any employee, such em-
8 ployee may not be excused from attending and testifying
9 or from producing documentary or other evidence in obedi-
10 ence to a subpoena of the Board on the ground that the testi-
11 mony or evidence required of the employee may tend to in-
12 criminate the employee or subject the employee to a penalty
13 or forfeiture for or on account of any transaction, matter, or
14 thing concerning which the employee is compelled to testify
15 or produce evidence. No employee shall be prosecuted or
16 subjected to any penalty or forfeiture for or on account
17 of any transaction, matter, or thing concerning which the
18 employee is compelled under this paragraph, after having
19 claimed the privilege against self-incrimination, to testify
20 or produce evidence, nor shall testimony or evidence so com-
21 pelled be used as evidence in any criminal proceeding against
22 the employee in any court, except that no employee shall
23 be exempt from prosecution and punishment for perjury
24 committed in so testifying.

25 “(f) An employee upon whom a penalty is imposed by



1 an order of the Board under subsection (d) of this section
2 may, within 30 days after the date on which the order was
3 issued, institute an action for judicial review of the Board's
4 order in the United States District Court for the District of
5 Columbia or in the United States district court for the judicial
6 district in which the employee resides or is employed. The
7 institution of an action for judicial review shall not operate
8 as a stay of the Board's order, unless the court specifically
9 orders such stay. A copy of the summons and complaint
10 shall be served as otherwise prescribed by law and, in
11 addition, upon the ~~Board. Thereupon the Board shall certify~~
12 *Board which shall then certify* and file with the court the
13 record upon which the Board's order was based. If application
14 is made to the court for leave to adduce additional evidence,
15 and it is shown to the satisfaction of the court that the addi-
16 tional evidence may materially affect the result of the pro-
17 ceeding and that there were reasonable grounds for failure
18 to adduce the evidence at the hearing conducted under sub-
19 section (d) (2) of this section, the court may direct that
20 the additional evidence be taken before the Board in the
21 manner and on the terms and conditions fixed by the court.
22 The Board may modify its findings of fact or order, in the
23 light of the additional evidence, and shall file with the court
24 such modified findings or order. The Board's findings of fact,



1 if supported by substantial evidence, shall be conclusive. The
2 court shall affirm the Board's order if it determines that it
3 is in accordance with law. If the court determines that the
4 order is not in accordance with law—

5 “(1) it shall remand the proceeding to the Board
6 with directions either to enter an order determined by
7 the court to be lawful or to take such further proceedings
8 as, in the opinion of the court, are required; and

9 “(2) it may assess against the United States rea-
10 sonable attorney fees and other litigation costs reason-
11 ably incurred by the employee.

12 “(g) The Commission or the Board, in its discretion,
13 may proceed with any investigation or proceeding instituted
14 under this subchapter notwithstanding that the Commission
15 or the head of an employing agency or department has
16 reported the alleged violation to the Attorney General as
17 required by section 535 of title 28.

18 **“§ 7329. Penalties**

19 “(a) Subject to and in accordance with section 7328
20 of this title, an employee who is found to have violated
21 any provision of section 7323, 7324, or 7325 of this title
22 shall, upon a final order of the Board, be—

23 “(1) removed from such employee's position, in
24 which event that employee may not thereafter hold any



1 position (other than an elected position) as an em-
2 ployee (as defined in section 7322 (1) of this title) for
3 such period as the Board may prescribe;

4 " (2) suspended without pay from such employee's
5 position for such period as the Board may prescribe; or

6 " (3) disciplined in such other manner as the Board
7 shall deem appropriate.

8 " (b) The Board shall notify the Commission, the em-
9 ployee, and the employing agency of any penalty it has
10 imposed under this section. The employing agency shall
11 certify to the Board the measures undertaken to implement
12 the penalty.

13 **"§ 7330. Educational program; reports**

14 " (a) The Commission shall establish and conduct a
15 continuing program to inform all employees of their rights
16 of political participation and to educate employees with
17 respect to those political activities which are prohibited.
18 The Commission shall inform each employee individually
19 in writing, at least once each calendar year, of such em-
20 ployee's political rights and of the restrictions under this
21 subchapter. The Commission may determine, for each State,
22 the most appropriate date for providing information required
23 by this subsection. Such information, however, shall be pro-
24 vided to employees employed or holding office in any State
25 not later than 60 days before the earliest primary or gen-



1 eral election for State or Federal elective office held in such
2 State.

3 “(b) On or before March 30 of each calendar year, the
4 Commission shall submit a report covering the preceding
5 calendar year to the Speaker of the House of Representa-
6 tives and the President pro tempore of the Senate for referral
7 to the appropriate committees of the Congress. The report
8 shall include—

9 “(1) the number of investigations conducted under
10 section 7328 of this title and the results of such investi-
11 gations;

12 “(2) the name and position or title of each individ-
13 ual involved, and the funds expended by the Commis-
14 sion, in carrying out the program required under subsec-
15 tion (a) of this section; and

16 “(3) an evaluation which describes—

17 “(A) the manner in which such program is
18 being carried out; and

19 “(B) the effectiveness of such program in
20 carrying out the purposes set forth in subsection
21 (a) of this section.

22 **“§ 7331. Regulations**

23 “The Civil Service Commission shall prescribe such
24 rules and regulations as may be necessary to carry out its
25 responsibilities under this subchapter. However, no regula-



1 tion or rule of the Commission or any amendment thereto
2 shall take effect unless—

3 “(1) the Commission transmits such rule, regula-
4 tion, or amendments to the Congress; and

5 “(2) neither House of Congress has disapproved
6 such rule, regulation, or amendment within 30 legislative
7 days from the date of transmittal to the Congress.”.

8 (b) (1) Sections 8332 (k) (1), 8706 (e), and 8906
9 (e) (2) of title 5, United States Code, are each amended
10 by inserting immediately after “who enters on” the follow-
11 ing: “leave without pay granted under section 7326 (a)
12 of this title, or who enters on”.

13 (2) Section 3302 of title 5, United States Code, is
14 amended by striking out “7153, 7321, and 7322” and in-
15 serting in lieu thereof “and 7153”.

16 (3) Section 1308 (a) of title 5, United States Code, is
17 amended—

18 (A) by inserting “and” at the end of paragraph

19 (2);

20 (B) by striking out paragraph (3); and

21 (C) by redesignating paragraph (4) as paragraph

22 (3).

23 (4) The second sentence of section 8332 (k) (1) of title
24 5, United States Code, is amended by striking out “second”
25 and inserting “last” in lieu thereof.



1 (5) The section analysis for subchapter III of chapter
 2 73 of title 5, United States Code, is amended to read as
 3 follows:

"SUBCHAPTER III—POLITICAL ACTIVITIES

"Sec.

"7321. Political participation.

"7322. Definitions.

"7323. Use of official authority or influence; prohibition.

"7324. Solicitation; prohibition.

"7325. Political activities on ~~duty, etc.~~ *duty*; prohibition.

"7326. Leave for candidates for elective office.

"7327. Board on Political Activities of Federal Employees.

"7328. Investigation; procedures; hearing.

"7329. Penalties.

"7330. Educational program; reports.

"7331. Regulations."

4 (c) (1) Sections 602 and 607 of title 18, United States
 5 Code, relating to solicitations and making of political con-
 6 tributions, are each amended by adding at the end thereof
 7 the following new sentence: "This section does not apply to
 8 any activity of an employee, as defined in section 7322 (1)
 9 of title 5, unless such activity is prohibited by section 7324
 10 of that title."

11 (2) Chapter 29 of title 18 of the United States Code is
 12 amended—

13 (A) by adding at the end the following new
 14 section:

15 **"§ 614. Extortion of political contributions from Federal**
 16 **personnel**

17 "Whoever, by the commission of or threat of physical
 18 violence to, or economic sanction against, any person, ob-



1 tains, or endeavors to obtain, from an officer or employee of
2 the United States or of any department or agency thereof, or
3 from a person receiving any salary or compensation for serv-
4 ices from money derived from the Treasury of the United
5 States, any contribution for the promotion of a political ob-
6 ject, shall be imprisoned not less than two nor more than
7 three years, or fined not more than \$5,000, or both.”; and

8 (B) by adding at the end of the table of sections
9 for such chapter the following new item:

“614. Extortion of political contributions from Federal personnel.”.

10 (d) Section 6 of the Voting Rights Act of 1965 (42
11 U.S.C. 1973d) is amended by striking out “the provisions
12 of section 9 of the Act of August 2, 1939, as amended (5
13 U.S.C. 118i), prohibiting partisan political activity” and by
14 inserting in lieu thereof “the provisions of subchapter III
15 of chapter 73 of title 5, United States Code, relating to
16 political activities”.

17 (e) Sections 103 (a) (4) (D) and 203 (a) (4) (D) of
18 the District of Columbia Public Education Act are each
19 amended by striking out “sections 7324 through 7327 of title
20 5” and inserting in lieu thereof “section 7325 of title 5”.

21 (f) The amendments made by this section shall take
22 effect on the ninetieth day after the date of the enactment
23 of this Act, except that the provisions of section 7326 (a) (2)
24 of title 5, United States Code, as amended by this Act, shall



1 take effect on the one hundred and twentieth day after such
2 date.

3 (g) Not later than sixty days after the date of the enact-
4 ment of this Act, the Civil Service Commission shall—

5 (1) establish standards and criteria by which deter-
6 minations shall be made as to which elective offices will
7 be considered part-time elective offices for purposes of
8 administering section 7326 (a) (2) of such title 5, and

9 (2) prepare and transmit a report to the Congress
10 containing such standards and criteria.

Passed the House of Representatives October 21, 1975.

Attest:

W. PAT JENNINGS,

Clerk.



LEGISLATIVE NOTICE

SUPPLEMENT 4-1

FEBRUARY 25, 1976

U.S. SENATE REPUBLICAN POLICY COMMITTEE

John Tower, Chairman

Calendar 496

H.R. 8617: FEDERAL EMPLOYEES' POLITICAL ACTIVITIES ACT OF 1975

REPORTED: December 5 (legis. day, Dec. 2), 1975, Post Office & Civil Service
(Sen. Rept. 94-512)

PURPOSE: (1) To amend subchapter III of chapter 73, title 5, U.S.C., to permit Federal civilian and postal employees to take part voluntarily as private citizens in American political process at all levels of government; (2) to prohibit the abuse of authority, the coercion of employees into nonvoluntary political activity of any kind, and certain activities involving political contributions by employees; (3) to establish an independent Board on Political Activities of Federal Employees to adjudicate promptly alleged violations of law; and (4) to set forth provisions for the administration and oversight of law.

COST: Estimated no significant costs to Federal Government.

MINORITY VIEWS: Senators Fong and Bellmon. This bill, if enacted, will be disastrous for the Federal employees, the Civil Service merit system, and the American public.

It will strip away the protection which the employees have enjoyed under the Hatch Act for the past 36 years.

It will seriously damage the integrity of the merit system and the efficiency of the nonpartisan, independent Civil Service.

And it will be most unfair to the American people who will be saddled eventually with a second class Civil Service open to the evils of the old spoils system.

H.R. 8617 should be defeated.

ADMINISTRATION POSITION: Bill may be vetoed. It would eliminate nearly all restrictions on partisan political activities of Federal employees, even to the point of allowing employees who seek elected partisan office to campaign while on leave of absence, without severing their connection with the Government. Identification of Federal employees with partisan politics will deprive them of the protections they now have against improper political pressures, and allow partisan political consideration to impinge upon the execution of Federal programs, thus eroding public confidence in the neutrality and impartiality of Federal employees. Finally, the bill would subject Civil Service Commission regulations to disapproval by either House of Congress, a provision which violates the doctrine of separation of powers and represents an unconstitutional exercise of congressional power.

AMENDMENT #1272: Fong. To strike from the bill provisions for the Board on Political Activities of Federal Employees and to give to the Commission itself the functions which would have been carried out by this Board.

AMENDMENT #1273: Fong. The bill prohibits any employee from engaging in political activity: (1) while on duty; (2) in any room or building occupied in the discharge of official duties; and (3) while wearing a uniform or official insignia identifying office or position of such employee. The amendment would add a fourth prohibition: any political activity at any time, if such employee, in discharging his official duties, has had enough public contact to become publicly identified with a particular Government policy. Such an employee may voluntarily make a political contribution of money to a candidate for elective office, and this prohibition shall not apply to Presidential appointments made with the advice and consent of the Senate (primarily Cabinet and Subcabinet positions).

AMENDMENT #1274: Fong. To amend Subsection 7325 in the bill to: (1) prohibit an employee from being a candidate for or holding an elective office unless it is a part-time State or local elective office or is held by an individual elected in a nonpartisan election; (2) prohibit an employee from participating in any campaign activity connected with political parties unless it is a campaign for State or local office or held on a nonpartisan basis; and (3) define "nonpartisan election" as meaning any election (a) in which no candidate is nominated or elected as a representative of any political party identified with any candidate who received any vote in last preceding Presidential election or (b) on any issue not identified with any political party.

AMENDMENT #1275: Fong. The bill prohibits an employee from knowingly giving or handing over a political contribution to his superior, defined as another employee who exercises supervision of any employee as regards his career advancement or working conditions. The intention is to bar handing over a contribution to an employee with authority to affect the individual's employment, but not to prohibit an employee from making a contribution to someone who has a supervisory position in another agency. The amendment would prohibit an employee from handing over a contribution to any other employee of the Federal Government, supervisor or otherwise.

AMENDMENT #1276: Fong. For provisions of bill, see above amendment. This amendment would prohibit an employee from handing over or receiving a contribution to or from any other employee of the Federal Government, supervisor or otherwise. Also, the

bill defines "political contribution" to include: (1) money or anything of value made to influence nomination or election of candidate; (2) contract or promise to make a contribution; and (3) payment by any person other than candidate or a political organization or compensation for personal services of another person which are rendered to a candidate or political organization without charge. This amendment would also add another definition: Provision of personal services for purpose of influencing nomination or election of candidate.

AMENDMENT #1277: Fong. In addition to prohibitions in bill regarding solicitation of political contributions, the amendment would also prohibit giving or receiving a contribution to or from another employee (or his family) who is a union official.

AMENDMENT #1350: Dole. Bill excludes members of the armed services from its provisions; amendment adds to this exclusion the Internal Revenue Service, the FBI, and Postal Service.

AMENDMENT #1351: Dole. Provides that an employee who twice violates the provision prohibiting use of authority to interfere with or influence an election, or gives a contribution to influence to any individual to vote or refrain from voting, or engages in political activity while on duty, shall be permanently suspended from Federal employment.

AMENDMENT #1352: Dole. Makes effective date of act January 1, 1977.

AMENDMENT #1354: Hathaway. Employees who become candidates for elective office to be placed on leave without pay day after becoming candidate until day after final election or day after ceasing to be candidate. Any employee elected to office shall be removed from employment at the end of any leave due him. Commission must provide information to employees concerning their political rights no later than 120 days prior to the earliest primary date in their State.

AMENDMENT #1366: Dole. (To serve as a substitute for Amdt. #1350.) To exclude employees of the IRS, FBI, and U.S. Postal Service from certain provisions of bill. (Change in wording, not in intent.)

AMENDMENT #1408: Fong. Eliminates the Board and transfers its functions to the Civil Service Commission.

AMENDMENT #1409: Fong. Tightens prohibition on political activity and prohibits all such activities for employees who are in a position of formulating policy or who are employed by Dept. Justice, IRS, CIA, National Security Agency or Defense Intelligence Agency except to make campaign contributions to candidates. Provisions do not apply to officers or employees appointed by President with advice and consent of Senate.

AMENDMENT #1410: Fong. Employees may not hold elective office unless such office is a part-time or local elective office or a bipartisan local office. Applies to all Federal employees and those of the District of Columbia.

AMENDMENT #1412: Dole. Similar to his Amdt. #1351. Any employee who violates twice provisions of sections 7323, 7324, and 7325 of Act shall be dismissed and not again hired by Federal Government.

THE WHITE HOUSE

WASHINGTON

March 8, 1976

MEMORANDUM FOR: PHIL BUCHEN
FROM: KEN LAZARUS *KL*
SUBJECT: H. R. 8617, the Federal Employees'
Political Activities Act of 1976

The principal purpose of the legislation noted above is to amend chapter 73 of Title 5, U. S. C. to permit Federal civilian and postal employees to take part voluntarily as private citizens in the American political process at all levels of government.

This bill passed the House on October 31, 1975, by a roll call vote of 288 to 119. Senate floor action on the proposal is now set for sometime later this week.

The President, through Bob Hampton, has indicated that he intends to veto the measure if it is presented in the form in which it passed the House. At this juncture, it would appear that Senate action will only make the measure more objectionable to the Administration.

Attached is a copy of the Senate Republican Policy Committee floor sheet on the bill. Additionally, I have been advised that Senator Clark will introduce an amendment to treat White House staff in the same manner as other Federal employees for purposes of the Hatch Act (see page 7 of the bill, copy of which is also attached).

Mr. Nathan Wolkomir, President of the National Federation of Federal Employees which represents some 150,000 government workers, recently wrote to the President and expressed his dissatisfaction with the bill. Bill Barody has responded to his letter and indicated that we would be arranging a meeting between senior staff members here at the White House and Mr. Wolkomir. Additionally, I am putting in a schedule proposal on behalf of our



office, Domestic Council, Baroody, etc. suggesting that the President meet with this fellow, which could be of some assistance in terms of generating enough support in the Senate to sustain a veto. (Also attached is a preliminary head count on the Senate vote.) I am advised that at this point in time prospects for sustaining a veto in the House are fair.

Attachments



THE WHITE HOUSE

WASHINGTON

April 5, 1976

MEMORANDUM FOR THE FILE

FROM: BARRY ROTH *BR*

Coleman Andrews of the CIEP staff asked my advice on whether he, as a Hatched employee, can provide statistical and analytical information on the economy to the PFC. Although the statistical information involved would be provided to any member of the public on request, the analytical information being sought would not ordinarily be provided. In order to avoid any question of violation of the Hatch Act, I advised Coleman that all contacts between the PFC and CIEP should be limited to those with persons on the White House payroll; i. e., Bill Seidman, Bill Gorog or Roger Porter. Accordingly, Coleman indicated that Bill Gorog will be the contact with the PFC. "Hatched" CIEP personnel who gather information for Gorog will not be aware which information is provided to the PFC. This is the same procedure used by the Domestic Council for responding to requests from the PFC on the President's official position with respect to various policy issues.

cc: Phil Buchen
Ed Schmults ✓

THE WHITE HOUSE

WASHINGTON

April 5, 1976

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