

desire his spouse to receive this annuity. The annuity of the spouse commences on the day after the retired employee or Member dies. This annuity and the right thereto terminate on the last day of the month before the spouse dies or remarries.

(c) The annuity of a survivor named under section 8339(j) of this title is 55 percent of the reduced annuity of the retired employee or Member. The annuity of the survivor commences on the day after the retired employee or Member dies. This annuity and the right thereto terminate on the last day of the month before the survivor dies.

(d) If an employee or Member dies after completing at least 5 years of civilian service, the widow or dependent widower of the employee or Member is entitled to an annuity equal to 55 percent of an annuity computed under section 8339(a)–(e) and (h) of this title as may apply with respect to the employee or Member. The annuity of the widow or dependent widower commences on the day after the employee or Member dies. This annuity and the right thereto terminate on the last day of the month before—

(1) the widow or dependent widower dies or remarries; or

(2) the dependent widower becomes capable of self-support.

(e) (1) If an employee or Member dies after completing at least 5 years of civilian service, or an employee or Member dies after retiring under this subchapter, and is survived by a spouse, each surviving child who received more than half of his support from the employee or Member is entitled to an annuity equal to the smallest of—

(A) 40 percent of the average pay of the employee or Member divided by the number of children;

(B) \$600; or

(C) \$1,800 divided by the number of children.

If the employee or Member is not survived by a spouse, each surviving child is entitled to an annuity equal to the smallest of—

(i) 50 percent of the average pay of the employee or Member divided by the number of children;

(ii) \$720; or

(iii) \$2,160 divided by the number of children.

(2) The annuity of the child commences on the day after the employee or Member dies. This annuity granted under this subchapter or under the Act of May 29, 1930, as amended from and after February 28, 1948, and the right thereto terminate on the last day of the month before the child—

(A) becomes 18 years of age unless incapable of self-support;

(B) becomes capable of self-support after age 18; or

(C) dies or marries.

However, the annuity of a child who is a student as described by subsection (a) (4) of this section terminates on the last day of the month before he—

(i) ceases to be such a student;

(ii) becomes 21 years of age; or

(iii) dies or marries.

On the death of the surviving spouse or termination of the annuity of a child, the annuity of any other child or children shall be recomputed and paid as though the spouse or child had not survived the employee or Member.

(f) If a Member heretofore or hereafter separated from the service with title to deferred annuity from the Fund hereafter dies before having established a valid claim for annuity and is survived by a

spouse to whom married at the date of separation, the surviving spouse—

(1) is entitled to an annuity equal to 55 percent of the deferred annuity of the Member commencing on the day after the Member dies and terminating on the last day of the month before the surviving spouse dies or remarries; or

(2) may elect to receive the lump-sum credit instead of annuity if the spouse is the individual who would be entitled to the lump-sum credit and files application therefor with the Commission before the award of the annuity.

**§ 8342. Lump-sum benefits; designation of beneficiary; order of precedence**

(a) An employee or Member who is separated from the service, or is transferred to a position not within the purview of this subchapter, is entitled to be paid the lump-sum credit if his separation or transfer occurs and application for payment is filed with the Civil Service Commission at least 31 days before the earliest commencing date of any annuity for which he is eligible. The receipt of payment of the lump-sum credit by the individual voids all annuity rights under this subchapter, until he is reemployed in the service subject to this subchapter. This subsection also applies to an employee or Member separated before October 1, 1956, after completing at least 20 years of civilian service.

(b) Under regulations prescribed by the Commission, a present or former employee or Member may designate a beneficiary or beneficiaries for the purpose of this subchapter.

(c) Lump-sum benefits authorized by subsections (d)–(f) of this section shall be paid to the person or persons surviving the employee or Member and alive at the date title to the payment arises in the following order of precedence, and the payment bars recovery by any other person:

First, to the beneficiary or beneficiaries designated by the employee or Member in a writing received in the Commission before his death.

Second, if there is no designated beneficiary, to the widow or widower of the employee or Member.

Third, if none of the above, to the child or children of the employee or Member and descendants of deceased children by representation.

Fourth, if none of the above, to the parents of the employee or Member or the survivor of them.

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of the employee or Member.

Sixth, if none of the above, to such other next of kin of the employee or Member as the Commission determines to be entitled under the laws of the domicile of the employee or Member at the date of his death.

(d) If an employee or Member dies—

(1) without a survivor; or

(2) with a survivor or survivors and the right of all survivors terminates before a claim for survivor annuity is filed; or if a former employee or Member not retired dies, the lump-sum credit shall be paid.

(e) If all annuity rights under this subchapter based on the service of a deceased employee or Member terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

(f) If an annuitant dies, annuity accrued and unpaid shall be paid.  
(g) Annuity accrued and unpaid on the termination, except by death, of the annuity of an annuitant or survivor annuitant shall be paid to that individual. Annuity accrued and unpaid on the death of a survivor annuitant shall be paid in the following order of precedence, and the payment bars recovery by any other person:

First, to the duly appointed executor or administrator of the estate of the survivor annuitant.

Second, if there is no executor or administrator, payment may be made, after 30 days from the date of death of the survivor annuitant, to such next of kin of the survivor annuitant as the Commission determines to be entitled under the laws of the domicile of the survivor annuitant at the date of his death.

(h) Amounts deducted and withheld from the basic pay of an employee or Member from the first day of the first month which begins after he has performed sufficient service (excluding service which the employee or Member elects to eliminate for the purpose of annuity computation under section 8339 of this title) to entitle him to the maximum annuity provided by section 8339 of this title, together with interest on the amounts at the rate of 3 percent a year compounded annually from the date of the deductions to the date of retirement or death, shall be applied toward any deposit due under section 8334 of this title, and any balance not so required is deemed a voluntary contribution for the purpose of section 8343 of this title.

(i) An employee who—

(1) is separated from the service before July 12, 1960; and

(2) continues in the service after July 12, 1960, without break in service of 1 workday or more;

is entitled to the benefits of subsection (h) of this section.

#### **§ 8343. Additional annuities; voluntary contributions**

(a) Under regulations prescribed by the Civil Service Commission, an employee or Member may voluntarily contribute additional sums in multiples of \$25, but the total may not exceed 10 percent of his basic pay for creditable service after July 31, 1920. The voluntary contribution account in each case is the sum of unrefunded contributions, plus interest at 3 percent a year compounded annually to—

(1) the date of payment under subsection (d) of this section, separation, or transfer to a position not within the purview of this subchapter, whichever is earliest; or

(2) the commencing date fixed for a deferred annuity or date of death, whichever is earlier, in the case of an individual who is separated with title to deferred annuity and does not claim the voluntary contribution account.

(b) The voluntary contribution account is used to purchase at retirement an annuity in addition to the annuity otherwise provided. For each \$100 in the voluntary contribution account, the additional annuity consists of \$7, increased by 20 cents for each full year, if any, the employee or Member is over 55 years of age at the date of retirement.

(c) A retiring employee or Member may elect a reduced additional annuity instead of the additional annuity described by subsection (b) of this section and designate in writing an individual to receive after his death an annuity of 50 percent of his reduced additional annuity. The additional annuity of the employee or Member making the election is reduced by 10 percent, and by 5 percent for each full 5 years the individual designated is younger than the retiring employee or Member. However, the total reduction may not exceed 40 percent.

(d) A present or former employee or Member is entitled to be paid the voluntary contribution account if he files application for payment with the Commission before receiving an additional annuity. An individual who has been paid the voluntary contribution account may not again deposit additional sums under this section until, after a separation from the service of more than 3 calendar days, he again becomes subject to this subchapter.

(e) If a present or former employee or Member not retired dies, the voluntary contribution account is paid under section 8342(c) of this title. If all additional annuities or any right thereto based on the voluntary contribution account of a deceased employee or Member terminate before the total additional annuity paid equals the account, the difference is paid under section 8342(c) of this title.

#### **§ 8344. Annuities and pay on reemployment**

(a) If an annuitant receiving annuity from the Fund, except—

(1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;

(2) an annuitant whose annuity is based on an involuntary separation from the service other than an automatic separation; or

(3) a Member receiving annuity from the Fund; becomes employed after September 30, 1956, or on July 31, 1956 was serving, in an appointive or elective position, his service on and after the date he was or is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay. If the annuitant serves on a full-time basis, except as President, for at least 1 year in employment not excluding him from coverage under section 8331(1)(i) or (ii) of this title—

(A) his annuity on termination of employment is increased by an annuity computed under section 8339 (a), (b), (d), (g), and (h) of this title as may apply based on the period of employment and the basic pay, before deduction, averaged during that employment; and

(B) his lump-sum credit may not be reduced by annuity paid during that employment.

If the described employment of the annuitant continues for at least 5 years, he may elect, instead of the benefits provided by this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter. A similar right to redetermination after deposit is applicable to an annuitant—

(i) whose annuity is based on an involuntary separation from the service; and

(ii) who is separated after October 3, 1961, following a period of employment on a full-time basis which began before October 1, 1956.

The employment of an annuitant under this subsection does not create an annuity for or affect the annuity of a survivor.

(b) If a Member receiving annuity from the Fund becomes employed in an appointive or elective position, annuity payments are discontinued during the employment and resumed in the same amount on termination of the employment, except that—

(1) the retired Member or Member separated with title to immediate or deferred annuity, who serves at any time after sep-

aration as a Member in an appointive position in which he is within the purview of this subchapter, is entitled, if he so elects, to have his Member annuity computed or recomputed as if the service had been performed before his separation as a Member and the annuity as so computed or recomputed is effective—

(A) the day Member annuity commences; or

(B) the day after the date of separation from the appointive position; whichever is later;

(2) if the retired Member becomes employed after December 31, 1958, in an appointive position on an intermittent-service basis—

(A) his annuity continues during the employment and is not increased as a result of service performed during that employment;

(B) retirement deductions may not be withheld from his pay;

(C) an amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay; and

(D) the amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund;

(3) if the retired Member becomes employed after December 31, 1958, in an appointive position without pay on a full-time or substantially full-time basis, his annuity continues during the employment and is not increased as a result of service performed during the employment; and

(4) if the retired Member takes office as Member and gives notice as provided by section 8331(2) of this title, his service as Member during that period shall be credited in determining his right to and the amount of later annuity.

This subsection does not apply to a Member appointed by the President to a position not requiring confirmation by the Senate.

#### **§ 8345. Payment of benefits; commencement, termination, and waiver of annuity**

(a) Each annuity is stated as an annual amount, one-twelfth of which, fixed at the nearest dollar, constitutes the monthly rate payable on the first business day of the month after the month or other period for which it has accrued.

(b) Except as otherwise provided, the annuity of an employee or Member commences on the day after he is separated from the service, or on the day after his pay ceases and he meets the service and the age or disability requirements for title to annuity. An annuity payable from the Fund allowed after September 5, 1960, commences on the day after the occurrence of the event on which payment thereof is based.

(c) The annuity of a retired employee or Member terminates on the day death or other terminating event provided by this subchapter occurs. The annuity of a survivor terminates on the last day of the month before death or other terminating event occurs.

(d) An individual entitled to annuity from the Fund may decline to accept all or any part of the annuity by a waiver signed and filed with the Civil Service Commission. The waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver was in effect.

(e) Payment due a minor, or an individual mentally incompetent or under other legal disability, may be made to the person who is con-

stituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person who, in the judgment of the Commission, is responsible for the care of the claimant, and the payment bars recovery by any other person.

**§ 8346. Exemption from legal process; recovery of payments**

(a) The money mentioned by this subchapter is not assignable, either in law or equity, or subject to execution, levy, attachment, garnishment, or other legal process.

(b) Recovery of payments under this subchapter may not be made from an individual when, in the judgment of the Civil Service Commission, the individual is without fault and recovery would be against equity and good conscience. Withholding or recovery of money mentioned by this subchapter on account of a certification or payment made by a former employee of the United States in the discharge of his official duties may be made only if the head of the agency on behalf of which the certification or payment was made certifies to the Commission that the certification or payment involved fraud on the part of the former employee.

**§ 8347. Administration; regulations**

(a) The Civil Service Commission shall administer this subchapter. Except as otherwise specifically provided herein, the Commission shall perform, or cause to be performed, such acts and prescribe such regulations as are necessary and proper to carry out this subchapter.

(b) Applications under this subchapter shall be in such form as the Commission prescribes. Agencies shall support the applications by such certificates as the Commission considers necessary to the determination of the rights of applicants. The Commission shall adjudicate all claims under this subchapter.

(c) The Commission shall determine questions of disability and dependency arising under this subchapter. The decisions of the Commission concerning these matters are final and conclusive and are not subject to review. The Commission may direct at any time such medical or other examinations as it considers necessary to determine the facts concerning disability or dependency of an individual receiving or applying for annuity under this subchapter. The Commission may suspend or deny annuity for failure to submit to examination.

(d) An administrative action or order affecting the rights or interests of an individual or of the United States under this subchapter may be appealed to the Commission under procedures prescribed by the Commission.

(e) The Commission shall fix the fees for examinations made under this subchapter by physicians or surgeons who are not medical officers of the United States. The fees and reasonable traveling and other expenses incurred in connection with the examinations are paid from appropriations for the cost of administering this subchapter.

(f) The Commission shall select three actuaries, to be known as the Board of Actuaries of the Civil Service Retirement System. The Commission shall fix the pay of the members of the Board, except members otherwise in the employ of the United States. The Board shall report annually on the actuarial status of the System and furnish its advice and opinion on matters referred to it by the Commission. The Board may recommend to the Commission and to Congress

such changes as in the Board's judgment are necessary to protect the public interest and maintain the System on a sound financial basis. The Commission shall keep, or cause to be kept, such records as it considers necessary for making periodic actuarial valuations of the System. The Board shall make actuarial valuations every 5 years, or oftener if considered necessary by the Commission.

(g) The Commission may exclude from the operation of this subchapter an employee or group of employees in or under an Executive agency whose employment is temporary or intermittent.

(h) The Commission, on recommendation by the Commissioners of the District of Columbia, may exclude from the operation of this subchapter an individual or group of individuals employed by the government of the District of Columbia whose employment is temporary or intermittent.

(i) The Architect of the Capitol may exclude from the operation of this subchapter an employee under the Office of the Architect of the Capitol whose employment is temporary or of uncertain duration.

(j) The Librarian of Congress may exclude from the operation of this subchapter an employee under the Library of Congress whose employment is temporary or of uncertain duration.

(k) The Secretary of Agriculture shall prescribe regulations to effect the application and operation of this subchapter to an individual named by section 8331(1)(F) of this title.

#### **§ 8348. Civil Service Retirement and Disability Fund**

(a) There is a Civil Service Retirement and Disability Fund. The Fund is appropriated for the payment of benefits as provided by this subchapter.

(b) The Secretary of the Treasury may accept and credit to the Fund money received in the form of a donation, gift, legacy, or bequest, or otherwise contributed for the benefit of civil-service employees generally.

(c) The Secretary shall immediately invest in interest-bearing securities of the United States such currently available portions of the Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

(d) The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are extended to authorize the issuance at par of public-debt obligations for purchase by the Fund. The obligations issued for purchase by the Fund shall have maturities fixed with due regard for the needs of the Fund and bear interest at a rate equal to the average market yield computed as of the end of the calendar month next preceding the date of the issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of that calendar month. If the average market yield is not a multiple of  $\frac{1}{8}$  of 1 percent, the rate of interest on the obligations shall be the multiple of  $\frac{1}{8}$  of 1 percent nearest the average market yield.

(e) The Secretary may purchase other interest-bearing obligations of the United States, or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price only if he determines that the purchases are in the public interest.

(f) The Civil Service Commission shall submit estimates of the appropriations necessary to finance the Fund on a normal cost plus interest basis and to carry out this subchapter.

(g) Money now or hereafter contained in the Fund may not be used to pay an increase in annuity benefits or a new annuity benefit under this subchapter or an earlier statute which is authorized by amendment thereof until and unless an appropriation is made to the Fund in an amount which the Commission estimates to be sufficient to prevent an immediate increase in the unfunded accrued liability of the Fund.

## CHAPTER 85—UNEMPLOYMENT COMPENSATION

### SUBCHAPTER I—EMPLOYEES GENERALLY

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### SUBCHAPTER I—EMPLOYEES GENERALLY

#### § 8501. Definitions

For the purpose of this subchapter—

(1) "Federal service" means service performed after 1952 in the employ of the United States or an instrumentality of the United States which is wholly or partially owned by the United States, but does not include service (except service to which subchapter II of this chapter applies) performed—

(A) by an elective official in the executive or legislative branch;

(B) as a member of the armed forces;

(C) by Foreign Service personnel for whom special separation allowances are provided under chapter 14 of title 22;

(D) outside the United States, the Commonwealth of Puerto Rico, and the Virgin Islands by an individual who is not a citizen of the United States;

(E) by an individual excluded by regulations of the Civil Service Commission from the operation of subchapter III of chapter 83 of this title because he is paid on a contract or fee basis;

(F) by an individual receiving nominal pay and allowances of \$12 or less a year;

(G) in a hospital, home, or other institution of the United States by a patient or inmate thereof;

(H) by a student-employee as defined by section 5351 of this title;

(I) by an individual serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

(J) by an individual employed under a Federal relief program to relieve him from unemployment;



(K) as a member of a State, county, or community committee under the Agricultural Stabilization and Conservation Service or of any other board, council, committee, or other similar body, unless the board, council, committee, or other body is composed exclusively of individuals otherwise in the full-time employ of the United States; or

(L) by an officer or a member of the crew on or in connection with an American vessel—

(i) owned by or bareboat chartered to the United States; and

(ii) whose business is conducted by a general agent of the Secretary of Commerce;

if contributions on account of the service are required to be made to an unemployment fund under a State unemployment compensation law under section 3305(g) of title 26;

(2) "Federal wages" means all pay and allowances, in cash and in kind, for Federal service;

(3) "Federal employee" means an individual who has performed Federal service;

(4) "compensation" means cash benefits payable to an individual with respect to his unemployment including any portion thereof payable with respect to dependents;

(5) "benefit year" means the benefit year as defined by the applicable State unemployment compensation law, and if not so defined the term means the period prescribed in the agreement under this subchapter with a State or, in the absence of such an agreement, the period prescribed by the Secretary of Labor;

(6) "State" means the several States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(7) "United States", when used in a geographical sense, means the States.

#### **§ 8502. Compensation under State agreement**

(a) The Secretary of Labor, on behalf of the United States, may enter into an agreement with a State, or with an agency administering the unemployment compensation law of a State, under which the State agency shall—

(1) pay, as agent of the United States, compensation under this subchapter to Federal employees; and

(2) otherwise cooperate with the Secretary and with other State agencies in paying compensation under this subchapter.

(b) Except as provided by subsection (c) of this section, the agreement shall provide that compensation will be paid by the State to a Federal employee in the same amount, on the same terms, and subject to the same conditions as the compensation which would be payable to him under the unemployment compensation law of the State if his Federal service and Federal wages assigned under section 8504 of this title to the State had been included as employment and wages under that State law.

(c) In the case of the Commonwealth of Puerto Rico, the agreement shall provide that compensation will be paid by the Commonwealth to a Federal employee whose Federal service and Federal wages are assigned under section 8504 of this title to the Commonwealth (but only in the case of weeks of unemployment beginning before January 1, 1966), in the same amount, on the same terms, and subject to the same conditions as the compensation which would be payable to him under the unemployment compensation law of the District of

Columbia if his Federal service and Federal wages had been included as employment and wages under that law. However, if the Federal employee, without regard to his Federal service and Federal wages, has employment or wages sufficient to qualify for compensation during the benefit year under that law, then payments of compensation under this subsection may be made only on the basis of his Federal service and Federal wages. In applying this subsection, employment and wages under the unemployment compensation law of the Commonwealth may not be combined with Federal service or Federal wages.

(d) A determination by a State agency with respect to entitlement to compensation under an agreement is subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

(e) Each agreement shall provide the terms and conditions on which it may be amended or terminated.

### **§ 8503. Compensation absent State agreement**

(a) In the case of a Federal employee whose Federal service and Federal wages are assigned under section 8504 of this title to a State which does not have an agreement with the Secretary of Labor, the Secretary, under regulations prescribed by him, shall, on the filing by the Federal employee of a claim for compensation under this subsection, pay compensation to him in the same amount, on the same terms, and subject to the same conditions as would be paid to him under the unemployment compensation law of the State if his Federal service and Federal wages had been included as employment and wages under that State law. However, if the Federal employee, without regard to his Federal service and Federal wages, has employment or wages sufficient to qualify for compensation during the benefit year under that State law, then payments of compensation under this subsection may be made only on the basis of his Federal service and Federal wages. For the purpose of this subsection, "State" does not include the Commonwealth of Puerto Rico in the case of weeks of unemployment beginning before January 1, 1966.

(b) In the case of a Federal employee whose Federal service and Federal wages are assigned under section 8504 of this title to—

(1) the Virgin Islands; or

(2) the Commonwealth of Puerto Rico with respect to weeks of unemployment beginning before January 1, 1966;

the Secretary, under regulations prescribed by him and on the filing of a claim for compensation under this subsection by the Federal employee, shall pay the compensation to him in the same amounts, on the same terms, and subject to the same conditions as would be paid to him under the unemployment compensation law of the District of Columbia if his Federal service and Federal wages had been included as employment and wages under that law. However, if the Federal employee, without regard to his Federal service and Federal wages, has employment or wages sufficient to qualify for compensation during the benefit year under that law, then payments of compensation under this subsection may be made only on the basis of his Federal service and Federal wages. In the case of weeks of unemployment beginning before January 1, 1966, this subsection applies with respect to the Commonwealth of Puerto Rico only if the Commonwealth does not have an agreement under this subchapter with the Secretary. In applying this subsection, employment and wages under the unemploy-

ment compensation law of the Commonwealth may not be combined with Federal service or Federal wages.

(c) A Federal employee whose claim for compensation under subsection (a) or (b) of this section is denied is entitled to a fair hearing under regulations prescribed by the Secretary. A final determination by the Secretary with respect to entitlement to compensation under this section is subject to review by the courts in the same manner and to the same extent as is provided by section 405(g) of title 42.

(d) For the purpose of this section, the Secretary may—

(1) use the personnel and facilities of the agency in the Virgin Islands cooperating with the United States Employment Service under chapter 4B of title 29; and

(2) delegate to officials of that agency the authority granted to him by this section when he considers the delegation to be necessary in carrying out the purpose of this subchapter.

For the purpose of payments made to that agency under chapter 4B of title 29, the furnishing of the personnel and facilities is deemed a part of the administration of the public employment offices of that agency.

#### **§ 8504. Assignment of Federal service and wages**

Under regulations prescribed by the Secretary of Labor, the Federal service and Federal wages of a Federal employee shall be assigned to the State in which he had his last official station in Federal service before the filing of his first claim for compensation for the benefit year. However—

(1) if, at the time of filing his first claim, he resides in another State in which he performed, after the termination of his Federal service, service covered under the unemployment compensation law of the other State, his Federal service and Federal wages shall be assigned to the other State;

(2) if his last official station in Federal service, before filing his first claim, was outside the United States, his Federal service and Federal wages shall be assigned to the State where he resides at the time he files his first claim; and

(3) if his first claim is filed—

(A) before January 1, 1966, while he is residing in the Commonwealth of Puerto Rico; or

(B) while he is residing in the Virgin Islands; his Federal service and Federal wages shall be assigned to the one in which he resides.

In the case of a first claim filed before January 1, 1966, "United States" in paragraph (2) of this section does not include the Commonwealth of Puerto Rico.

#### **§ 8505. Payments to States**

(a) Each State is entitled to be paid by the United States an amount equal to the additional cost to the State of payments of compensation in accordance with an agreement under this subchapter which would not have been made by the State but for the agreement.

(b) Each State shall be paid, either in advance or by way of reimbursement, as may be determined by the Secretary of Labor, the sum that the Secretary estimates the State is entitled to receive under this subchapter for each calendar month. The sum shall be reduced or increased by the amount which the Secretary finds that his estimate for an earlier calendar month was greater or less than the sum which should have been paid to the State. An estimate may be made on the basis of a statistical, sampling, or other method agreed on by the Secretary and the State agency.

(c) The Secretary, from time to time, shall certify to the Secretary of the Treasury the sum payable to each State under this section. The Secretary of the Treasury, before audit or settlement by the General Accounting Office, shall pay the State in accordance with the certification from the funds for carrying out the purposes of this subchapter.

(d) Money paid a State under this subchapter may be used solely for the purposes for which it is paid. Money so paid which is not used for these purposes shall be returned, at the time specified by the agreement, to the Treasury of the United States and credited to current applicable appropriations, funds, or accounts from which payments to States under this subchapter may be made.

(e) An agreement may—

(1) require each State officer or employee who certifies payments or disburses funds under the agreement, or who otherwise participates in its performance, to give a surety bond to the United States in the amount the Secretary considers necessary; and

(2) provide for payment of the cost of the bond from funds for carrying out the purposes of this subchapter.

(f) In the absence of gross negligence or intent to defraud the United States, an individual designated by the Secretary, or designated under an agreement, as a certifying official is not liable for the payment of compensation certified by him under this subchapter.

(g) In the absence of gross negligence or intent to defraud the United States, a disbursing official is not liable for a payment by him under this subchapter if it was based on a voucher signed by a certifying official designated as provided by subsection (f) of this section.

(h) For the purpose of payments made to a State under subchapter III of chapter 7 of title 42, administration by a State agency under an agreement is deemed a part of the administration of the State unemployment compensation law.

#### **§ 8506. Dissemination of information**

(a) Each agency of the United States and each wholly or partially owned instrumentality of the United States shall make available to State agencies which have agreements under this subchapter, or to the Secretary of Labor, as the case may be, such information concerning the Federal service and Federal wages of a Federal employee as the Secretary considers practicable and necessary for the determination of the entitlement of the Federal employee to compensation under this subchapter. The information shall include the findings of the employing agency concerning—

- (1) whether or not the Federal employee has performed Federal service;
- (2) the periods of Federal service;
- (3) the amount of Federal wages; and
- (4) the reasons for termination of Federal service.

The employing agency shall make the findings in the form and manner prescribed by regulations of the Secretary. The regulations shall include provision for correction by the employing agency of errors and omissions. Findings made in accordance with the regulations are final and conclusive for the purpose of sections 8502(d) and 8508(c) of this title. This subsection does not apply with respect to Federal service and Federal wages covered by subchapter II of this chapter.

(b) The agency administering the unemployment compensation law of a State shall furnish the Secretary such information as he con-

siders necessary or appropriate in carrying out this subchapter. The information is deemed the report required by the Secretary for the purpose of section 503(a)(6) of title 42.

**§ 8507. False statements and misrepresentations**

(a) If a State agency, the Secretary of Labor, or a court of competent jurisdiction finds that an individual—

(1) knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact; and

(2) as a result of that action has received an amount as compensation under this subchapter to which he was not entitled; the individual shall repay the amount to the State agency or the Secretary. Instead of requiring repayment under this subsection, the State agency or the Secretary may recover the amount by deductions from compensation payable to the individual under this subchapter during the 2-year period after the date of the finding. A finding by a State agency or the Secretary may be made only after an opportunity for a fair hearing, subject to such further review as may be appropriate under sections 8502(d) and 8503(c) of this title.

(b) An amount repaid under subsection (a) of this section shall be—

(1) deposited in the fund from which payment was made, if the repayment was to a State agency; or

(2) returned to the Treasury of the United States and credited to the current applicable appropriation, fund, or account from which payment was made, if the repayment was to the Secretary.

**§ 8508. Regulations**

The Secretary of Labor may prescribe rules and regulations necessary to carry out this subchapter and subchapter II of this chapter. The Secretary, insofar as practicable, shall consult with representatives of the State unemployment compensation agencies before prescribing rules or regulations which may affect the performance by the State agencies of functions under agreements under this subchapter.

**SUBCHAPTER II—EX-SERVICEMEN**

**§ 8521. Definitions; application**

(a) For the purpose of this subchapter—

(1) "Federal service" means active service, including active duty for training purposes, in the armed forces which either began after January 31, 1955, or terminated after October 27, 1958, if—

(A) that service was continuous for 90 days or more, or was terminated earlier because of an actual service-incurred injury or disability; and

(B) with respect to that service, the individual—

(i) was discharged or released under conditions other than dishonorable; and

(ii) was not given a bad conduct discharge, or, if an officer, did not resign for the good of the service; and

(2) "Federal wages" means all pay and allowances, in cash and in kind, for Federal service, computed on the basis of the pay and allowances for the pay grade of the individual at the time of his latest discharge or release from Federal service as specified in the schedule applicable at the time he files his first claim for compen-

sation for the benefit year. The Secretary of Labor shall issue, from time to time, after consultation with the Secretary of Defense, schedules specifying the pay and allowances for each pay grade of servicemen covered by this subchapter, which reflect representative amounts for appropriate elements of the pay and allowances whether in cash or in kind.

(b) The provisions of subchapter I of this chapter, subject to the modifications made by this subchapter, apply to individuals who have had Federal service as defined by subsection (a) of this section.

#### **§ 8522. Assignment of Federal service and wages**

Notwithstanding section 8504 of this title, Federal service and Federal wages not previously assigned shall be assigned to the State or to the Virgin Islands, as the case may be, in which the claimant first files claim for unemployment compensation after his latest discharge or release from Federal service. This assignment is deemed an assignment under section 8504 of this title for the purpose of this subchapter.

#### **§ 8523. Dissemination of information**

(a) When designated by the Secretary of Labor, an agency of the United States shall make available to the appropriate State agency or to the Secretary, as the case may be, such information, including findings in the form and manner prescribed by regulations of the Secretary, as the Secretary considers practicable and necessary for the determination of the entitlement of an individual to compensation under this subchapter.

(b) Subject to correction of errors and omissions as prescribed by regulations of the Secretary, the following are final and conclusive for the purpose of sections 8502(d) and 8503(c) of this title:

(1) Findings by an agency of the United States made in accordance with subsection (a) of this section with respect to—

(A) whether or not an individual has met any condition specified by section 8521(a)(1) of this title;

(B) the periods of Federal service; and

(C) the pay grade of the individual at the time of his latest discharge or release from Federal service.

(2) The schedules of pay and allowances prescribed by the Secretary under section 8521(a)(2) of this title.

#### **§ 8524. Accrued leave**

For the purpose of this subchapter, a payment for unused accrued leave under section 501(b) of title 37 at the termination of Federal service is deemed—

(1) to continue that Federal service during the period after the termination with respect to which the individual received the payment; and

(2) Federal wages, subject to regulations prescribed by the Secretary of Labor concerning allocation over the period after termination.

#### **§ 8525. Effect on other statutes**

(a) An individual eligible to receive a mustering-out payment under chapter 43 of title 38 is not entitled to compensation under this subchapter with respect to weeks of unemployment completed—

(1) within 30 days after his discharge or release if he receives \$100 in mustering-out payments;

(2) within 60 days after his discharge or release if he receives \$200 in mustering-out payments; or

(3) within 90 days after his discharge or release if he receives \$300 in mustering-out payments.

(b) An individual is not entitled to compensation under this subchapter for any period with respect to which he receives—

- (1) a subsistence allowance under chapter 31 of title 38 or under part VIII of Veterans Regulation Numbered 1(a); or
- (2) an educational assistance allowance under chapter 35 of title 38.

## CHAPTER 87—LIFE INSURANCE

Sec.

- 8701. Definition.
- 8702. Automatic coverage.
- 8703. Benefit certificate.
- 8704. Group insurance; amounts.
- 8705. Death claims; order of precedence; escheat.
- 8706. Termination of insurance.
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- 8708. Government contributions.
- 8709. Insurance policies.
- 8710. Reinsurance.
- 8711. Basic tables of premium rates.
- 8712. Annual accounting; special contingency reserve.
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- 8714. Employees' Life Insurance Fund.
- 8715. Jurisdiction of courts.
- 8716. Regulations.

### § 8701. Definition

(a) For the purpose of this chapter, "employee" means—

- (1) an employee as defined by section 2105 of this title;
- (2) a Member of Congress as defined by section 2106 of this title;
- (3) a Congressional employee as defined by section 2107 of this title;
- (4) the President;
- (5) an individual employed by the government of the District of Columbia;
- (6) an individual employed by Gallaudet College;
- (7) a United States Commissioner to whom subchapter III of chapter 83 of this title applies by operation of section 8331(1) (E) of this title;
- (8) an individual employed by a county committee established under section 590h(b) of title 16; and
- (9) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838);

but does not include—

- (A) an employee of a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;
- (B) a noncitizen employee whose permanent duty station is outside the United States; or
- (C) an employee excluded by regulation of the Civil Service Commission under section 8716(b) of this title.

(b) Notwithstanding subsection (a) of this section, the employment of a teacher in the recess period between two school years in a position other than a teaching position in which he served immediately before the recess period does not qualify the individual as an employee for the purpose of this chapter. For the purpose of this subsection, "teacher" and "teaching position" have the meanings given them by section 901 of title 20.

**§ 8702. Automatic coverage**

(a) An employee is automatically insured on the date he becomes eligible for insurance and each policy of insurance purchased by the Civil Service Commission under this chapter shall provide for that automatic coverage.

(b) An employee desiring not to be insured shall give written notice to his employing office on a form prescribed by the Commission. If the notice is received before he has become insured, he shall not be insured. If the notice is received after he has become insured, his insurance stops at the end of the pay period in which the notice is received.

**§ 8703. Benefit certificate**

The Civil Service Commission shall arrange to have each insured employee receive a certificate setting forth the benefits to which he is entitled, to whom the benefits are payable, to whom the claims shall be submitted, and summarizing the provisions of the policy principally affecting him. The certificate is issued instead of the certificate which the insurance company would otherwise be required to issue.

**§ 8704. Group insurance; amounts**

(a) An employee eligible for insurance is entitled to be insured for an amount of group life insurance approximating his annual pay not exceeding \$20,000 plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule:

If annual pay is—		The amount of group life insurance is—	The amount of group accidental death and dismemberment insurance is—
Greater than—	But not greater than—		
0.....	\$1,000.....	\$1,000	\$1,000
\$1,000.....	2,000.....	2,000	2,000
\$2,000.....	3,000.....	3,000	3,000
\$3,000.....	4,000.....	4,000	4,000
\$4,000.....	5,000.....	5,000	5,000
\$5,000.....	6,000.....	6,000	6,000
\$6,000.....	7,000.....	7,000	7,000
\$7,000.....	8,000.....	8,000	8,000
\$8,000.....	9,000.....	9,000	9,000
\$9,000.....	10,000.....	10,000	10,000
\$10,000.....	11,000.....	11,000	11,000
\$11,000.....	12,000.....	12,000	12,000
\$12,000.....	13,000.....	13,000	13,000
\$13,000.....	14,000.....	14,000	14,000
\$14,000.....	15,000.....	15,000	15,000
\$15,000.....	16,000.....	16,000	16,000
\$16,000.....	17,000.....	17,000	17,000
\$17,000.....	18,000.....	18,000	18,000
\$18,000.....	19,000.....	19,000	19,000
\$19,000.....	.....	20,000	20,000

(b) Subject to the conditions and limitations approved by the Civil Service Commission which are contained in the policy purchased by the Commission, the group accidental death and dismemberment insurance provides payment as follows:

Loss	Amount payable
For loss of life.....	Full amount shown in the schedule in subsection (a) of this section.
Loss of one hand or of one foot or loss of sight of one eye.....	One-half the amount shown in the schedule in subsection (a) of this section.
Loss of two or more such members.....	Full amount shown in the schedule in subsection (a) of this section.



For any one accident the aggregate amount of group accidental death and dismemberment insurance that may be paid may not exceed the amount shown in the schedule in subsection (a) of this section.

(c) The Commission shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay.

(d) In determining the amount of insurance to which an employee is entitled—

(1) a change in rate of pay under section 5337 of this title is deemed effective as of the first day of the pay period after the pay period in which the payroll change is approved; and

(2) a change in rate of pay under section 5343 of this title is deemed effective as of the date of issuance of the order granting the increase or the effective date of the increase, whichever is later.

#### **§ 8705. Death claims; order of precedence; escheat**

(a) The amount of group life insurance and group accidental death insurance in force on an employee at the date of his death shall be paid, on the establishment of a valid claim, to the person or persons surviving at the date of his death, in the following order of precedence:

First, to the beneficiary or beneficiaries designated by the employee in a writing received in the employing office before death.

Second, if there is no designated beneficiary, to the widow or widower of the employee.

Third, if none of the above, to the child or children of the employee and descendants of deceased children by representation.

Fourth, if none of the above, to the parents of the employee or the survivor of them.

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of the employee.

Sixth, if none of the above, to other next of kin of the employee entitled under the laws of the domicile of the employee at the date of his death.

(b) If, within 1 year after the death of the employee, no claim for payment has been filed by a person entitled under the order of precedence named by subsection (a) of this section, or if payment to the person within that period is prohibited by Federal statute or regulation, payment may be made in the order of precedence as if the person had predeceased the employee, and the payment bars recovery by any other person.

(c) If, within 2 years after the death of the employee, no claim for payment has been filed by a person entitled under the order of precedence named by subsection (a) of this section, and neither the Civil Service Commission nor the administrative office established by the company concerned pursuant to section 8709(b) of this title has received notice that such a claim will be made, payment may be made to the claimant who in the judgment of the Commission is equitably entitled thereto, and the payment bars recovery by any other person.

(d) If, within 4 years after the death of the employee, payment has not been made under this section and no claim for payment by a person entitled under this section is pending, the amount payable escheats to the credit of the Employees' Life Insurance Fund.

**§ 8706. Termination of insurance**

(a) A policy purchased under this chapter shall contain a provision, approved by the Civil Service Commission, to the effect that insurance on an employee stops on his separation from the service or 12 months after discontinuance of his pay, whichever is earlier, subject to a provision for temporary extension of life insurance coverage and for conversion to an individual policy of life insurance under conditions approved by the Commission.

(b) If on the date the insurance would otherwise stop the employee retires on an immediate annuity and—

(1) his retirement is for disability; or

(2) he has completed 12 years of creditable service as determined by the Commission;

his life insurance only may be continued, without cost to him, under conditions determined by the Commission. Periods of honorable, active service in the armed forces shall be credited toward the required 12 years if the employee has completed at least 5 years of civilian service. The amount of life insurance continued under this subsection shall be reduced by 2 percent at the end of each full calendar month after the date the employee becomes 65 years of age or retires, whichever is later. The Commission may prescribe minimum amounts, not less than 25 percent of the amount of life insurance in force before the first reduction, to which the insurance may be reduced.

(c) If on the date the insurance would otherwise stop the employee is receiving benefits under subchapter I of chapter 81 of this title because of disease or injury to himself, his life insurance only may be continued, without cost to him, under conditions determined by the Commission while he is receiving the benefits and is held by the Department of Labor to be unable to return to duty.

(d) The insurance granted to an employee stops, except for a 31-day extension of life insurance coverage, on the day immediately before his entry on active duty or active duty for training unless the period of duty is covered by military leave with pay. The insurance does not stop during a period of inactive duty training. For the purpose of this subsection, the terms "active duty", "active duty for training", and "inactive duty training" have the meanings given them by section 101 of title 38.

**§ 8707. Employee deductions; withholding**

During each period in which an employee is insured under a policy of insurance purchased by the Civil Service Commission under section 8709 of this title, an amount determined by the Commission shall be withheld from the pay of the employee as his share of the cost of his group life and accidental death and dismemberment insurance. The amount may not exceed the rate of 25 cents biweekly for each \$1,000 of his group life insurance. The amount withheld from an employee paid on other than a biweekly basis is determined at a proportional rate adjusted to the nearest cent.

**§ 8708. Government contributions**

(a) For each period in which an employee is insured under a policy of insurance purchased by the Civil Service Commission under section 8709 of this title, a sum computed at a rate determined by the Commission shall be contributed from the appropriation or fund which is used to pay him. The sum may not exceed one-half the amount which is withheld from the pay of the employee under section 8707 of this title.

(b) When an employee is paid by the Clerk of the House of Representatives, the Clerk may contribute the sum required by subsection (a) of this section from the contingent fund of the House.

(c) When the employee is an elected official, the sum required by subsection (a) of this section is contributed from an appropriation or fund available for payment of other salaries of the same office or establishment.

#### **§ 8709. Insurance policies**

(a) The Civil Service Commission, without regard to section 5 of title 41, may purchase from one or more life insurance companies a policy or policies of group life and accidental death and dismemberment insurance to provide the benefits specified by this chapter. A company must meet the following requirements:

(1) It must be licensed to transact life and accidental death and dismemberment insurance under the laws of 48 of the States and the District of Columbia.

(2) It must have in effect, on the most recent December 31 for which information is available to the Commission, an amount of employee group life insurance equal to at least 1 percent of the total amount of employee group life insurance in the United States in all life insurance companies.

(b) A company issuing a policy under subsection (a) of this section shall establish an administrative office under a name approved by the Commission.

(c) The Commission at any time may discontinue a policy purchased from a company under subsection (a) of this section.

#### **§ 8710. Reinsurance**

(a) The Civil Service Commission shall arrange with a company issuing a policy under this chapter for the reinsurance, under conditions approved by the Commission, of portions of the total amount of insurance under the policy, determined under this section, with other life insurance companies which elect to participate in the reinsurance.

(b) The Commission shall determine for and in advance of a policy year which companies are eligible to participate as reinsurers and the amount of insurance under a policy which is to be allocated to the issuing company and to reinsurers. The Commission shall make this determination at least every 3 years and when a participating company withdraws.

(c) The Commission shall establish a formula under which the amount of insurance retained by an issuing company after ceding reinsurance, and the amount of reinsurance ceded to each reinsurer, is in proportion to the total amount of each company's group life insurance, excluding insurance purchased under this chapter, in force in the United States on the determination date, which is the most recent December 31 for which information is available to the Commission. In determining the proportions, the portion of a company's group life insurance in force on the determination date in excess of \$100,000,000 shall be reduced by—

- (1) 25 percent of the first \$100,000,000 of the excess;
- (2) 50 percent of the second \$100,000,000 of the excess;
- (3) 75 percent of the third \$100,000,000 of the excess; and
- (4) 95 percent of the remaining excess.

However, the amount retained by or ceded to a company may not exceed 25 percent of the amount of the company's total life insurance in force in the United States on the determination date.

(d) A fraternal benefit association which is—

(1) licensed to transact life insurance under the laws of a State or the District of Columbia; and

(2) engaged in issuing insurance certificates on the lives of employees of the United States exclusively;

is eligible to act as a reinsuring company and may be allocated an amount of reinsurance equal to 25 percent of its total life insurance in force on employees of the United States on the determination date named by subsection (c) of this section.

(e) An issuing company or reinsurer is entitled, as a minimum, to be allocated an amount of insurance under the policy equal to any reduction from December 31, 1953, to the determination date, in the amount of the company's group life insurance under policies issued to associations of employees of the United States. However, any increase under this subsection in the amount allocated is reduced by the amount in force on the determination date of any policy covering life insurance agreements assumed by the Commission.

(f) The Commission may modify the computations under this section as necessary to carry out the intent of this section.

#### **§ 8711. Basic tables of premium rates**

(a) A policy purchased under this chapter shall include, for the first policy year, basic tables of premium rates as follows:

(1) For group life insurance, a schedule of basic premium rates by age which the Civil Service Commission determines to be consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers.

(2) For group accidental death and dismemberment insurance, a basic premium rate which the Commission determines is consistent with the lowest rate generally charged for new group accidental death and dismemberment policies issued to large employers.

The schedule for group life insurance, except as otherwise provided by this section, shall be applied to the distribution by age of the amounts of group life insurance under the policy at its date of issuance to determine an average basic premium rate per \$1,000 of life insurance.

(b) The policy shall provide that the basic premium rates determined for the first policy year continue for later policy years except as readjusted for a later year based on experience under the policy. The company issuing the policy may make the readjustment on a basis that the Commission determines in advance of the policy year is consistent with the general practice of life insurance companies under policies of group life and group accidental death and dismemberment insurance issued to large employers.

(c) The policy shall provide that if the Commission determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any later year of insurance thereunder would not be possible except at a disproportionately high expense, the Commission may approve the determination of a tentative average group life premium rate, for the first or any later policy year, instead of using the actual age distribution. The Commission, on request by the company issuing the policy, shall redetermine the tentative average premium rate during any policy year, if experience indicates that the assumptions made in determining that rate were incorrect for that year.

(d) The policy shall stipulate the maximum expense and risk charges for the first policy year. The Commission shall determine these charges on a basis consistent with the general level of charges made by life insurance companies under policies of group life and accidental death and dismemberment insurance issued to large employers. The maximum charges continue from year to year, except that the Commission may redetermine them for any year either by agreement with the company issuing the policy or on written notice given to the company at least 1 year before the beginning of the year for which the redetermined maximum charges will be effective.

#### **§ 8712. Annual accounting; special contingency reserve**

A policy purchased under this chapter shall provide for an accounting to the Civil Service Commission not later than 90 days after the end of each policy year. The accounting shall set forth, in a form approved by the Commission—

- (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of the policy year;
- (2) the total of all mortality and other claim charges incurred for that period; and
- (3) the amounts of the insurers' expense and risk charges for that period.

An excess of the total of paragraph (1) of this section over the sum of paragraphs (2) and (3) of this section shall be held by the company issuing the policy as a special contingency reserve to be used by the company only for charges under the policy. The reserve shall bear interest at a rate determined in advance of each policy year by the company and approved by the Commission as being consistent with the rates generally used by the company for similar funds held under other group life insurance policies. When the Commission determines that the special contingency reserve has attained an amount estimated by it to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited in the Treasury of the United States to the credit of the Employees' Life Insurance Fund. When a policy is discontinued, any balance remaining in the special contingency reserve after all charges have been made shall be deposited in the Treasury to the credit of the Fund. The company may make the deposit in equal monthly installments over a period of not more than 2 years.

#### **§ 8713. Advisors**

(a) There is an Advisory Council on Group Insurance consisting of the Secretary of the Treasury as Chairman, the Secretary of Labor, and the Director of the Bureau of the Budget. The Council members serve without additional pay. The Council shall—

- (1) meet once a year, or oftener as called by the Civil Service Commission;
- (2) review the operations under this chapter; and
- (3) advise the Commission on matters of policy relating to its activities thereunder.

(b) The Chairman of the Commission shall appoint a committee composed of five employees insured under this chapter, who serve without additional pay, to advise the Commission regarding matters of concern to employees under this chapter.

#### **§ 8714. Employees' Life Insurance Fund**

(a) The amounts withheld from employees under section 8707 of this title and the sums contributed from appropriations and funds

under section 8708 of this title shall be deposited in the Treasury of the United States to the credit of the Employees' Life Insurance Fund. The Fund is available without fiscal year limitation for—

(1) premium payments under an insurance policy purchased under this chapter; and

(2) expenses incurred by the Civil Service Commission in the administration of this chapter within the limitations that may be specified annually by appropriation acts.

(b) The Secretary of the Treasury may invest and reinvest any of the money in the Fund in interest-bearing obligations of the United States, and may sell these obligations for the purposes of the Fund. The interest on and the proceeds from the sale of these obligations, and the income derived from dividend or premium rate adjustments from insurers, become a part of the Fund.

#### **§ 8715. Jurisdiction of courts**

The district courts of the United States have original jurisdiction, concurrent with the Court of Claims, of a civil action or claim against the United States founded on this chapter.

#### **§ 8716. Regulations**

(a) The Civil Service Commission may prescribe regulations necessary to carry out the purposes of this chapter.

(b) The regulations of the Commission may prescribe the time at which and the conditions under which an employee is eligible for coverage under this chapter. The Commission, after consulting the head of the agency or other employing authority concerned, may exclude an employee on the basis of the nature and type of his employment or conditions pertaining to it, such as short-term appointment, seasonal, intermittent or part-time employment, and employment of like nature. The Commission may not exclude—

(1) an employee or group of employees solely on the basis of the hazardous nature of employment; or

(2) a teacher in the employ of the Board of Education of the District of Columbia, whose pay is fixed by section 1501 of title 31, District of Columbia Code, on the basis of the fact that the teacher is serving under a temporary appointment if the teacher has been so employed by the Board for a period or periods totaling not less than two school years.

(c) The Secretary of Agriculture shall prescribe regulations to effect the application and operation of this chapter to an individual named by section 8701 (a) (3) of this title.

### **CHAPTER 89—HEALTH INSURANCE**

Sec.

8901. Definitions.

8902. Contracting authority.

8903. Health benefits plans.

8904. Types of benefits.

8905. Election of coverage.

8906. Contributions.

8907. Information to employees.

8908. Coverage of restored employee.

8909. Employees Health Benefits Fund.

8910. Studies, reports, and audits.

8911. Advisory committee.

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8913. Regulations.

**§ 8901. Definitions.**

For the purpose of this chapter—

(1) “employee” means—

- (A) an employee as defined by section 2105 of this title;
- (B) a Member of Congress as defined by section 2106 of this title;
- (C) a Congressional employee as defined by section 2107 of this title;
- (D) the President;
- (E) an individual employed by the government of the District of Columbia;
- (F) an individual employed by Gallaudet College;
- (G) a United States Commissioner to whom subchapter III of chapter 83 of this title applies by operation of section 8331(1)(E) of this title; and
- (H) an individual employed by a county committee established under section 590h(b) of title 16;

but does not include—

- (i) an employee of a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;
  - (ii) a noncitizen employee whose permanent duty station is outside the United States;
  - (iii) an employee of the Tennessee Valley Authority; or
  - (iv) an employee excluded by regulation of the Civil Service Commission under section 8913(b) of this title;
- (2) “Government” means the Government of the United States and the government of the District of Columbia;

(3) “annuitant” means—

- (A) an employee who retires on an immediate annuity under subchapter III of chapter 83 of this title or another retirement system for employees of the Government, after 12 or more years of service or for disability;
- (B) a member of a family who receives an immediate annuity as the survivor of a retired employee described by subparagraph (A) of this paragraph or of an employee who dies after completing 5 or more years of service;
- (C) an employee who receives monthly compensation under subchapter I of chapter 81 of this title and who is determined by the Secretary of Labor to be unable to return to duty; and

(D) a member of a family who receives monthly compensation under subchapter I of chapter 81 of this title as the surviving beneficiary of—

- (i) an employee who, having completed 5 or more years of service, dies as a result of injury or illness compensable under that subchapter; or
- (ii) a former employee who is separated after having completed 5 or more years of service and who dies while receiving monthly compensation under that subchapter and who has been held by the Secretary to have been unable to return to duty;

(4) “service”, as used by paragraph (3) of this section, means service which is creditable under subchapter III of chapter 83 of this title;

(5) "member of family" means the spouse of an employee or annuitant and an unmarried child under 21 years of age, including—

(A) an adopted child; and

(B) a stepchild, foster child, or recognized natural child who lives with the employee or annuitant in a regular parent-child relationship;

or such an unmarried child regardless of age who is incapable of self-support because of mental or physical disability which existed before age 21;

(6) "health benefits plan" means a group insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar group arrangement provided by a carrier for the purpose of providing, paying for, or reimbursing expenses for health services;

(7) "carrier" means a voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier, including a health benefits plan duly sponsored or underwritten by an employee organization; and

(8) "employee organization" means an association or other organization of employees which is national in scope, or in which membership is open to all employees of a Government agency who are eligible to enroll in a health benefits plan under this chapter, and which, before January 1, 1964, applied to the Commission for approval of a plan provided under section 8903(3) of this title.

## **§ 8902. Contracting authority**

(a) The Civil Service Commission may contract with qualified carriers offering plans described by section 8903 of this title, without regard to section 5 of title 41 or other statute requiring competitive bidding. Each contract shall be for a uniform term of at least 1 year, but may be made automatically renewable from term to term in the absence of notice of termination by either party.

(b) To be eligible as a carrier for the plan described by section 8903(2) of this title, a company must be licensed to issue group health insurance in all the States and the District of Columbia.

(c) A contract for a plan described by section 8903(1) or (2) of this title shall require the carrier—

(1) to reinsure with other companies which elect to participate, under an equitable formula based on the total amount of their group health insurance benefit payments in the United States during the latest year for which the information is available, to be determined by the carrier and approved by the Commission; or

(2) to allocate its rights and obligations under the contract among its affiliates which elect to participate, under an equitable formula to be determined by the carrier and the affiliates and approved by the Commission.

(d) Each contract under this chapter shall contain a detailed statement of benefits offered and shall include such maximums, limitations, exclusions, and other definitions of benefits as the Commission considers necessary or desirable.



(e) The Commission may prescribe reasonable minimum standards for health benefits plans described by section 8903 of this title and for carriers offering the plans. Approval of a plan may be withdrawn only after notice and opportunity for hearing to the carrier concerned without regard to subchapter II of chapter 5 and chapter 7 of this title. The Commission may terminate the contract of a carrier effective at the end of the contract term, if the Commission finds that at no time during the preceding two contract terms did the carrier have 300 or more employees and annuitants, exclusive of family members, enrolled in the plan.

(f) A contract may not be made or a plan approved which excludes an individual because of race, sex, health status, or, at the time of the first opportunity to enroll, because of age.

(g) A contract may not be made or a plan approved which does not offer to each employee or annuitant whose enrollment in the plan is ended, except by a cancellation of enrollment, a temporary extension of coverage during which he may exercise the option to convert, without evidence of good health, to a nongroup contract providing health benefits. An employee or annuitant who exercises this option shall pay the full periodic charges of the nongroup contract.

(h) The benefits and coverage made available under subsection (g) of this section are noncancelable by the carrier except for fraud, over-insurance, or nonpayment of periodic charges.

(i) Rates charged under health benefits plans described by section 8903 of this title shall reasonably and equitably reflect the cost of the benefits provided. Rates under health benefits plans described by section 8903 (1) and (2) of this title shall be determined on a basis which, in the judgment of the Commission, is consistent with the lowest schedule of basic rates generally charged for new group health benefit plans issued to large employers. The rates determined for the first contract term shall be continued for later contract terms, except that they may be readjusted for any later term, based on past experience and benefit adjustments under the later contract. Any readjustment in rates shall be made in advance of the contract term in which they will apply and on a basis which, in the judgment of the Commission, is consistent with the general practice of carriers which issue group health benefit plans to large employers.

### **§ 8903. Health benefits plans**

The Civil Service Commission may contract for or approve the following health benefits plans:

(1) **SERVICE BENEFIT PLAN.**—One Government-wide plan, offering two levels of benefits, under which payment is made by a carrier under contracts with physicians, hospitals, or other providers of health services for benefits of the types described by section 8904(1) of this title given to employees or annuitants, or members of their families, or, under certain conditions, payment is made by a carrier to the employee or annuitant or member of his family.

(2) **INDEMNITY BENEFIT PLAN.**—One Government-wide plan, offering two levels of benefits, under which a carrier agrees to pay certain sums of money, not in excess of the actual expenses incurred, for benefits of the types described by section 8904(2) of this title.

(3) **EMPLOYEE ORGANIZATION PLANS.**—Employee organization plans which offer benefits of the types referred to by section 8904 (3) of this title, which are sponsored or underwritten, and are administered, in whole or substantial part, by employee organiza-

tions, which are available only to individuals, and members of their families, who at the time of enrollment are members of the organization.

**(4) COMPREHENSIVE MEDICAL PLANS.—**

**(A) GROUP-PRACTICE PREPAYMENT PLANS.—**Group-practice prepayment plans which offer health benefits of the types referred to by section 8904(4) of this title, in whole or in substantial part on a prepaid basis, with professional services thereunder provided by physicians practicing as a group in a common center or centers. The group shall include physicians representing at least three major medical specialties who receive all or a substantial part of their professional income from the prepaid funds.

**(B) INDIVIDUAL-PRACTICE PREPAYMENT PLANS.—**Individual-practice prepayment plans which offer health services in whole or substantial part on a prepaid basis, with professional services thereunder provided by individual physicians who agree, under certain conditions approved by the Commission, to accept the payments provided by the plans as full payment for covered services given by them including, in addition to in-hospital services, general care given in their offices and the patients' homes, out-of-hospital diagnostic procedures, and preventive care, and which plans are offered by organizations which have successfully operated similar plans before approval by the Commission of the plan in which employees may enroll.

**§ 8904. Types of benefits**

The benefits to be provided under plans described by section 8903 of this title may be of the following types:

**(1) SERVICE BENEFIT PLAN.—**

- (A) Hospital benefits.**
- (B) Surgical benefits.**
- (C) In-hospital medical benefits.**
- (D) Ambulatory patient benefits.**
- (E) Supplemental benefits.**
- (F) Obstetrical benefits.**

**(2) INDEMNITY BENEFIT PLAN.—**

- (A) Hospital care.**
- (B) Surgical care and treatment.**
- (C) Medical care and treatment.**
- (D) Obstetrical benefits.**
- (E) Prescribed drugs, medicines, and prosthetic devices.**
- (F) Other medical supplies and services.**

**(3) EMPLOYEE ORGANIZATION PLANS.—**Benefits of the types named under paragraph (1) or (2) of this section or both.

**(4) COMPREHENSIVE MEDICAL PLANS.—**Benefits of the types named under paragraph (1) or (2) of this section or both.

All plans contracted for under paragraphs (1) and (2) of this section shall include benefits both for costs associated with care in a general hospital and for other health services of a catastrophic nature.

**§ 8905. Election of coverage**

**(a)** An employee may enroll in an approved health benefits plan described by section 8903 of this title either as an individual or for self and family.

(b) An annuitant who at the time he becomes an annuitant was enrolled in a health benefits plan under this chapter—

(1) as an employee for a period of not less than—

(A) the 5 years of service immediately before retirement;

(B) the full period or periods of service between the last day of the first period, as prescribed by regulations of the Civil Service Commission, in which he is eligible to enroll in the plan and the date on which he becomes an annuitant; or

(C) the full period or periods of service beginning with the enrollment which became effective before January 1, 1965, and ending with the date on which he becomes an annuitant; whichever is shortest; or

(2) as a member of the family of an employee or annuitant; may continue his enrollment under the conditions of eligibility prescribed by regulations of the Commission.

(c) If an employee has a spouse who is an employee, either spouse, but not both, may enroll for self and family, or each spouse may enroll as an individual. However, an individual may not be enrolled both as an employee or annuitant and as a member of the family.

(d) An employee or annuitant enrolled in a health benefits plan under this chapter may change his coverage or that of himself and members of his family by an application filed within 60 days after a change in family status or at other times and under conditions prescribed by regulations of the Commission.

(e) An employee or annuitant may transfer his enrollment from a health benefits plan described by section 8903 of this title to another plan described by that section at the times and under the conditions prescribed by regulations of the Commission.

#### **§ 8906. Contributions**

(a) Except as provided by subsection (b) of this section, the Government contribution for health benefits for employees or annuitants enrolled in health benefits plans under this chapter, in addition to the contributions required by subsection (c) of this section, is 50 percent of the lowest rates charged by a carrier for a level of benefits offered by a plan under section 8903 (1) or (2) of this title, but—

(1) not less than \$1.25 or more than \$1.75 biweekly for an employee or annuitant who is enrolled for self alone; and

(2) not less than \$3 or more than \$4.25 biweekly for an employee or annuitant who is enrolled for self and family.

(b) The Government contribution for an employee or annuitant enrolled in a plan described by section 8903 (3) or (4) of this title for which the biweekly subscription charge is less than twice the Government contribution established under subsection (a) of this section, is 50 percent of the subscription charge.

(c) There shall be withheld from the pay of each enrolled employee and the annuity of each enrolled annuitant and there shall be contributed by the Government, amounts, in the same ratio as the contributions of the employee or annuitant and the Government under subsections (a) and (b) of this section, which are necessary for the administrative costs and the reserves provided for by section 8909 (b) of this title.

(d) The amount necessary to pay the total charge for enrollment, after the Government contribution is deducted, shall be withheld from the pay of each enrolled employee and from the annuity of each enrolled annuitant. The withholding for an annuitant shall be the same as that for an employee enrolled in the same health benefits plan and level of benefits.

(e) An employee enrolled in a health benefits plan under this chapter who is placed in a leave without pay status may have his coverage and the coverage of members of his family continued under the plan for not to exceed 1 year under regulations prescribed by the Commission. The regulations may provide for the waiving of contributions by the employee and the Government.

(f) The Government contributions for health benefits for an employee shall be paid—

(1) in the case of employees generally, from the appropriation or fund which is used to pay the employee;

(2) in the case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment;

(3) in the case of an employee of the legislative branch who is paid by the Clerk of the House of Representatives, from the contingent fund of the House; and

(4) in the case of an employee in a leave without pay status, from the appropriation or fund which would be used to pay the employee if he were in a pay status.

(g) The Government contributions authorized by subsection (a) of this section for health benefits for an annuitant shall be paid from annual appropriations which are authorized to be made for that purpose.

(h) The Commission shall provide for conversion of biweekly rates of contribution specified by this section to rates for employees and annuitants paid on other than a biweekly basis, and for this purpose may provide for the adjustment of the converted rate to the nearest cent.

#### **§ 8907. Information to employees**

(a) The Civil Service Commission shall make available to each employee eligible to enroll in a health benefits plan under this chapter such information, in a form acceptable to the Commission after consultation with the carrier, as may be necessary to enable the employee to exercise an informed choice among the types of plans described by section 8903 of this title.

(b) Each employee enrolled in a health benefits plan shall be issued an appropriate document setting forth or summarizing the—

(1) services or benefits, including maximums, limitations, and exclusions, to which the employee or the employee and members of his family are entitled thereunder;

(2) procedure for obtaining benefits; and

(3) principal provisions of the plan affecting the employee or members of his family.

#### **§ 8908. Coverage of restored employee**

An employee enrolled in a health benefits plan under this chapter who is removed or suspended without pay and later reinstated or restored to duty on the ground that the removal or suspension was unjustified or unwarranted may, at his option, enroll as a new employee or have his coverage restored, with appropriate adjustments made in contributions and claims, to the same extent and effect as though the removal or suspension had not taken place.

#### **§ 8909. Employees Health Benefits Fund**

(a) There is in the Treasury of the United States an Employees Health Benefits Fund which is administered by the Civil Service Commission. The contributions of employees, annuitants, and the Govern-

ment described by section 8906 of this title shall be paid into the Fund. The Fund is available—

- (1) without fiscal year limitation for all payments to approved health benefits plans; and
  - (2) to pay expenses for administering this chapter within the limitations that may be specified annually by Congress.
- (b) Portions of the contributions made by employees, annuitants, and the Government shall be regularly set aside in the Fund as follows:
- (1) A percentage, not to exceed 1 percent of all contributions, determined by the Commission to be reasonably adequate to pay the administrative expenses made available by subsection (a) of this section.
  - (2) For each health benefits plan, a percentage, not to exceed 3 percent of the contributions toward the plan, determined by the Commission to be reasonably adequate to provide a contingency reserve.

The Commission, from time to time and in amounts it considers appropriate, may transfer unused funds for administrative expenses to the contingency reserves of the plans then under contract with the Commission. When funds are so transferred, each contingency reserve shall be credited in proportion to the total amount of the subscription charges paid and accrued to the plan for the contract term immediately before the contract term in which the transfer is made. The income derived from dividends, rate adjustments, or other refunds made by a plan shall be credited to its contingency reserve. The contingency reserves may be used to defray increases in future rates, or may be applied to reduce the contributions of employees and the Government to, or to increase the benefits provided by, the plan from which the reserves are derived, as the Commission from time to time shall determine.

(c) The Secretary of the Treasury may invest and reinvest any of the money in the Fund in interest-bearing obligations of the United States, and may sell these obligations for the purposes of the Fund. The interest on and the proceeds from the sale of these obligations become a part of the Fund.

(d) When the assets, liabilities, and membership of employee organizations sponsoring or underwriting plans approved under section 8903(3) of this title are merged, the assets (including contingency reserves) and liabilities of the plans sponsored or underwritten by the merged organizations shall be transferred at the beginning of the contract term next following the date of the merger to the plan sponsored or underwritten by the successor organization. Each employee or annuitant affected by a merger shall be transferred to the plan sponsored or underwritten by the successor organization unless he enrolls in another plan under this chapter.

(e) Except as provided by subsection (d) of this section, when a plan described by section 8903 (3) or (4) of this title is discontinued under this chapter, the contingency reserve of that plan shall be credited to the contingency reserves of the plans continuing under this chapter for the contract term following that in which termination occurs, each reserve to be credited in proportion to the amount of the subscription charges paid and accrued to the plan for the year of termination.

#### **§ 8910. Studies, reports, and audits**

(a) The Civil Service Commission shall make a continuing study of the operation and administration of this chapter, including surveys and reports on health benefits plans available to employees and on the experience of the plans.

(b) Each contract entered into under section 8902 of this title shall contain provisions requiring carriers to—

(1) furnish such reasonable reports as the Commission determines to be necessary to enable it to carry out its functions under this chapter; and

(2) permit the Commission and representatives of the General Accounting Office to examine records of the carriers as may be necessary to carry out the purposes of this chapter.

(c) Each Government agency shall keep such records, make such certifications, and furnish the Commission with such information and reports as may be necessary to enable the Commission to carry out its functions under this chapter.

#### **§ 8911. Advisory committee**

The Chairman of the Civil Service Commission shall appoint a committee composed of five members, who serve without pay, to advise the Commission regarding matters of concern to employees under this chapter. Each member of the committee shall be an employee enrolled under this chapter or an elected official of an employee organization.

#### **§ 8912. Jurisdiction of courts**

The district courts of the United States have original jurisdiction, concurrent with the Court of Claims, of a civil action or claim against the United States founded on this chapter.

#### **§ 8913. Regulations**

(a) The Civil Service Commission may prescribe regulations necessary to carry out this chapter.

(b) The regulations of the Commission may prescribe the time at which and the manner and conditions under which an employee is eligible to enroll in an approved health benefits plan described by section 8903 of this title. The regulations may exclude an employee on the basis of the nature and type of his employment or conditions pertaining to it, such as short-term appointment, seasonal or intermittent employment, and employment of like nature. The Commission may not exclude—

(1) an employee or group of employees solely on the basis of the hazardous nature of employment; or

(2) a teacher in the employ of the Board of Education of the District of Columbia, whose pay is fixed by section 1501 of title 31, District of Columbia Code, on the basis of the fact that the teacher is serving under a temporary appointment if the teacher has been so employed by the Board for a period or periods totaling not less than two school years.

(c) The regulations of the Commission shall provide for the beginning and ending dates of coverage of employees and annuitants and members of their families under health benefits plans. The regulations may permit the coverage to continue, exclusive of the temporary extension of coverage described by section 8902(g) of this title, until the end of the pay period in which an employee is separated from the service, or until the end of the month in which an annuitant ceases to be entitled to annuity, and in case of the death of an employee or annuitant, may permit a temporary extension of the coverage of members of his family for not to exceed 90 days.

(d) The Secretary of Agriculture shall prescribe regulations to effect the application and operation of this chapter to an individual named by section 8901(1)(H) of this title.

61 Stat. 643.

SEC. 2. (a) Section 42 of title 4, United States Code, is amended to read as follows:

**“§ 42. Same; custody and use of**

“The Secretary of State shall have the custody and charge of such seal. Except as provided by section 2902(a) of title 5, the seal shall not be affixed to any instrument without the special warrant of the President therefor.”

(b) The analysis of chapter 4 of title 4, United States Code, is amended by redesignating item 111 as “112”, and by inserting after item 110:

“111. Same; taxation affecting Federal employees; income tax.”

(c) Chapter 4 of title 4, United States Code, is further amended by redesignating section 111 as “112”, and by inserting after section 110:

**“§ 111. Same; taxation affecting Federal employees; income tax**

“The United States consents to the taxation of pay or compensation for personal service as an officer or employee of the United States, a territory or possession or political subdivision thereof, the government of the District of Columbia, or an agency or instrumentality of one or more of the foregoing, by a duly constituted taxing authority having jurisdiction, if the taxation does not discriminate against the officer or employee because of the source of the pay or compensation.”

SEC. 3. (a) The analysis of chapter 15 of title 18, United States Code, is amended by adding the following:

“292. Solicitation of employment and receipt of unapproved fees concerning Federal employees' compensation.”

62 Stat. 697.

(b) Chapter 15 of title 18, United States Code, is amended by adding the following new section:

**“§ 292. Solicitation of employment and receipt of unapproved fees concerning Federal employees' compensation**

“Whoever solicits employment for himself or another in respect to a case, claim, or award for compensation under, or to be brought under, subchapter I of chapter 81 of title 5; or

“Whoever receives a fee, other consideration, or gratuity on account of legal or other services furnished in respect to a case, claim, or award for compensation under subchapter I of chapter 81 of title 5, unless the fee, consideration, or gratuity is approved by the Secretary of Labor—

“Shall, for each offense, be fined not more than \$1,000 or imprisoned not more than one year, or both.”

62 Stat. 790.

(c) The analysis of chapter 93 of title 18, United States Code, is amended by adding the following:

“1916. Unauthorized employment and disposition of lapsed appropriations.

“1917. Interference with civil service examinations.

“1918. Disloyalty and asserting the right to strike against the Government.

“1919. False statement to obtain unemployment compensation for Federal service.

“1920. False statement to obtain Federal employees' compensation.

“1921. Receiving Federal employees' compensation after marriage.

“1922. False or withheld report concerning Federal employees' compensation.

“1923. Fraudulent receipt of payments of missing persons.”

(d) Chapter 93 of title 18, United States Code, is amended by adding the following new sections:

**“§ 1916. Unauthorized employment and disposition of lapsed appropriations**

“Whoever—

“(1) violates the provision of section 3103 of title 5 that an individual may be employed in the civil service in an Executive

department at the seat of Government only for services actually rendered in connection with and for the purposes of the appropriation from which he is paid; or

"(2) violates the provision of section 5501 of title 5 that money accruing from lapsed salaries or from unused appropriations for salaries shall be covered into the Treasury of the United States; shall be fined not more than \$1,000 or imprisoned not more than one year.

**"§ 1917. Interference with civil service examinations**

"Whoever, being a member or employee of the United States Civil Service Commission or an individual in the public service, willfully and corruptly—

"(1) defeats, deceives, or obstructs an individual in respect of his right of examination according to the rules prescribed by the President under title 5 for the administration of the competitive service and the regulations prescribed by the Commission under section 1302(a) of title 5;

"(2) falsely marks, grades, estimates, or reports on the examination or proper standing of an individual examined;

"(3) makes a false representation concerning the mark, grade, estimate, or report on the examination or proper standing of an individual examined, or concerning the individual examined; or

"(4) furnishes to an individual any special or secret information for the purpose of improving or injuring the prospects or chances of an individual examined, or to be examined, being appointed, employed, or promoted;

shall, for each offense, be fined not less than \$100 nor more than \$1,000 or imprisoned not less than ten days nor more than one year, or both.

**"§ 1918. Disloyalty and asserting the right to strike against the Government**

"Whoever violates the provision of section 7311 of title 5 that an individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he—

"(1) advocates the overthrow of our constitutional form of government;

"(2) is a member of an organization that he knows advocates the overthrow of our constitutional form of government;

"(3) participates in a strike, or asserts the right to strike, against the Government of the United States or the government of the District of Columbia; or

"(4) is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the Government of the United States or the government of the District of Columbia;

shall be fined not more than \$1,000 or imprisoned not more than one year and a day, or both.

**"§ 1919. False statement to obtain unemployment compensation for Federal service**

"Whoever makes a false statement or representation of a material fact knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase for himself or for any other individual any payment authorized to be paid under chapter 85 of title 5 or under an agreement thereunder, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.



**“§ 1920. False statement to obtain Federal employees’ compensation**

“Whoever makes, in an affidavit or report required by section 8106 of title 5 or in a claim for compensation under subchapter I of chapter 81 of title 5, a statement, knowing it to be false, is guilty of perjury and shall be fined not more than \$2,000 or imprisoned not more than one year, or both.

**“§ 1921. Receiving Federal employees’ compensation after marriage**

“Whoever, being entitled to compensation under sections 8107–8113 and 8133 of title 5 and whose compensation by the terms of those sections stops or is reduced on his marriage or on the marriage of his dependent, accepts after such marriage any compensation or payment to which he is not entitled shall be fined not more than \$2,000 or imprisoned not more than one year, or both.

**“§ 1922. False or withheld report concerning Federal employees’ compensation**

“Whoever, being an officer or employee of the United States charged with the responsibility for making the reports of the immediate superior specified by section 8120 of title 5, willfully fails, neglects, or refuses to make any of the reports, or knowingly files a false report, or induces, compels, or directs an injured employee to forego filing of any claim for compensation or other benefits provided under subchapter I of chapter 81 of title 5 or any extension or application thereof, or willfully retains any notice, report, claim, or paper which is required to be filed under that subchapter or any extension or application thereof, or regulations prescribed thereunder, shall be fined not more than \$500 or imprisoned not more than one year, or both.

**“§ 1923. Fraudulent receipt of payments of missing persons**

“Whoever obtains or receives any money, check, or allotment under—

“(1) subchapter VII of chapter 55 of title 5; or

“(2) chapter 10 of title 37;

without being entitled thereto, with intent to defraud, shall be fined not more than \$2,000 or imprisoned not more than one year, or both.”

(e) The analysis of chapter 301 of title 18, United States Code, is amended by adding the following:

“4010. Acquisition of additional land.

“4011. Disposition of cash collections for meals, laundry, etc.”

(f) Chapter 301 of title 18, United States Code, is amended by adding the following new sections:

**“§ 4010. Acquisition of additional land**

“The Attorney General may, when authorized by law, acquire land adjacent to or in the vicinity of a Federal penal or correctional institution if he considers the additional land essential to the protection of the health or safety of the inmates of the institution.

**“§ 4011. Disposition of cash collections for meals, laundry, etc.**

“Collections in cash for meals, laundry, barber service, uniform equipment, and other items for which payment is made originally from appropriations for the maintenance and operation of Federal penal and correctional institutions, may be deposited in the Treasury to the credit of the appropriation currently available for those items when the collection is made.”

*Post*, p. 625.

62 Stat. 847.

SEC. 4. (a) The analysis of title 28, United States Code, is amended by striking out:

62 Stat. 909.

"II. UNITED STATES ATTORNEYS AND MARSHALS..... 501"  
and inserting in place thereof:

"II. DEPARTMENT OF JUSTICE..... 501"

(b) Part II of the subanalysis of title 28, United States Code, is amended to read as follows:

**"PART II—DEPARTMENT OF JUSTICE**

"31. THE ATTORNEY GENERAL.....	501
"33. FEDERAL BUREAU OF INVESTIGATION.....	531
"35. UNITED STATES ATTORNEYS.....	541
"37. UNITED STATES MARSHALS.....	561"

(c) Part II of title 28, United States Code, is amended to read as follows:

**"PART II—DEPARTMENT OF JUSTICE**

"CHAPTER	Sec.
"31. THE ATTORNEY GENERAL.....	501
"33. FEDERAL BUREAU OF INVESTIGATION.....	531
"35. UNITED STATES ATTORNEYS.....	541
"37. UNITED STATES MARSHALS.....	561

**"CHAPTER 31—THE ATTORNEY GENERAL**

"Sec.

- "501. Executive department.
- "502. Seal.
- "503. Attorney General.
- "504. Deputy Attorney General.
- "505. Solicitor General.
- "506. Assistant Attorneys General.
- "507. Assistant Attorney General for Administration.
- "508. Vacancies.
- "509. Functions of the Attorney General.
- "510. Delegation of authority.
- "511. Attorney General to advise the President.
- "512. Attorney General to advise heads of executive departments.
- "513. Attorney General to advise Secretaries of military departments.
- "514. Legal services on pending claims in departments and agencies.
- "515. Authority for legal proceedings; commission, oath, and salary for special attorneys.
- "516. Conduct of litigation reserved to Department of Justice.
- "517. Interests of United States in pending suits.
- "518. Conduct and argument of cases.
- "519. Supervision of litigation.
- "520. Transmission of petitions in Court of Claims; statement furnished by departments.
- "521. Publication and distribution of opinions.
- "522. Report of business and statistics.
- "523. Requisitions.
- "524. Appropriations for administrative expenses; notarial fees; meals and lodging of bailiffs.
- "525. Procurement of law books, reference books, and periodicals; sale and exchange.
- "526. Authority of the Attorney General to investigate United States attorneys and marshals, clerks of court, and others.

**"§ 501. Executive department**

"The Department of Justice is an executive department of the United States at the seat of Government.

**"§ 502. Seal**

"The Attorney General shall have a seal for the Department of Justice. The design of the seal is subject to the approval of the President.

**“§ 503. Attorney General**

“The President shall appoint, by and with the advice and consent of the Senate, an Attorney General of the United States. The Attorney General is the head of the Department of Justice.

**“§ 504. Deputy Attorney General**

“The President may appoint, by and with the advice and consent of the Senate, a Deputy Attorney General.

**“§ 505. Solicitor General**

“The President shall appoint in the Department of Justice, by and with the advice and consent of the Senate, a Solicitor General, learned in the law, to assist the Attorney General in the performance of his duties.

**“§ 506. Assistant Attorneys General**

“The President shall appoint, by and with the advice and consent of the Senate, nine Assistant Attorneys General, who shall assist the Attorney General in the performance of his duties.

**“§ 507. Assistant Attorney General for Administration**

“(a) The Attorney General shall appoint, with the approval of the President, an Assistant Attorney General for Administration, who shall perform such duties as the Attorney General may prescribe.

“(b) The position of Assistant Attorney General for Administration is in the competitive service.

**“§ 508. Vacancies**

“(a) In case of a vacancy in the office of Attorney General, or of his absence or disability, the Deputy Attorney General may exercise all the duties of that office, and for the purpose of section 3345 of title 5 the Deputy Attorney General is the first assistant to the Attorney General.

“(b) When, by reason of absence, disability, or vacancy in office, neither the Attorney General nor the Deputy Attorney General is available to exercise the duties of the office of Attorney General, the Assistant Attorneys General and the Solicitor General, in such order of succession as the Attorney General may from time to time prescribe, shall act as Attorney General.

**“§ 509. Functions of the Attorney General**

“All functions of other officers of the Department of Justice and all functions of agencies and employees of the Department of Justice are vested in the Attorney General except the functions—

“(1) vested by subchapter II of chapter 5 of title 5 in hearing examiners employed by the Department of Justice;

“(2) of the Federal Prison Industries, Inc.;

“(3) of the Board of Directors and officers of the Federal Prison Industries, Inc.; and

“(4) of the Board of Parole.

**“§ 510. Delegation of authority**

“The Attorney General may from time to time make such provisions as he considers appropriate authorizing the performance by any other officer, employee, or agency of the Department of Justice of any function of the Attorney General.

**“§ 511. Attorney General to advise the President**

“The Attorney General shall give his advice and opinion on questions of law when required by the President.

**“§ 512. Attorney General to advise heads of executive departments**

“The head of an executive department may require the opinion of the Attorney General on questions of law arising in the administration of his department.

**“§ 513. Attorney General to advise Secretaries of military departments**

“When a question of law arises in the administration of the Department of the Army, the Department of the Navy, or the Department of the Air Force, the cognizance of which is not given by statute to some other officer from whom the Secretary of the military department concerned may require advice, the Secretary of the military department shall send it to the Attorney General for disposition.

**“§ 514. Legal services on pending claims in departments and agencies**

“When the head of an executive department or agency is of the opinion that the interests of the United States require the service of counsel on the examination of any witness concerning any claim, or on the legal investigation of any claim, pending in the department or agency, he shall notify the Attorney General, giving all facts necessary to enable him to furnish proper professional service in attending the examination or making the investigation, and the Attorney General shall provide for the service.

**“§ 515. Authority for legal proceedings; commission, oath, and salary for special attorneys**

“(a) The Attorney General or any other officer of the Department of Justice, or any attorney specially appointed by the Attorney General under law, may, when specifically directed by the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, which United States attorneys are authorized by law to conduct, whether or not he is a resident of the district in which the proceeding is brought.

“(b) Each attorney specially retained under authority of the Department of Justice shall be commissioned as special assistant to the Attorney General or special attorney, and shall take the oath required by law. Foreign counsel employed in special cases are not required to take the oath. The Attorney General shall fix the annual salary of a special assistant or special attorney at not more than \$12,000.

**“§ 516. Conduct of litigation reserved to Department of Justice**

“Except as otherwise authorized by law, the conduct of litigation in which the United States, an agency, or officer thereof is a party, or is interested, and securing evidence therefor, is reserved to officers of the Department of Justice, under the direction of the Attorney General.

**“§ 517. Interests of United States in pending suits**

“The Solicitor General, or any officer of the Department of Justice, may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States, or in a court of a State, or to attend to any other interest of the United States.

**“§ 518. Conduct and argument of cases**

“(a) Except when the Attorney General in a particular case directs otherwise, the Attorney General and the Solicitor General shall con-

duct and argue suits and appeals in the Supreme Court and suits in the Court of Claims in which the United States is interested.

“(b) When the Attorney General considers it in the interests of the United States, he may personally conduct and argue any case in a court of the United States in which the United States is interested, or he may direct the Solicitor General or any officer of the Department of Justice to do so.

**“§ 519. Supervision of litigation**

“Except as otherwise authorized by law, the Attorney General shall supervise all litigation to which the United States, an agency, or officer thereof is a party, and shall direct all United States attorneys, assistant United States attorneys, and special attorneys appointed under section 543 of this title in the discharge of their respective duties.

**“§ 520. Transmission of petitions in Court of Claims; statement furnished by departments**

“(a) In suits against the United States in the Court of Claims founded on a contract, agreement, or transaction with an executive department or military department, or a bureau, officer, or agent thereof, or when the matter or thing on which the claim is based has been passed on and decided by an executive department, military department, bureau, or officer authorized to adjust it, the Attorney General shall send to the department, bureau, or officer a printed copy of the petition filed by the claimant, with a request that the department, bureau, or officer furnish to the Attorney General all facts, circumstances, and evidence concerning the claim in the possession or knowledge of the department, bureau, or officer.

“(b) Within a reasonable time after receipt of the request from the Attorney General, the executive department, military department, bureau, or officer shall furnish the Attorney General with a written statement of all facts, information, and proofs. The statement shall contain a reference to or description of all official documents and papers, if any, as may furnish proof of facts referred to in it, or may be necessary and proper for the defense of the United States against the claim, mentioning the department, office, or place where the same is kept or may be secured. If the claim has been passed on and decided by the department, bureau, or officer, the statement shall briefly state the reasons and principles on which the decision was based. When the decision was founded on an Act of Congress it shall be cited specifically, and if any previous interpretation or construction has been given to the Act, section, or clause by the department, bureau, or officer, it shall be set forth briefly in the statement and a copy of the opinion filed, if any, attached to it. When a decision in the case has been based on a regulation of a department or when a regulation has, in the opinion of the department, bureau, or officer sending the statement, any bearing on the claim, it shall be distinctly quoted at length in the statement. When more than one case or class of cases is pending, the defense of which rests on the same facts, circumstances, and proofs, the department, bureau, or officer may certify and send one statement and it shall be held to apply to all cases as if made out, certified, and sent in each case respectively.

**“§ 521. Publication and distribution of opinions**

“The Attorney General, from time to time—

“(1) shall cause to be edited, and printed in the Government Printing Office, such of his opinions as he considers valuable for preservation in volumes; and

“(2) may prescribe the manner for the distribution of the volumes.

Each volume shall contain headnotes, an index, and such footnotes as the Attorney General may approve.

**“§ 522. Report of business and statistics**

“The Attorney General, at the beginning of each regular session of Congress, shall report to Congress on the business of the Department of Justice for the last preceding fiscal year, and on any other matters pertaining to the Department that he considers proper, including—

“(1) a statement of the several appropriations which are placed under the control of the Department and the amount appropriated;

“(2) the statistics of crime under the laws of the United States; and

“(3) a statement of the number of causes involving the United States, civil and criminal, pending during the preceding year in each of the several courts of the United States.

**“§ 523. Requisitions**

“The Attorney General shall sign all requisitions for the advance or payment of moneys appropriated for the Department of Justice, out of the Treasury, subject to the same control as is exercised on like estimates or accounts by the General Accounting Office.

**“§ 524. Appropriations for administrative expenses; notarial fees; meals and lodging of bailiffs**

“Appropriations for the Department of Justice are available for payment of—

“(1) notarial fees, including such additional stenographic services as are required in connection therewith in the taking of depositions, and compensation and expenses of witnesses and informants, all at the rates authorized or approved by the Attorney General or the Assistant Attorney General for Administration; and

“(2) when ordered by the court, actual expenses of meals and lodging for marshals, deputy marshals, or criers when acting as bailiffs in attendance on juries.

**“§ 525. Procurement of law books, reference books, and periodicals; sale and exchange**

“In the procurement of law books, reference books, and periodicals, the Attorney General may exchange or sell similar items and apply the exchange allowances or proceeds of such sales in whole or in part payment therefor.

**“§ 526. Authority of Attorney General to investigate United States attorneys and marshals, clerks of court, and others**

“(a) The Attorney General may investigate the official acts, records, and accounts of—

“(1) the United States attorneys and marshals; and

“(2) at the request and on behalf of the Director of the Administrative Office of the United States Courts, the clerks of the United States courts and of the district courts of the Canal Zone and the Virgin Islands, probation officers, referees, trustees and receivers in bankruptcy, United States commissioners, and court reporters;

for which purpose all the official papers, records, dockets, and accounts of these officers, without exception, may be examined by agents of the Attorney General at any time.

“(b) Appropriations for the examination of judicial officers are available for carrying out this section.

### **“CHAPTER 33—FEDERAL BUREAU OF INVESTIGATION**

“Sec.

“531. Federal Bureau of Investigation.

“532. Director of Federal Bureau of Investigation.

“533. Investigative and other officials; appointment.

“534. Acquisition, preservation, and exchange of identification records; appointment of officials.

“535. Investigation of crimes involving Government officers and employees; limitations.

“536. Positions in excepted service.

“537. Expenses of unforeseen emergencies of a confidential nature.

#### **“§ 531. Federal Bureau of Investigation**

“The Federal Bureau of Investigation is in the Department of Justice.

#### **“§ 532. Director of the Federal Bureau of Investigation**

“The Attorney General may appoint a Director of the Federal Bureau of Investigation. The Director of the Federal Bureau of Investigation is the head of the Federal Bureau of Investigation.

#### **“§ 533. Investigative and other officials; appointment**

“The Attorney General may appoint officials—

“(1) to detect and prosecute crimes against the United States;

“(2) to assist in the protection of the person of the President;

and

“(3) to conduct such other investigations regarding official matters under the control of the Department of Justice and the Department of State as may be directed by the Attorney General.

This section does not limit the authority of departments and agencies to investigate crimes against the United States when investigative jurisdiction has been assigned by law to such departments and agencies.

#### **“§ 534. Acquisition, preservation, and exchange of identification records; appointment of officials**

“(a) The Attorney General shall—

“(1) acquire, collect, classify, and preserve identification, criminal identification, crime, and other records; and

“(2) exchange these records with, and for the official use of, authorized officials of the Federal Government, the States, cities, and penal and other institutions.

“(b) The exchange of records authorized by subsection (a) (2) of this section is subject to cancellation if dissemination is made outside the receiving departments or related agencies.

“(c) The Attorney General may appoint officials to perform the functions authorized by this section.

#### **“§ 535. Investigation of crimes involving Government officers and employees; limitations**

“(a) The Attorney General and the Federal Bureau of Investigation may investigate any violation of title 18 involving Government officers and employees—

“(1) notwithstanding any other provision of law; and

“(2) without limiting the authority to investigate any matter

which is conferred on them or on a department or agency of the Government.

“(b) Any information, allegation, or complaint received in a department or agency of the executive branch of the Government relating to violations of title 18 involving Government officers and employees shall be expeditiously reported to the Attorney General by the head of the department or agency, unless—

“(1) the responsibility to perform an investigation with respect thereto is specifically assigned otherwise by another provision of law; or

“(2) as to any department or agency of the Government, the Attorney General directs otherwise with respect to a specified class of information, allegation, or complaint.

“(c) This section does not limit—

“(1) the authority of the military departments to investigate persons or offenses over which the armed forces have jurisdiction under the Uniform Code of Military Justice (chapter 47 of title 10); or

“(2) the primary authority of the Postmaster General to investigate postal offenses.

#### “§ 536. Positions in excepted service

“All positions in the Federal Bureau of Investigation are excepted from the competitive service, and the incumbents of such positions occupy positions in the excepted service.

#### “§ 537. Expenses of unforeseen emergencies of a confidential character

“Appropriations for the Federal Bureau of Investigation are available for expenses of unforeseen emergencies of a confidential character, when so specified in the appropriation concerned, to be spent under the direction of the Attorney General. The Attorney General shall certify the amount spent that he considers advisable not to specify, and his certification is a sufficient voucher for the amount therein expressed to have been spent.

### “CHAPTER 35—UNITED STATES ATTORNEYS

“Sec.

“541. United States attorneys.

“542. Assistant United States attorneys.

“543. Special attorneys.

“544. Oath of office.

“545. Residence.

“546. Vacancies.

“547. Duties.

“548. Salaries.

“549. Expenses.

“550. Clerical assistants and messengers.

#### “§ 541. United States attorneys

“(a) The President shall appoint, by and with the advice and consent of the Senate, a United States attorney for each judicial district.

“(b) Each United States attorney shall be appointed for a term of four years. On the expiration of his term, a United States attorney shall continue to perform the duties of his office until his successor is appointed and qualifies.

“(c) Each United States attorney is subject to removal by the President.



**“§ 542. Assistant United States attorneys**

“(a) The Attorney General may appoint one or more assistant United States attorneys in any district when the public interest so requires.

“(b) Each assistant United States attorney is subject to removal by the Attorney General.

**“§ 543. Special attorneys**

“(a) The Attorney General may appoint attorneys to assist United States attorneys when the public interest so requires.

“(b) Each attorney appointed under this section is subject to removal by the Attorney General.

**“§ 544. Oath of office**

“Each United States attorney, assistant United States attorney, and attorney appointed under section 543 of this title, before taking office, shall take an oath to execute faithfully his duties.

**“§ 545. Residence**

“(a) Each United States attorney and assistant United States attorney shall reside in the district for which he is appointed, except that these officers of the District of Columbia and the Southern District of New York may reside within 20 miles thereof.

“(b) The Attorney General may determine the official stations of United States attorneys and assistant United States attorneys within the districts for which they are appointed.

**“§ 546. Vacancies**

“The district court for a district in which the office of United States attorney is vacant may appoint a United States attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court.

**“§ 547. Duties**

“Except as otherwise provided by law, each United States attorney, within his district, shall—

“(1) prosecute for all offenses against the United States;

“(2) prosecute or defend, for the Government, all civil actions, suits or proceedings in which the United States is concerned;

“(3) appear in behalf of the defendants in all civil actions, suits or proceedings pending in his district against collectors, or other officers of the revenue or customs for any act done by them or for the recovery of any money exacted by or paid to these officers, and by them paid into the Treasury;

“(4) institute and prosecute proceedings for the collection of fines, penalties, and forfeitures incurred for violation of any revenue law, unless satisfied on investigation that justice does not require the proceedings; and

“(5) make such reports as the Attorney General may direct.

**“§ 548. Salaries**

“Subject to sections 5315–5317 of title 5, the Attorney General shall fix the annual salaries of United States attorneys, assistant United States attorneys, and attorneys appointed under section 543 of this title at rates of compensation not in excess of the highest rate of GS-18 of the General Schedule set forth in section 5332 of title 5.

**“§ 549. Expenses**

“Necessary office expenses of United States attorneys shall be allowed when authorized by the Attorney General.

**“§ 550. Clerical assistants and messengers**

“The United States attorneys may employ clerical assistants and messengers on approval of the Attorney General.

**“CHAPTER 37—UNITED STATES MARSHALS**

“Sec.

“561. United States marshals.

“562. Deputy marshals and clerical assistants.

“563. Oath of office.

“564. Bond.

“565. Vacancies.

“566. Death of a marshal.

“567. Expenses of marshals.

“568. Availability of appropriations; transfer of prisoners to narcotic farms.

“569. Powers and duties generally; supervision by Attorney General.

“570. Power as sheriff.

“571. Disbursement of salaries and moneys.

“572. Collection of fees; accounting.

“573. Delivery of prisoners to successor.

“574. Delivery of unserved process to successor.

“575. Practice of law prohibited.

**“§ 561. United States marshals**

“(a) The President shall appoint, by and with the advice and consent of the Senate, a United States marshal for each judicial district.

“(b) Each marshal shall be appointed for a term of four years. On expiration of his term, a marshal shall continue to perform the duties of his office until his successor is appointed and qualifies, unless sooner removed by the President.

“(c) The Attorney General shall designate places within the district for the official station and offices of each marshal. Each marshal shall reside within the district for which he was appointed, except that the marshal for the District of Columbia and the Southern District of New York may reside within 20 miles thereof.

**“§ 562. Deputy marshals and clerical assistants**

“The Attorney General may authorize a United States marshal to appoint deputies and clerical assistants. Each deputy marshal is subject to removal by the marshal pursuant to civil-service regulations.

**“§ 563. Oath of office**

“Each United States marshal and deputy marshal before assuming the duties of his office shall take the following oath or affirmation:

“‘I, \_\_\_\_\_, do solemnly swear (or affirm) that I will faithfully execute all lawful precepts directed to the \_\_\_\_\_ under the authority of the United States, make true returns, take only lawful fees, and in all things well and truly, and without malice or partiality, perform the duties of the office of \_\_\_\_\_ during my continuance in office. So help me God’.

**“§ 564. Bond**

“(a) Each United States marshal, including a marshal appointed to serve during a vacancy, shall be bonded in the sum of \$20,000 for the faithful performance of duty by himself and his deputies during his continuance in office and by his deputies after his death until his successor is appointed and qualifies.

“(b) The Attorney General may require the United States marshal for the Southern District of New York to be bonded in a sum not exceeding \$75,000 and any other United States marshal to be bonded in a sum not exceeding \$40,000.

"(c) A person injured by a breach of a United States marshal's bond may sue thereon, in his own name, to recover his damages. Such an action shall be commenced within six years after the right accrues, but a person under legal disability may sue within three years after the removal of his disability. After judgment, the marshal's bond shall remain as security until the whole penalty has been recovered.

**"§ 565. Vacancies**

"The district court for a district in which the office of United States marshal is vacant may appoint a United States marshal to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court.

**"§ 566. Death of a marshal**

"(a) On the death of a United States marshal, his deputy or deputies shall perform the duties of the deceased marshal in his name until his successor is appointed and qualifies.

"(b) The default or misfeasance of a deputy is a breach of the deceased marshal's bond, and his executor or administrator has like remedies against the deputy for the default or misfeasance as the marshal would have had if he had continued in office.

**"§ 567. Expenses of marshals**

"Under regulations prescribed by the Attorney General, each United States marshal shall be allowed—

"(1) his actual and necessary office expenses;

"(2) the expense of transporting prisoners, including the cost of necessary guards and the travel and subsistence expense of prisoners and guards; and

"(3) other necessary expenditures in line of duty, approved by the Attorney General.

**"§ 568. Availability of appropriations; transfer of prisoners to narcotic farms**

"Appropriations for salaries and expenses of United States marshals are available for actual and necessary expenses incident to the transfer of prisoners in the custody of the marshals to narcotic farms.

**"§ 569. Powers and duties generally; supervision by Attorney General**

"(a) The United States marshal of each district is the marshal of the district court and of the court of appeals when sitting in his district, and of the Customs Court holding sessions in his district elsewhere than in the Southern and Eastern Districts of New York, and may, in the discretion of the respective courts, be required to attend any session of court.

"(b) United States marshals shall execute all lawful writs, process and orders issued under authority of the United States, including those of the courts and Government of the Canal Zone, and command all necessary assistance to execute their duties.

"(c) The Attorney General shall supervise and direct United States marshals in the performance of public duties and accounting for public moneys. Each marshal shall report his official proceedings, receipts and disbursements and the condition of his office as the Attorney General directs.

**"§ 570. Power as sheriff**

"A United States marshal and his deputies, in executing the laws of the United States within a State, may exercise the same powers which a sheriff of the State may exercise in executing the laws thereof.

**“§ 571. Disbursement of salaries and moneys**

“(a) The United States marshals, under regulations prescribed by the Attorney General, shall pay the salaries, office expenses and travel and per diem allowances of United States attorneys, their assistants, clerks and messengers, and of the marshals, their deputies and clerical assistants.

“(b) The United States marshals, under regulations prescribed by the Director of the Administrative Office of the United States Courts, shall pay the salaries, office expenses, and travel and per diem allowances of circuit and district judges, clerks of court and their deputies, court reporters, and other personnel of courts within their districts.

“(c) On all disbursements made by United States marshals for official salaries or expenses, the certificate of the payee is sufficient without verification on oath.

**“§ 572. Collection of fees; accounting**

“(a) Each United States marshal shall collect, as far as possible, his lawful fees and account for the same as public moneys.

“(b) The marshal's accounts of fees and costs paid to a witness or juror on certificate of attendance issued as provided by sections 1825 and 1871 of this title may not be reexamined to charge him for an erroneous payment of the fees or costs.

**“§ 573. Delivery of prisoners to successor**

“Each United States marshal shall deliver to his successor all prisoners in his custody.

**“§ 574. Delivery of unserved process to successor**

“All unserved process remaining in the hands of a United States marshal or his deputies shall be delivered to his successor. When a deputy marshal resigns or is removed, he shall deliver to the marshal all process in his hands.

**“§ 575. Practice of law prohibited**

“A United States marshal or deputy marshal may not practice law in any court of the United States.”

“(d) The analysis of part VI of title 28, United States Code, is amended by inserting after item 157:

62 Stat. 964.

“158. Orders of Federal Agencies; Review\_\_\_\_\_ 2341”.

“(e) Part VI of title 28, United States Code, is amended by inserting after chapter 157:

**“CHAPTER 158—ORDERS OF FEDERAL AGENCIES;  
REVIEW**

“Sec.

“2341. Definitions.

“2342. Jurisdiction of court of appeals.

“2343. Venue.

“2344. Review of orders; time; notice; contents of petitions; service.

“2345. Prehearing conference.

“2346. Certification of record on review.

“2347. Petitions to review; proceedings.

“2348. Representation in proceeding; intervention.

“2349. Jurisdiction of the proceeding.

“2350. Review in Supreme Court on certiorari or certification.

“2351. Enforcement of orders by district courts.

“2352. Rules.

**“§ 2341. Definitions**

“As used in this chapter—

“(1) ‘clerk’ means the clerk of the court in which the petition for the review of an order, reviewable under this chapter, is filed;

“(2) ‘petitioner’ means the party or parties by whom a petition to review an order, reviewable under this chapter, is filed; and

“(3) ‘agency’ means—

“(A) the Commission, when the order sought to be reviewed was entered by the Federal Communications Commission, the Federal Maritime Commission, or the Atomic Energy Commission, as the case may be;

“(B) the Secretary, when the order was entered by the Secretary of Agriculture; and

“(C) the Administration, when the order was entered by the Maritime Administration.

**“§ 2342. Jurisdiction of court of appeals**

“The court of appeals has exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of—

“(1) all final orders of the Federal Communications Commission made reviewable by section 402(a) of title 47;

“(2) all final orders of the Secretary of Agriculture made under chapters 9 and 20A of title 7, except orders issued under sections 210(e), 217a, and 499g(a) of title 7;

“(3) such final orders of the Federal Maritime Commission or the Maritime Administration entered under chapters 23 and 23A of title 46 as are subject to judicial review under section 830 of title 46; and

“(4) all final orders of the Atomic Energy Commission made reviewable by section 2239 of title 42.

Jurisdiction is invoked by filing a petition as provided by section 2344 of this title.

**“§ 2343. Venue**

“The venue of a proceeding under this chapter is in the judicial circuit in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

**“§ 2344. Review of orders; time; notice; contents of petition; service**

“On the entry of a final order reviewable under this chapter, the agency shall promptly give notice thereof by service or publication in accordance with its rules. Any party aggrieved by the final order may, within 60 days after its entry, file a petition to review the order in the court of appeals wherein venue lies. The action shall be against the United States. The petition shall contain a concise statement of—

“(1) the nature of the proceedings as to which review is sought;

“(2) the facts on which venue is based;

“(3) the grounds on which relief is sought; and

“(4) the relief prayed.

The petitioner shall attach to the petition, as exhibits, copies of the order, report, or decision of the agency. The clerk shall serve a true copy of the petition on the agency and on the Attorney General by registered mail, with request for a return receipt.

**“§ 2345. Prehearing conference**

“The court of appeals may hold a prehearing conference or direct a judge of the court to hold a prehearing conference.

**“§ 2346. Certification of record on review**

“Unless the proceeding has been terminated on a motion to dismiss the petition, the agency shall file in the office of the clerk the record on review as provided by section 2112 of this title.

**“§ 2347. Petitions to review; proceedings**

“(a) Unless determined on a motion to dismiss, petitions to review orders reviewable under this chapter are heard in the court of appeals on the record of the pleadings, evidence adduced, and proceedings before the agency, when the agency has held a hearing whether or not required to do so by law.

“(b) When the agency has not held a hearing before taking the action of which review is sought by the petition, the court of appeals shall determine whether a hearing is required by law. After that determination, the court shall—

“(1) remand the proceedings to the agency to hold a hearing, when a hearing is required by law;

“(2) pass on the issues presented, when a hearing is not required by law and it appears from the pleadings and affidavits filed by the parties that no genuine issue of material fact is presented; or

“(3) transfer the proceedings to a district court for the district in which the petitioner resides or has its principal office for a hearing and determination as if the proceedings were originally initiated in the district court, when a hearing is not required by law and a genuine issue of material fact is presented. The procedure in these cases in the district court is governed by the Federal Rules of Civil Procedure.

“(c) If a party to a proceeding to review applies to the court of appeals in which the proceeding is pending for leave to adduce additional evidence and shows to the satisfaction of the court that—

“(1) the additional evidence is material; and

“(2) there were reasonable grounds for failure to adduce the evidence before the agency;

the court may order the additional evidence and any counterevidence the opposite party desires to offer to be taken by the agency. The agency may modify its findings of fact, or make new findings, by reason of the additional evidence so taken, and may modify or set aside its order, and shall file in the court the additional evidence, the modified findings or new findings, and the modified order or the order setting aside the original order.

**“§ 2348. Representation in proceeding; intervention**

“The Attorney General is responsible for and has control of the interests of the Government in all court proceedings under this chapter. The agency, and any party in interest in the proceeding before the agency whose interests will be affected if an order of the agency is or is not enjoined, set aside, or suspended, may appear as parties thereto of their own motion and as of right, and be represented by counsel in any proceeding to review the order. Communities, associations, corporations, firms, and individuals, whose interests are affected by the order of the agency, may intervene in any proceeding to review the order. The Attorney General may not dispose of or discontinue the proceeding to review over the objection of any party or intervenor, but any intervenor may prosecute, defend, or continue the proceeding unaffected by the action or inaction of the Attorney General.

28 USC app.

**“§ 2349. Jurisdiction of the proceeding**

“(a) The court of appeals has jurisdiction of the proceeding on the filing and service of a petition to review. The court of appeals in which the record on review is filed, on the filing, has jurisdiction to vacate stay orders or interlocutory injunctions previously granted by any court, and has exclusive jurisdiction to make and enter, on the petition, evidence, and proceedings set forth in the record on review, a judgment determining the validity of, and enjoining, setting aside, or suspending, in whole or in part, the order of the agency.

“(b) The filing of the petition to review does not of itself stay or suspend the operation of the order of the agency, but the court of appeals in its discretion may restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the petition. When the petitioner makes application for an interlocutory injunction restraining or suspending the enforcement, operation, or execution of, or setting aside, in whole or in part, any order reviewable under this chapter, at least 5 days' notice of the hearing thereon shall be given to the agency and to the Attorney General. In a case in which irreparable damage would otherwise result to the petitioner, the court of appeals may, on hearing, after reasonable notice to the agency and to the Attorney General, order a temporary stay or suspension, in whole or in part, of the operation of the order of the agency for not more than 60 days from the date of the order pending the hearing on the application for the interlocutory injunction, in which case the order of the court of appeals shall contain a specific finding, based on evidence submitted to the court of appeals, and identified by reference thereto, that irreparable damage would result to the petitioner and specifying the nature of the damage. The court of appeals, at the time of hearing the application for an interlocutory injunction, on a like finding, may continue the temporary stay or suspension, in whole or in part, until decision on the application. The hearing on an application for an interlocutory injunction shall be given preference and expedited and shall be heard at the earliest practicable date after the expiration of the notice of hearing on the application. On the final hearing of any proceeding to review any order under this chapter, the same requirements as to precedence and expedition apply.

**“§ 2350. Review in Supreme Court on certiorari or certification**

“(a) An order granting or denying an interlocutory injunction under section 2349(b) of this title and a final judgment of the court of appeals in a proceeding to review under this chapter are subject to review by the Supreme Court on a writ of certiorari as provided by section 1254(1) of this title. Application for the writ shall be made within 45 days after entry of the order and within 90 days after entry of the judgment, as the case may be. The United States, the agency, or an aggrieved party may file a petition for a writ of certiorari.

“(b) The provisions of section 1254(3) of this title, regarding certification, and of section 2101(f) of this title, regarding stays, also apply to proceedings under this chapter.

**“§ 2351. Enforcement of orders by district courts**

“The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain any person from violating any order issued under section 193 of title 7.

**“§ 2352. Rules**

“The several courts of appeals shall adopt and promulgate rules, subject to the approval of the Judicial Conference of the United

States, governing the practice and procedure, including prehearing conference procedure, in proceedings to review orders under this chapter."

SEC. 5: (a) The chapter analysis of title 37, United States Code, is amended by inserting after item 9:

76 Stat. 480.

"10. PAYMENTS TO MISSING PERSONS..... 551".

(b) Title 37, United States Code, is amended by inserting after chapter 9:

## **"CHAPTER 10—PAYMENTS TO MISSING PERSONS**

"Sec.

"551. Definitions.

"552. Pay and allowances; continuance while in a missing status; limitations.

"553. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations.

"554. Travel and transportation; dependents; household and personal effects; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable.

"555. Secretarial review.

"556. Secretarial determinations.

"557. Settlement of accounts.

"558. Income tax deferment.

### **"§ 551. Definitions**

"In this chapter—

"(1) 'dependent', with respect to a member of a uniformed service, means—

"(A) his wife;

"(B) his unmarried child (including an unmarried dependent stepchild or adopted child) under 21 years of age;

"(C) his dependent mother or father;

"(D) a dependent designated in official records; and

"(E) a person determined to be dependent by the Secretary concerned, or his designee;

"(2) 'missing status' means the status of a member of a uniformed service who is officially carried or determined to be absent in a status of—

"(A) missing;

"(B) missing in action;

"(C) interned in a foreign country;

"(D) captured, beleaguered, or besieged by a hostile force;

or

"(E) detained in a foreign country against his will; and

"(3) 'pay and allowances' means—

"(A) basic pay;

"(B) special pay;

"(C) incentive pay;

"(D) basic allowance for quarters;

"(E) basic allowance for subsistence; and

"(F) station per diem allowances for not more than 90 days.

### **"§ 552. Pay and allowances; continuance while in a missing status; limitations**

"(a) A member of a uniformed service who is on active duty or performing inactive-duty training, and who is in a missing status, is, for the period he is in that status, entitled to receive or have credited to his account the same pay and allowances, as defined in this chapter, to which he was entitled at the beginning of that period or may there-



after become entitled. However, a member who is performing full-time training duty or other full-time duty without pay, or inactive-duty training with or without pay, is entitled to the pay and allowances to which he would have been entitled if he had been on active duty with pay.

“(b) The expiration of a member's term of service while he is in a missing status does not end his entitlement to pay and allowances under subsection (a) of this section. Notwithstanding the death of a member while in a missing status, entitlement to pay and allowances under subsection (a) of this section ends on the date—

“(1) the Secretary concerned receives evidence that the member is dead; or

“(2) that his death is prescribed or determined under section 555 of this title.

“(c) A member is not entitled to pay and allowances under subsection (a) of this section for a period during which he is officially determined to be absent from his post of duty without authority, and he is indebted to the United States for payments from amounts credited to his account for that period.

“(d) A member who is performing full-time training duty or inactive-duty training is entitled to the benefits of this section only when he is officially determined to be in a missing status that results from the performance of duties prescribed by competent authority.

“(e) A member in a missing status who is continued in that status under section 555 of this title is entitled to be credited with pay and allowances under subsection (a) of this section.

**“§ 553. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations**

“(a) Notwithstanding the end of the period for which it was made, an allotment, including one for the purchase of United States savings bonds, made by a member of a uniformed service before he was in a missing status may be continued for the period he is entitled to pay and allowances under section 552 of this title.

“(b) When there is no allotment in effect, or when it is insufficient for a purpose authorized by the Secretary concerned, he, or his designee, may authorize new allotments or increases in allotments that are warranted by the circumstances and payable for the period the member is entitled to pay and allowances under section 552 of this title.

“(c) The total of all allotments from the pay and allowances of a member in a missing status may not be more than the amount of pay and allowances he is permitted to allot under regulations prescribed by the Secretary concerned.

“(d) A premium paid by the United States on insurance issued on the life of a member which is unearned because it covers a period after his death reverts to the appropriation of the department concerned.

“(e) Subject to subsections (f) and (g) of this section, the Secretary concerned, or his designee, may, when he considers it in the interest of the member, his dependents, or the United States, direct the initiation, continuance, discontinuance, increase, decrease, suspension, or resumption of payments of allotments from the pay and allowances of a member entitled to pay and allowances under section 552 of this title.

“(f) When the Secretary concerned officially reports that a member in a missing status is alive, the payments of allotments authorized by subsections (a)–(d) of this section may, subject to section 552 of this title, be made until the date the Secretary concerned receives evi-

dence that the member is dead or has returned to the controllable jurisdiction of the department concerned.

“(g) A member in a missing status who is continued in that status under section 555 of this title is entitled to have the payments of allotments authorized by subsections (a)–(d) of this section continued, increased, or initiated.

“(h) When the Secretary concerned considers it essential for the well-being and protection of the dependents of a member on active duty (other than a member entitled to pay and allowances under section 552 of this title), he may, with or without the consent, and subject to termination at the request, of the member—

“(1) direct the payment of a new allotment from the pay of the member;

“(2) increase or decrease the amount of an allotment made by the member; and

“(3) continue payment of an allotment of the member which has expired.

**“§ 554. Travel and transportation; dependents; household and personal effects; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable**

“(a) In this section, ‘household and personal effects’ and ‘household effects’ may include, in addition to other authorized weight allowances, one privately owned motor vehicle which may be shipped at United States expense when it is located outside the United States, or in Alaska or Hawaii.

“(b) Transportation (including packing, crating, drayage, temporary storage, and unpacking of household and personal effects) may be provided for the dependents and household and personal effects of a member of a uniformed service on active duty (without regard to pay grade) who is officially reported as dead, injured, or absent for a period of more than 29 days in a missing status—

“(1) to the member’s official residence of record;

“(2) to the residence of his dependent, next of kin, or other person entitled to custody of the effects, under regulations prescribed by the Secretary concerned; or

“(3) on request of the member (if injured), or his dependent, next of kin, or other person described in clause (2), to another location determined in advance or later approved by the Secretary concerned, or his designee.

“(c) When a member described in subsection (b) of this section is in an injured status, transportation of dependents and household and personal effects authorized by this section may be provided only when prolonged hospitalization or treatment is anticipated.

“(d) Transportation requested by a dependent may be authorized under this section only if there is a reasonable relationship between the circumstances of the dependent and the requested destination.

“(e) In place of the transportation for dependents authorized by this section, and after the travel is completed, the Secretary concerned may authorize—

“(1) reimbursement for the commercial cost of the transportation; or