AN ACT

To enact title 5, United States Code, "Government Organization and Employees", codifying the general and permanent laws relating to the organization of the Government of the United States and to its civilian officers and employees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the laws relating to the organization of the Government of the United States and to its civilian officers and employees, generally, are revised, codified, and enacted as title 5 of the United States Code, entitled "Government Organization and Employees", and may be cited as "5 U.S.C., § " , as follows:

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

PART I—THE AGENCIES GENERALLY

CHAPTER 1—ORGANIZATION

§ 101. Executive departments

The Executive departments are:

The Department of State.
The Department of the Treasury.
The Department of Defense.
The Department of Justice.
The Post Office Department.
The Department of the Interior.
The Department of Agriculture.
The Department of Commerce.
The Department of Labor.
The Department of Health, Education, and Welfare.

§ 102. Military departments

The military departments are:

The Department of the Army.
The Department of the Navy.
The Department of the Air Force.

§ 103. Government corporation

For the purpose of this title—

(1) "Government corporation" means a corporation owned or controlled by the Government of the United States; and
(2) "Government controlled corporation" does not include a corporation owned by the Government of the United States.

§ 104. Independent establishment
For the purpose of this title, "independent establishment" means—
(1) an establishment in the executive branch which is not an Executive department, military department, Government corporation, or part thereof, or part of an independent establishment; and
(2) the General Accounting Office.

§ 105. Executive agency
For the purpose of this title, "Executive agency" means an Executive department, a Government corporation, and an independent establishment.

CHAPTER 3—POWERS

§ 301. Departmental regulations
The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the availability of records to the public.

§ 302. Delegation of authority
(a) For the purpose of this section, "agency" has the meaning given it by section 5721 of this title.
(b) In addition to the authority to delegate conferred by other law, the head of an agency may delegate to subordinate officials the authority vested in him—
(1) by law to take final action on matters pertaining to the employment, direction, and general administration of personnel under his agency; and
(2) by section 324 of title 44 to authorize the publication of advertisements, notices, or proposals.

§ 303. Oaths to witnesses
An employee of an Executive department lawfully assigned to investigate frauds on or attempts to defraud the United States, or irregularity or misconduct of an employee or agent of the United States, may administer an oath to a witness attending to testify or depose in the course of the investigation.

§ 304. Subpenas
(a) The head of an Executive department or military department or bureau thereof in which a claim against the United States is pending may apply to a judge or clerk of a court of the United States to issue a subpena for a witness within the jurisdiction of the court to appear at a time and place stated in the subpena before an individual authorized to take depositions to be used in the courts of the United States, to give full and true answers to such written interrogatories and cross-interrogatories as may be submitted with the application, or to be orally examined and cross-examined on the subject of the claim.
(b) If a witness, after being served with a subpoena, neglects or refuses to appear, or, appearing, refuses to testify, the judge of the district in which the subpoena issued may proceed, on proper process, to enforce obedience to the subpoena, or to punish for disobedience, in the same manner as a court of the United States may in case of process of subpoena ad testificandum issued by the court.

§ 305. Systematic agency review of operations

(a) For the purpose of this section, "agency" means an Executive agency, but does not include—

(1) a Government controlled corporation;
(2) the Tennessee Valley Authority;
(3) The Alaska Railroad;
(4) the Virgin Islands Corporation;
(5) the Atomic Energy Commission;
(6) the Central Intelligence Agency;
(7) the Panama Canal Company; or
(8) the National Security Agency, Department of Defense.

(b) Under regulations prescribed and administered by the Director of the Bureau of the Budget, each agency shall review systematically the operations of each of its activities, functions, or organization units, on a continuing basis.

(c) The purpose of the reviews includes—

(1) determining the degree of efficiency and economy in the operation of the agency's activities, functions, or organization units;
(2) identifying the units that are outstanding in those respects; and
(3) identifying the employees whose personal efforts have caused their units to be outstanding in efficiency and economy of operations.

CHAPTER 5—ADMINISTRATIVE PROCEDURE

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SUBCHAPTER I—GENERAL PROVISIONS

§ 501. Advertising practice; restrictions
An individual, firm, or corporation practicing before an agency of the United States may not use the name of a Member of either House of Congress or of an individual in the service of the United States in advertising the business.

§ 502. Administrative practice; Reserves and National Guardsmen
Membership in a reserve component of the armed forces or in the National Guard does not prevent an individual from practicing his civilian profession or occupation before, or in connection with, an agency of the United States.

§ 503. Witness fees and allowances
(a) For the purpose of this section, “agency” has the meaning given it by section 5721 of this title.
(b) A witness is entitled to the fees and allowances allowed by statute for witnesses in the courts of the United States when—
(1) he is subpoenaed under section 304(a) of this title; or
(2) he is subpoenaed to and appears at a hearing before an agency authorized by law to hold hearings and subpoena witnesses to attend the hearings.

SUBCHAPTER II—ADMINISTRATIVE PROCEDURE

§ 551. Definitions
For the purpose of this subchapter—
(1) “agency” means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—
(A) the Congress;
(B) the courts of the United States;
(C) the governments of the territories or possessions of the United States;
(D) the government of the District of Columbia;
or except as to the requirements of section 552 of this title—
(E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;
(F) courts martial and military commissions;
(G) military authority exercised in the field in time of war or in occupied territory; or
(H) functions conferred by sections 1738, 1739, 1740, and 1744 of title 12; chapter 2 of title 41; or sections 1622, 1884, 1891-1902, and former section 1641(b)(2), of title 50, appendix;

(2) "person" includes an individual, partnership, corporation, association, or public or private organization other than an agency;

(3) "party" includes a person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in an agency proceeding, and a person or agency admitted by an agency as a party for limited purposes;

(4) "rule" means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, or practices bearing on any of the foregoing;

(5) "rule making" means agency process for formulating, amending, or repealing a rule;

(6) "order" means the whole or a part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency in a matter other than rule making but including licensing;

(7) "adjudication" means agency process for the formulation of an order;

(8) "license" includes the whole or a part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission;

(9) "licensing" includes agency process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license;

(10) "sanction" includes the whole or a part of an agency—

(A) prohibition, requirement, limitation, or other condition affecting the freedom of a person;

(B) withholding of relief;

(C) imposition of penalty or fine;

(D) destruction, taking, seizure, or withholding of property;

(E) assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees;

(F) requirement, revocation, or suspension of a license; or

(G) taking other compulsory or restrictive action;

(11) "relief" includes the whole or a part of an agency—

(A) grant of money, assistance, license, authority, exemption, privilege, or remedy;

(B) recognition of a claim, right, immunity, privilege, exemption, or exception; or

(C) taking of other action on the application or petition of a person;

(12) "agency proceeding" means an agency process as defined by paragraphs (5), (7), and (9) of this section; and
(13) "agency action" includes the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.

§ 552. Publication of information, rules, opinions, orders, and public records

(a) This section applies, according to the provisions thereof, except to the extent that there is involved—

(1) a function of the United States requiring secrecy in the public interest; or

(2) a matter relating solely to the internal management of an agency.

(b) Each agency shall separately state and currently publish in the Federal Register—

(1) descriptions of its central and field organizations, including delegations of final authority by the agency, and the established places at which, and methods whereby, the public may obtain information or make submittals or requests;

(2) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of the formal or informal procedures available and forms and instructions as to the scope and contents of all papers, reports, or examinations; and

(3) substantive rules adopted as authorized by law and statements of general policy or interpretations adopted by the agency for public guidance, except rules addressed to and served on named persons in accordance with law.

A person may not be required to resort to organization or procedure not so published.

(c) Each agency shall publish or, in accordance with published rule, make available to public inspection all final opinions or orders in the adjudication of cases (except those required for good cause to be held confidential and not cited as precedents) and all rules.

(d) Except as otherwise required by statute, matters of official record shall be made available, in accordance with published rule, to persons properly and directly concerned, except information held confidential for good cause found.

§ 553. Rule making

(a) This section applies, according to the provisions thereof, except to the extent that there is involved—

(1) a military or foreign affairs function of the United States; or

(2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.

(b) General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—

(1) a statement of the time, place, and nature of public rule making proceedings;

(2) reference to the legal authority under which the rule is proposed; and

(3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

Except when notice or hearing is required by statute, this subsection does not apply—
(A) to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or
(B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.
(c) After notice required by this section, the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose. When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.
(d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—
(1) a substantive rule which grants or recognizes an exemption or relieves a restriction;
(2) interpretative rules and statements of policy; or
(3) as otherwise provided by the agency for good cause found and published with the rule.
(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.
§ 554. Adjudications
(a) This section applies, according to the provisions thereof, in every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing, except to the extent that there is involved—
(1) a matter subject to a subsequent trial of the law and the facts de novo in a court;
(2) the selection or tenure of an employee, except a hearing examiner appointed under section 3105 of this title;
(3) proceedings in which decisions rest solely on inspections, tests, or elections;
(4) the conduct of military or foreign affairs functions;
(5) cases in which an agency is acting as an agent for a court; or
(6) the certification of worker representatives.
(b) Persons entitled to notice of an agency hearing shall be timely informed of—
(1) the time, place, and nature of the hearing;
(2) the legal authority and jurisdiction under which the hearing is to be held; and
(3) the matters of fact and law asserted.
When private persons are the moving parties, other parties to the proceeding shall give prompt notice of issues controverted in fact or law; and in other instances agencies may by rule require responsive pleading. In fixing the time and place for hearings, due regard shall be had for the convenience and necessity of the parties or their representatives.
(c) The agency shall give all interested parties opportunity for—
(1) the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment when time, the nature of the proceeding, and the public interest permit; and
to the extent that the parties are unable so to determine a controversy by consent, hearing and decision on notice and in accordance with sections 556 and 557 of this title.

(d) The employee who presides at the reception of evidence pursuant to section 556 of this title shall make the recommended decision or initial decision required by section 557 of this title, unless he becomes unavailable to the agency. Except to the extent required for the disposition of ex parte matters as authorized by law, such an employee may not—

(1) consult a person or party on a fact in issue, unless on notice and opportunity for all parties to participate; or

(2) be responsible to or subject to the supervision or direction of an employee or agent engaged in the performance of investigative or prosecuting functions for an agency.

An employee or agent engaged in the performance of investigative or prosecuting functions for an agency in a case may not, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 557 of this title, except as witness or counsel in public proceedings. This subsection does not apply—

(A) in determining applications for initial licenses;

(B) to proceedings involving the validity or application of rates, facilities, or practices of public utilities or carriers; or

(C) to the agency or a member or members of the body comprising the agency.

(e) The agency, with like effect as in the case of other orders, and in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty.

§ 555. Ancillary matters

(a) This section applies, according to the provisions thereof, except as otherwise provided by this subchapter.

(b) A person compelled to appear in person before an agency or representative thereof is entitled to be accompanied, represented, and advised by counsel or, if permitted by the agency, by other qualified representative. A party is entitled to appear in person or by or with counsel or other duly qualified representative in an agency proceeding. So far as the orderly conduct of public business permits, an interested person may appear before an agency or its responsible employees for the presentation, adjustment, or determination of an issue, request, or controversy in a proceeding, whether interlocutory, summary, or otherwise, or in connection with an agency function. With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it. This subsection does not grant or deny a person who is not a lawyer the right to appear for or represent others before an agency or in an agency proceeding.

(c) Process, requirement of a report, inspection, or other investigative act or demand may not be issued, made, or enforced except as authorized by law. A person compelled to submit data or evidence is entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that in a nonpublic investigatory proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(d) Agency subpenas authorized by law shall be issued to a party on request and, when required by rules of procedure, on a statement or showing of general relevance and reasonable scope of the evidence sought. On contest, the court shall sustain the subpena or similar
process or demand to the extent that it is found to be in accordance with law. In a proceeding for enforcement, the court shall issue an order requiring the appearance of the witness or the production of the evidence or data within a reasonable time under penalty of punishment for contempt in case of contumacious failure to comply.

(e) Prompt notice shall be given of the denial in whole or in part of a written application, petition, or other request of an interested person made in connection with any agency proceeding. Except in affirming a prior denial or when the denial is self-explanatory, the notice shall be accompanied by a brief statement of the grounds for denial.

§ 556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision

(a) This section applies, according to the provisions thereof, to hearings required by section 553 or 554 of this title to be conducted in accordance with this section.

(b) There shall preside at the taking of evidence—

(1) the agency;
(2) one or more members of the body which comprises the agency; or
(3) one or more hearing examiners appointed under section 3105 of this title.

This subchapter does not supersede the conduct of specified classes of proceedings, in whole or in part, by or before boards or other employees specially provided for by or designated under statute. The functions of presiding employees and of employees participating in decisions in accordance with section 557 of this title shall be conducted in an impartial manner. A presiding or participating employee may at any time disqualify himself. On the filing in good faith of a timely and sufficient affidavit of personal bias or other disqualification of a presiding or participating employee, the agency shall determine the matter as a part of the record and decision in the case.

(c) Subject to published rules of the agency and within its powers, employees presiding at hearings may—

(1) administer oaths and affirmations;
(2) issue subpoenas authorized by law;
(3) rule on offers of proof and receive relevant evidence;
(4) take depositions or have depositions taken when the ends of justice would be served;
(5) regulate the course of the hearing;
(6) hold conferences for the settlement or simplification of the issues by consent of the parties;
(7) dispose of procedural requests or similar matters;
(8) make or recommend decisions in accordance with section 557 of this title; and
(9) take other action authorized by agency rule consistent with this subchapter.

(d) Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof. Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. A sanction may not be imposed or rule or order issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence. A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. In rule making
or determining claims for money or benefits or applications for initial licenses an agency may, when a party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form.

(e) The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, constitutes the exclusive record for decision in accordance with section 557 of this title and, on payment of lawfully prescribed costs, shall be made available to the parties. When an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.

§ 557. Initial decisions; conclusiveness; review by agency; submissions by parties; contents of decisions; record

(a) This section applies, according to the provisions thereof, when a hearing is required to be conducted in accordance with section 556 of this title.

(b) When the agency did not preside at the reception of the evidence, the presiding employee or, in cases not subject to section 554(d) of this title, an employee qualified to preside at hearings pursuant to section 556 of this title, shall initially decide the case unless the agency requires, either in specific cases or by general rule, the entire record to be certified to it for decision. When the presiding employee makes an initial decision, that decision then becomes the decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the agency within time provided by rule. On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule. When the agency makes the decision without having presided at the reception of the evidence, the presiding employee or an employee qualified to preside at hearings pursuant to section 556 of this title shall first recommend a decision, except that in rule making or determining applications for initial licenses—

(1) instead thereof the agency may issue a tentative decision or one of its responsible employees may recommend a decision; or

(2) this procedure may be omitted in a case in which the agency finds on the record that due and timely execution of its functions imperatively and unavoidably so requires.

(c) Before a recommended, initial, or tentative decision, or a decision on agency review of the decision of subordinate employees, the parties are entitled to a reasonable opportunity to submit for the consideration of the employees participating in the decisions—

(1) proposed findings and conclusions; or

(2) exceptions to the decisions or recommended decisions of subordinate employees or to tentative agency decisions; and

(3) supporting reasons for the exceptions or proposed findings or conclusions.

The record shall show the ruling on each finding, conclusion, or exception presented. All decisions, including initial, recommended, and tentative decisions, are a part of the record and shall include a statement of—

(A) findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record; and

(B) the appropriate rule, order, sanction, relief, or denial thereof.
§ 558. Imposition of sanctions; determination of applications for licenses; suspension, revocation, and expiration of licenses

(a) This section applies, according to the provisions thereof, to the exercise of a power or authority.

(b) A sanction may not be imposed or a substantive rule or order issued except within jurisdiction delegated to the agency and as authorized by law.

(c) When application is made for a license required by law, the agency, with due regard for the rights and privileges of all the interested parties or adversely affected persons and within a reasonable time, shall set and complete proceedings required to be conducted in accordance with sections 556 and 557 of this title or other proceedings required by law and shall make its decision. Except in cases of willfulness or those in which public health, interest, or safety requires otherwise, the withdrawal, suspension, revocation, or annulment of a license is lawful only if, before the institution of agency proceedings therefor, the licensee has been given—

(1) notice by the agency in writing of the facts or conduct which may warrant the action; and

(2) opportunity to demonstrate or achieve compliance with all lawful requirements.

When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency.

§ 559. Effect on other laws; effect of subsequent statute

This subchapter, chapter 7, and sections 1305, 3105, 3344, 4301(2)(E), 5362, and 7521, and the provisions of section 5335(a)(B) of this title that relate to hearing examiners, do not limit or repeal additional requirements imposed by statute or otherwise recognized by law. Except as otherwise required by law, requirements or privileges relating to evidence or procedure apply equally to agencies and persons. Each agency is granted the authority necessary to comply with the requirements of this subchapter through the issuance of rules or otherwise. Subsequent statute may not be held to supersede or modify this subchapter, chapter 7, sections 1305, 3105, 3344, 4301(2)(E), 5362, or 7521, or the provisions of section 5335(a)(B) of this title that relate to hearing examiners, except to the extent that it does so expressly.

SUBCHAPTER III—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

§ 571. Purpose

It is the purpose of this subchapter to provide suitable arrangements through which Federal agencies, assisted by outside experts, may cooperatively study mutual problems, exchange information, and develop recommendations for action by proper authorities to the end that private rights may be fully protected and regulatory activities and other Federal responsibilities may be carried out expeditiously in the public interest.

§ 572. Definitions

For the purpose of this subchapter—

(1) "administrative program" includes a Federal function which involves protection of the public interest and the determination of rights, privileges, and obligations of private persons through rule making, adjudication, licensing, or investigation, as
those terms are used in subchapter II of this chapter, except that it does not include a military or foreign affairs function of the United States;

(2) "administrative agency" means an authority as defined by section 551(1) of this title; and

(3) "administrative procedure" means procedure used in carrying out an administrative program and is to be broadly construed to include any aspect of agency organization, procedure, or management which may affect the equitable consideration of public and private interests, the fairness of agency decisions, the speed of agency action, and the relationship of operating methods to later judicial review, but does not include the scope of agency responsibility as established by law or matters of substantive policy committed by law to agency discretion.

§ 573. Administrative Conference of the United States

(a) The Administrative Conference of the United States consists of not more than 91 nor less than 75 members appointed as set forth in subsection (b) of this section.

(b) The Conference is composed of—

(1) a full-time Chairman appointed for a 5-year term by the President, by and with the advice and consent of the Senate. The Chairman is entitled to pay at the highest rate established by statute for the chairman of an independent regulatory board or commission, and may continue to serve until his successor is appointed and has qualified;

(2) the chairman of each independent regulatory board or commission or an individual designated by the board or commission;

(3) the head of each Executive department or other administrative agency which is designated by the President, or an individual designated by the head of the department or agency;

(4) when authorized by the Council referred to in section 575(b) of this title, one or more appointees from a board, commission, department, or agency referred to in this subsection, designated by the head thereof with, in the case of a board or commission, the approval of the board or commission;

(5) individuals appointed by the President to membership on the Council who are not otherwise members of the Conference; and

(6) not more than 36 other members appointed by the Chairman, with the approval of the Council, for terms of 2 years, except that the number of members appointed by the Chairman may at no time be less than one-third nor more than two-fifths of the total number of members. The Chairman shall select the members in a manner which will provide broad representation of the views of private citizens and utilize diverse experience. The members shall be members of the practicing bar, scholars in the field of administrative law or government, or others specially informed by knowledge and experience with respect to Federal administrative procedure.

(c) Members of the Conference, except the Chairman, are not entitled to pay for service. Members appointed from outside the Federal Government are entitled to travel expenses, including per diem instead of subsistence, as authorized by section 5703 of this title for individuals serving without pay.
§ 574. Powers and duties of the Conference

To carry out the purpose of this subchapter, the Administrative Conference of the United States may—

(1) study the efficiency, adequacy, and fairness of the administrative procedure used by administrative agencies in carrying out administrative programs, and make recommendations to administrative agencies, collectively or individually, and to the President, Congress, or the Judicial Conference of the United States, in connection therewith, as it considers appropriate;

(2) arrange for interchange among administrative agencies of information potentially useful in improving administrative procedure; and

(3) collect information and statistics from administrative agencies and publish such reports as it considers useful for evaluating and improving administrative procedure.

§ 575. Organization of the Conference

(a) The membership of the Administrative Conference of the United States meeting in plenary session constitutes the Assembly of the Conference. The Assembly has ultimate authority over all activities of the Conference. Specifically, it has the power to—

(1) adopt such recommendations as it considers appropriate for improving administrative procedure. A member who disagrees with a recommendation adopted by the Assembly is entitled to enter a dissenting opinion and an alternate proposal in the record of the Conference proceedings, and the opinion and proposal so entered shall accompany the Conference recommendation in a publication or distribution thereof; and

(2) adopt bylaws and regulations not inconsistent with this subchapter for carrying out the functions of the Conference, including the creation of such committees as it considers necessary for the conduct of studies and the development of recommendations for consideration by the Assembly.

(b) The Conference includes a Council composed of the Chairman of the Conference, who is Chairman of the Council, and 10 other members appointed by the President, of whom not more than one-half shall be employees of Federal regulatory agencies or Executive departments. The President may designate a member of the Council as Vice Chairman. During the absence or incapacity of the Chairman, or when that office is vacant, the Vice Chairman shall serve as Chairman. The term of each member, except the Chairman, is 3 years. When the term of a member ends, he may continue to serve until a successor is appointed. However, the service of any member ends when a change in his employment status would make him ineligible for Council membership under the conditions of his original appointment. The Council has the power to—

(1) determine the time and place of plenary sessions of the Conference and the agenda for the sessions. The Council shall call at least one plenary session each year;

(2) propose bylaws and regulations, including rules of procedure and committee organization, for adoption by the Assembly;

(3) make recommendations to the Conference or its committees on a subject germane to the purpose of the Conference;

(4) receive and consider reports and recommendations of committees of the Conference and send them to members of the Conference with the views and recommendations of the Council;
(5) designate a member of the Council to preside at meetings of the Council in the absence or incapacity of the Chairman and Vice Chairman;
(6) designate such additional officers of the Conference as it considers desirable;
(7) approve or revise the budgetary proposals of the Chairman; and
(8) exercise such other powers as may be delegated to it by the Assembly.

c) The Chairman is the chief executive of the Conference. In that capacity he has the power to—

(1) make inquiries into matters he considers important for Conference consideration, including matters proposed by individuals inside or outside the Federal Government;
(2) be the official spokesman for the Conference in relations with the several branches and agencies of the Federal Government and with interested organizations and individuals outside the Government, including responsibility for encouraging Federal agencies to carry out the recommendations of the Conference;
(3) request agency heads to provide information needed by the Conference, which information shall be supplied to the extent permitted by law;
(4) recommend to the Council appropriate subjects for action by the Conference;
(5) appoint, with the approval of the Council, members of committees authorized by the bylaws and regulations of the Conference;
(6) prepare, for approval of the Council, estimates of the budgetary requirements of the Conference;
(7) appoint and fix the pay of employees, define their duties and responsibilities, and direct and supervise their activities;
(8) rent office space in the District of Columbia;
(9) provide necessary services for the Assembly, the Council, and the committees of the Conference;
(10) organize and direct studies ordered by the Assembly or the Council, using from time to time, as appropriate, experts and consultants who may be employed under section 3109 of this title, but at rates for individuals not in excess of $100 a day;
(11) on request of the head of an agency, furnish assistance and advice on matters of administrative procedure; and
(12) exercise such additional authority as the Council or Assembly delegates to him.

The Chairman shall preside at meetings of the Council and at each plenary session of the Conference, to which he shall make a full report concerning the affairs of the Conference since the last preceding plenary session. The Chairman, on behalf of the Conference, shall transmit to the President and Congress an annual report and such interim reports as he considers desirable.

§ 576. Appropriations

There are authorized to be appropriated sums necessary, not in excess of $250,000, to carry out the purpose of this subchapter.
CHAPTER 7—JUDICIAL REVIEW

§ 701. Application; definitions
(a) This chapter applies, according to the provisions thereof, except to the extent that—
(1) statutes preclude judicial review; or
(2) agency action is committed to agency discretion by law.
(b) For the purpose of this chapter—
(1) "agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—
   (A) the Congress;
   (B) the courts of the United States;
   (C) the governments of the territories or possessions of the United States;
   (D) the government of the District of Columbia;
   (E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;
   (F) courts martial and military commissions;
   (G) military authority exercised in the field in time of war or in occupied territory; or
   (H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; or sections 1622, 1884, 1891–1902, and former section 1641(b)(2), of title 50, appendix; and
(2) "person", "rule", "order", "license", "sanction", "relief", and "agency action" have the meanings given them by section 551 of this title.

§ 702. Right of review
A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof.

§ 703. Form and venue of proceeding
The form of proceeding for judicial review is the special statutory review proceeding relevant to the subject matter in a court specified by statute or, in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus, in a court of competent jurisdiction. Except to the extent that prior, adequate, and exclusive opportunity for judicial review is provided by law, agency action is subject to judicial review in civil or criminal proceedings for judicial enforcement.

§ 704. Actions reviewable
Agency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court are subject to judicial review. A preliminary, procedural, or intermediate agency action or ruling not directly reviewable is subject to review on the review of
the final agency action. Except as otherwise expressly required by statute, agency action otherwise final is final for the purposes of this section whether or not there has been presented or determined an application for a declaratory order, for any form of reconsideration, or, unless the agency otherwise requires by rule and provides that the action meanwhile is inoperative, for an appeal to superior agency authority.

§ 705. Relief pending review

When an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review. On such conditions as may be required and to the extent necessary to prevent irreparable injury, the reviewing court, including the court to which a case may be taken on appeal from or on application for certiorari or other writ to a reviewing court, may issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights pending conclusion of the review proceedings.

§ 706. Scope of review

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

(1) compel agency action unlawfully withheld or unreasonably delayed; and

(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(D) without observance of procedure required by law;

(E) unsupported by substantial evidence in a case subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

CHAPTER 9—EXECUTIVE REORGANIZATION

See.
901. Purpose.
902. Definitions.
903. Reorganization plans.
904. Additional contents of reorganization plans.
905. Limitations on powers.
906. Effective date and publication of reorganization plans.
907. Effect on other laws, pending legal proceedings, and unexpended appropriations.
908. Rules of Senate and House of Representatives on reorganization plans.
909. Terms of resolution.
910. Reference of resolution to committee.
911. Discharge of committee considering resolution.
912. Procedure after report or discharge of committee; debate.
913. Decisions without debate on motion to postpone or proceed.
§ 901. Purpose

(a) The President shall from time to time examine the organization of all agencies and shall determine what changes therein are necessary to accomplish the following purposes:

(1) to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;

(2) to reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the Government;

(3) to increase the efficiency of the operations of the Government to the fullest extent practicable;

(4) to group, coordinate, and consolidate agencies and functions of the Government, as nearly as may be, according to major purposes;

(5) to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions thereof as may not be necessary for the efficient conduct of the Government; and

(6) to eliminate overlapping and duplication of effort.

(b) Congress declares that the public interest demands the carrying out of the purposes of subsection (a) of this section and that the purposes may be accomplished in great measure by proceeding under this chapter, and can be accomplished more speedily thereby than by the enactment of specific legislation.

§ 902. Definitions

For the purpose of this chapter—

(1) "agency" means—

(A) an Executive agency or part thereof;

(B) an office or officer in the civil service or uniformed services in or under an Executive agency; and

(C) the government of the District of Columbia or part thereof, except the courts;

but does not include the General Accounting Office or the Comptroller General of the United States; and

(2) "reorganization" means a transfer, consolidation, coordination, authorization, or abolition, referred to in section 903 of this title.

§ 903. Reorganization plans

(a) When the President, after investigation, finds that—

(1) the transfer of the whole or a part of an agency, or of the whole or a part of the functions thereof, to the jurisdiction and control of another agency;

(2) the abolition of all or a part of the functions of an agency;

(3) the consolidation or coordination of the whole or a part of an agency, or of the whole or a part of the functions thereof, with the whole or a part of another agency or the functions thereof;

(4) the consolidation or coordination of a part of an agency or the functions thereof with another part of the same agency or the functions thereof;

(5) the authorization of an officer in the civil service or uniformed services to delegate any of his functions; or

(6) the abolition of the whole or a part of an agency which
agency or part does not have, or on the taking effect of the 
reorganization plan will not have, any functions;
is necessary to accomplish one or more of the purposes of section 
901(a) of this title, he shall prepare a reorganization plan for the 
making of the reorganizations as to which he has made findings and 
which he includes in the plan, and transmit the plan (bearing an 
identification number) to Congress, together with a declaration that, 
with respect to each reorganization included in the plan, he has found 
that the reorganization is necessary to accomplish one or more of the 
purposes of section 901(a) of this title.

(b) The President shall have a reorganization plan delivered to 
both Houses on the same day and to each House while it is in session. 
In his message transmitting a reorganization plan, the President shall 
specify with respect to each abolition of a function included in the 
plan the statutory authority for the exercise of the function and the 
reduction of expenditures (itemized so far as practicable) that it is 
probable will be brought about by the taking effect of the reorganiza-
tions included in the plan.

§ 904. Additional contents of reorganization plans
A reorganization plan transmitted by the President under section 
903 of this title—

(1) may change, in such cases as the President considers neces-
sary, the name of an agency affected by a reorganization and the 
title of its head; and shall designate the name of an agency result-
ing from a reorganization and the title of its head;

(2) may provide for the appointment and pay of the head and 
one or more officers of an agency (including an agency resulting 
from a consolidation or other type of reorganization) if the Presi-
dent finds, and in his message transmitting the plan declares, that 
by reason of a reorganization made by the plan the provisions are 
necessary. The head so provided may be an individual or may be 
a commission or board with more than one member. In case of 
such an appointment, the term of office may not be fixed at more 
than 4 years, the pay may not be at a rate in excess of that found 
by the President to be applicable to comparable officers in the 
executive branch, and, if the appointment is not to a position in 
the competitive service, it shall be by the President, by and with 
the advice and consent of the Senate, except that, in the case of an 
officer of the government of the District of Columbia, it may be by 
the Board of Commissioners or other body or officer of that gov-
ernment designated in the plan;

(3) shall provide for the transfer or other disposition of the 
records, property, and personnel affected by a reorganization;

(4) shall provide for the transfer of such unexpended balances 
of appropriations, and of other funds, available for use in con-
nection with a function or agency affected by a reorganization, as 
the President considers necessary by reason of the reorganization 
for use in connection with the functions affected by the reorganiza-
tion, or for the use of the agency which shall have the functions 
after the reorganization plan is effective. However, the unex-
pended balances so transferred may be used only for the purposes 
for which the appropriation was originally made; and

(5) shall provide for terminating the affairs of an agency 
abolished.

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§ 905. Limitations on powers

(a) A reorganization plan may not provide for, and a reorganization under this chapter may not have the effect of—

(1) creating a new Executive department, abolishing or transferring an Executive department or all the functions thereof, or consolidating two or more Executive departments or all the functions thereof;

(2) continuing an agency beyond the period authorized by law for its existence or beyond the time when it would have terminated if the reorganization had not been made;

(3) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization had not been made;

(4) authorizing an agency to exercise a function which is not expressly authorized by law at the time the plan is transmitted to Congress;

(5) increasing the term of an office beyond that provided by law for the office; or

(6) transferring to or consolidating with another agency the government of the District of Columbia or all the functions thereof which are subject to this chapter, or abolishing that government or all those functions.

(b) A provision contained in a reorganization plan may take effect only if the plan is transmitted to Congress before December 31, 1968.

§ 906. Effective date and publication of reorganization plans

(a) Except as otherwise provided under subsection (c) of this section, a reorganization plan is effective at the end of the first period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 60-day period, either House passes a resolution stating in substance that that House does not favor the reorganization plan.

(b) For the purpose of subsection (a) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

(c) Under provisions contained in a reorganization plan, a provision of the plan may be effective at a time later than the date on which the plan otherwise is effective.

(d) A reorganization plan which is effective shall be printed (1) in the Statutes at Large in the same volume as the public laws and (2) in the Federal Register.

§ 907. Effect on other laws, pending legal proceedings, and unexpended appropriations

(a) A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or by an agency or function affected by a reorganization under this chapter, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation, or other action has vested the functions in the agency from which it is removed under the reorganization plan, the function, insofar as it is to be exercised after the plan becomes effective, shall be
deemed as vested in the agency under which the function is placed by the plan.

(b) For the purpose of subsection (a) of this section, "regulation or other action" means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(c) A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, does not abate by reason of the taking effect of a reorganization plan under this chapter. On motion or supplemental petition filed at any time within 12 months after the reorganization plan takes effect, showing a necessity for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be maintained by or against the successor of the head or officer under the reorganization effected by the plan or, if there is no successor, against such agency or officer as the President designates.

(d) The appropriations or portions of appropriations unexpended by reason of the operation of this chapter may not be used for any purpose, but shall revert to the Treasury.

§ 908. Rules of Senate and House of Representatives on reorganization plans
Sections 909-913 of this title are enacted by Congress—

(1) as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by section 909 of this title; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

§ 909. Terms of resolution
For the purpose of sections 908-913 of this title, "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the ______ does not favor the reorganization plan numbered ______ transmitted to Congress by the President on ______, 19_____.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one reorganization plan.

§ 910. Reference of resolution to committee
A resolution with respect to a reorganization plan shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

§ 911. Discharge of committee considering resolution
(a) If the committee to which a resolution with respect to a reorganization plan has been referred has not reported it at the end of 10 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other
resolution with respect to the reorganization plan which has been referred to the committee.

(b) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same reorganization plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(c) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same reorganization plan.

§ 912. Procedure after report or discharge of committee; debate

(a) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(b) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

§ 913. Decisions without debate on motion to postpone or proceed

(a) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a reorganization plan, and motions to proceed to the consideration of other business, shall be decided without debate.

(b) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

PART II—THE UNITED STATES CIVIL SERVICE COMMISSION

CHAPTER 11—ORGANIZATION

§ 1101. Appointment of Commissioners

The United States Civil Service Commission is composed of three members appointed by the President, by and with the advice and consent of the Senate, not more than two of whom may be adherents of
the same political party and none of whom may hold another office or position in the Government of the United States.

§ 1102. Term of office; filling vacancies; removal
(a) The term of office of each Civil Service Commissioner is 6 years. The term of one Commissioner ends on March 1 of each odd-numbered year.
(b) A Commissioner appointed to fill a vacancy occurring before the end of the term of office of his predecessor serves for the remainder of that term. The appointment is subject to the requirements of section 1101 of this title.
(c) When the term of office of a Commissioner ends, he may continue to serve until his successor is appointed and has qualified.
(d) The President may remove a Commissioner.

§ 1103. Chairman; Vice Chairman; Executive Director
(a) The President shall from time to time designate one of the Commissioners as the presiding head of the Civil Service Commission with the title of "Chairman, United States Civil Service Commission". The Chairman is the chief executive and administrative officer of the Commission.
(b) The President shall from time to time designate one of the Commissioners as Vice Chairman of the Commission. During the absence or disability of the Chairman, or when the office is vacant, the Vice Chairman shall perform the functions vested in the Chairman by section 1104 of this title.
(c) During the absence or disability of both the Chairman and the Vice Chairman, or when both offices are vacant, the remaining Commissioner shall perform the functions vested in the Chairman by section 1104 of this title.
(d) There is under the Chairman an Executive Director who is appointed in the competitive service by the Chairman. During the absence or disability of all three Commissioners, or when the offices of the three Commissioners are vacant, the Executive Director shall perform the functions vested in the Chairman by section 1104 of this title. However, the Executive Director may not sit as a member or acting member of the Commission.

§ 1104. Functions of Chairman
(a) The following functions are vested in the Chairman, United States Civil Service Commission, and shall be performed by him or, subject to his direction and control, by such employees under his jurisdiction as he designates—
(1) acting with Civil Service Commission boards of examiners, so far as practicable, to secure accuracy, uniformity, and justice in their proceedings;
(2) appointing individuals employed under the Commission, including an employee to have such functions and duties with respect to retirement, life insurance, and health benefits programs as the Commission may prescribe, except that—
(A) employees who are engaged regularly and full time in assisting the Commission in the performance of functions reserved to it by subsection (b) of this section are appointed by the Commission; and
(B) the regional directors and the heads of the major administrative units reporting directly to the Chairman or Executive Director are appointed by the Chairman only after consultation with the other Commissioners;
(3) directing, and supervising activities of, employees of the Commission, distributing business among employees and organizational units of the Commission, and directing the internal management of the affairs of the Commission, except that the functions named by this paragraph do not include functions with respect to employees whose appointments remain vested in the Commission by paragraph (2) (A) of this subsection;

(4) directing the preparation of requests for appropriations and the use and expenditure of funds; and

(5) executing, administering, and enforcing—
   (A) the civil service rules and regulations of the President and the Commission and the statutes governing the same; and
   (B) the other activities of the Commission including retirement and classification activities.

(b) The functions named by subsection (a) (5) of this section do not include functions of the Commission with respect to—
   (1) the preparation of rules under section 1301 of this title, and the making of an annual report under section 1308(a)(1) of this title;
   (2) the prescription of rules, regulations, or similar policy directives;
   (3) the prevention of pernicious political activities, including functions under chapter 15 and section 130(d) of this title;
   (4) the hearing or providing for the hearing of appeals, including appeals with respect to examination ratings, veterans' preference, racial and religious discrimination, disciplinary action, performance ratings, and dismissals, and the taking of final action on those appeals;
   (5) the recommendation to the President for transmittal to Congress of such legislative or other measures as will promote an efficient civil service and a systematic application of merit system principles, including measures relating to the selection, promotion, transfer, performance, pay, conditions of service, tenure, and separation of employees;
   (6) the investigation of matters pertaining to the administration of functions of the Commission or Chairman; or
   (7) the submission of requests for appropriations to the Bureau of the Budget.

§ 1105. Boards of examiners

(a) The Civil Service Commission shall, in the District of Columbia, and in one or more places in each State and territory or possession of the United States where examinations are to be held, designate at least three individuals in the service of the United States, residing in the State or territory or possession, to be members of Civil Service Commission boards of examiners. The Commission shall consult the head of the agency in which the individuals are serving before designating them as members of a board of examiners. The Commission may at any time substitute another individual residing in the State or territory or possession for one serving as a member of a board of examiners. The boards of examiners shall be so located as to make it reasonably convenient and inexpensive for applicants to attend before them.

(b) The proceedings of the boards of examiners are open to the Chairman, United States Civil Service Commission.
CHAPTER 13—SPECIAL AUTHORITY

§ 1301. Rules

The Civil Service Commission shall aid the President, as he may request, in preparing the rules he prescribes under this title for the administration of the competitive service.

§ 1302. Regulations

(a) The Civil Service Commission, subject to the rules prescribed by the President under this title for the administration of the competitive service, shall prescribe regulations for, control, supervise, and preserve the records of, examinations for the competitive service.

(b) The Commission shall prescribe and enforce regulations for the administration of the provisions of this title, and Executive orders issued in furtherance thereof, that implement the Congressional policy that preference shall be given to preference eligibles in certification for appointment, and in appointment, reinstatement, reemployment, and retention, in the competitive service in Executive agencies, permanent or temporary, and in the government of the District of Columbia.

(c) The Commission shall prescribe regulations for the administration of the provisions of this title that implement the Congressional policy that preference shall be given to preference eligibles in certification for appointment, and in appointment, reinstatement, reemployment, and retention, in the excepted service in Executive agencies, permanent or temporary, and in the government of the District of Columbia.

(d) The Commission may prescribe reasonable procedure and regulations for the administration of its functions under chapter 15 of this title.

§ 1303. Investigations; reports

The Civil Service Commission may investigate and report on matters concerning—

(1) the enforcement and effect of the rules prescribed by the President under this title for the administration of the competitive service and the regulations prescribed by the Commission under section 1302(a) of this title; and

(2) the action of an examiner, a board of examiners, and other employees concerning the execution of the provisions of this title that relate to the administration of the competitive service.

§ 1304. Loyalty investigations; reports; revolving fund

(a) The Civil Service Commission shall conduct the investigations and issue the reports required by the following statutes—

(1) sections 272b, 281b(e), 290a, and 1434 of title 22;

(2) section 1874(c) of title 42; and

(3) section 1203(e) of title 6, District of Columbia Code.

(b) When an investigation under subsection (a) of this section develops data indicating that the loyalty of the individual being investigated is questionable, the Commission shall refer the matter to the Federal Bureau of Investigation for a full field investigation,
a report of which shall be furnished to the Commission for its information and appropriate action.

(c) When the President considers it in the national interest, he may have the investigations of a group or class, which are required by subsection (a) of this section, made by the Federal Bureau of Investigation rather than the Commission.

(d) The investigation and report required by subsection (a) of this section shall be made by the Federal Bureau of Investigation rather than the Commission for those specific positions which the Secretary of State certifies are of a high degree of importance or sensitivity.

(e) A revolving fund of $4,000,000 is available to the Commission without fiscal year limitation for financing investigations, the costs of which are required or authorized by statute to be borne by appropriations or funds of other agencies. The fund shall be reimbursed from available funds of agencies for investigations made for them at rates estimated by the Commission to be adequate to recover expenses of operation, including provision for accrued annual leave and depreciation of equipment purchased by the fund. Any surplus accruing to the fund in a fiscal year may be applied to restore any impairment of the capital of the fund because of variations between the rates charged for work or services and the amount later determined by the Commission to be the cost of performing the work or service. Any surplus remaining shall be paid into the general fund of the Treasury of the United States as miscellaneous receipts during the following fiscal year.

(f) An agency may use available appropriations to reimburse the Commission or the Federal Bureau of Investigation for the cost of investigations made for them under this section, or to make advances toward their cost. These advances and reimbursements shall be credited directly to the applicable appropriations of the Commission or the Federal Bureau of Investigation.

(g) This section does not affect the responsibility of the Federal Bureau of Investigation to investigate espionage, sabotage, or subversive acts.

§ 1305. Hearing examiners

For the purpose of sections 3105, 3344, 4301(2)(E), 5362, and 7521 and the provisions of section 5335(a)(1) of this title that relate to hearing examiners, the Civil Service Commission may investigate, require reports by agencies, issue reports, including an annual report to Congress, prescribe regulations, appoint advisory committees as necessary, recommend legislation, subpena witnesses and records, and pay witness fees as established for the courts of the United States.

§ 1306. Oaths to witnesses

Each Civil Service Commissioner, including the Chairman, and authorized representatives of the Commission or Chairman, may administer oaths to witnesses in matters pending before the Commission.

§ 1307. Minutes

The Civil Service Commission shall keep minutes of its proceedings.

§ 1308. Annual reports

(a) The Civil Service Commission shall make an annual report to the President for transmittal to Congress. The report shall include—

(1) a statement of the Commission's actions in the administration of the competitive service, the rules and regulations and exceptions thereto in force, the reasons for exceptions to the rules,
the practical effects of the rules and regulations, and any recom-
mendations for the more effectual accomplishment of the purposes
of the provisions of this title that relate to the administration of
the competitive service;
(2) the results of the incentive awards program authorized by
chapter 45 of this title with related recommendations;
(3) at the end of each fiscal year, the names, addresses, and
nature of employment of the individuals on whom the Commis-
sion has imposed a penalty for prohibited political activity under
section 7325 of this title, with a statement of the facts on which
action was taken, and the penalty imposed; and
(4) a statement, in the form determined by the Commission
with the approval of the President, on the training of employees
under chapter 41 of this title, including—
(A) a summary of information concerning the operation
and results of the training programs and plans of the
agencies;
(B) a summary of information received by the Commiss-
ion from the agencies under section 4113(b) of this title; and
(C) the recommendations and other matters considered
appropriate by the President or the Commission or required
by Congress.
(b) The Commission shall report annually to the President for
transmittal to Congress on the administration of chapter 41 of this
title, including the information received by the Commission from the
agencies under section 4113(b) (2) and (3) of this title.
(c) The Commission shall publish an annual report on the opera-
tion of subchapter III of chapter 83 of this title, including a statement
concerning the status of the Civil Service Retirement and Disability
Fund on a normal cost plus interest basis.
(d) The Commission shall report annually to Congress on the opera-
tion of chapter 87 of this title.
(e) The Commission shall report annually to Congress on the opera-
tion of chapter 89 of this title.

CHAPTER 15—POLITICAL ACTIVITY OF CERTAIN STATE AND LOCAL EMPLOYEES

§1501. Definitions

For the purpose of this chapter—
(1) "State" means a State or territory or possession of the
United States;
(2) "State or local agency" means the executive branch of a
State, municipality, or other political subdivision of a State, or
an agency or department thereof;
(3) "Federal agency" means an Executive agency or other
agency of the United States, but does not include a member
bank of the Federal Reserve System;
(4) "State or local officer or employee" means an individual employed by a State or local agency whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a Federal agency, but does not include—

(A) an individual who exercises no functions in connection with that activity; or

(B) an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by a State or political subdivision thereof, or by a recognized religious, philanthropic, or cultural organization; and

(5) the phrase "an active part in political management or in political campaigns" means those acts of political management or political campaigning which were prohibited on the part of employees in the competitive service before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President.

§ 1502. Influencing elections; taking part in political campaigns; prohibitions; exceptions

(a) A State or local officer or employee may not—

(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

(2) directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes; or

(3) take an active part in political management or in political campaigns.

(b) A State or local officer or employee retains the right to vote as he chooses and to express his opinions on political subjects and candidates.

(c) Subsection (a) (3) of this section does not apply to—

(1) the Governor or Lieutenant Governor of a State or an individual authorized by law to act as Governor;

(2) the mayor of a city;

(3) a duly elected head of an executive department of a State or municipality who is not classified under a State or municipal merit or civil-service system; or

(4) an individual holding elective office.

§ 1503. Nonpartisan political activity permitted

Section 1502(a) (3) of this title does not prohibit political activity in connection with—

(1) an election and the preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected; or

(2) a question which is not specifically identified with a National or State political party.

For the purpose of this section, questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character, are deemed not specifically identified with a National or State political party.
§ 1504. Investigations; notice of hearing

When a Federal agency charged with the duty of making a loan or grant of funds of the United States for use in an activity by a State or local officer or employee has reason to believe that the officer or employee has violated section 1502 of this title, it shall report the matter to the Civil Service Commission. On receipt of the report, or on receipt of other information which seems to the Commission to warrant an investigation, the Commission shall—

1) fix a time and place for a hearing; and
2) send, by registered or certified mail, to the officer or employee charged with the violation and to the State or local agency employing him a notice setting forth a summary of the alleged violation and giving the time and place of the hearing.

The hearing may not be held earlier than 10 days after the mailing of the notice.

§ 1505. Hearings; adjudications; notice of determinations

Either the State or local officer or employee or the State or local agency employing him, or both, are entitled to appear with counsel at the hearing under section 1504 of this title, and be heard. After this hearing, the Civil Service Commission shall—

1) determine whether a violation of section 1502 of this title has occurred;
2) determine whether the violation warrants the removal of the officer or employee from his office or employment; and
3) notify the officer or employee and the agency of the determination by registered or certified mail.

§ 1506. Orders; withholding loans or grants; limitations

(a) When the Civil Service Commission finds—

1) that a State or local officer or employee has not been removed from his office or employment within 30 days after notice of a determination by the Commission that he has violated section 1502 of this title and that the violation warrants removal; or
2) that the State or local officer or employee has been removed and has been appointed within 18 months after his removal to an office or employment in the same State in a State or local agency which does not receive loans or grants from a Federal agency;

the Commission shall make and certify to the appropriate Federal agency an order requiring that agency to withhold from its loans or grants to the State or local agency to which notice was given an amount equal to 2 years' pay at the rate the officer or employee was receiving at the time of the violation. When the State or local agency to which appointment within 18 months after removal has been made is one that receives loans or grants from a Federal agency, the Commission order shall direct that the withholding be made from that State or local agency.

(b) Notice of the order shall be sent by registered or certified mail to the State or local agency from which the amount is ordered to be withheld. After the order becomes final, the Federal agency to which the order is certified shall withhold the amount in accordance with the terms of the order. Except as provided by section 1508 of this title, a determination or order of the Commission becomes final at the end of 30 days after mailing the notice of the determination or order.

(c) The Commission may not require an amount to be withheld from a loan or grant pledged by a State or local agency as security for its bonds or notes if the withholding of that amount would jeopardize the payment of the principal or interest on the bonds or notes.
§ 1507. Subpenas and depositions

(a) The Civil Service Commission may require by subpena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter before it as a result of this chapter. Any member of the Commission may sign subpenas, and members of the Commission and its examiners when authorized by the Commission may administer oaths, examine witnesses, and receive evidence. The attendance of witnesses and the production of documentary evidence may be required from any place in the United States at the designated place of hearing. In case of disobedience to a subpena, the Commission may invoke the aid of a court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. In case of contumacy or refusal to obey a subpena issued to a person, the United States District Court within whose jurisdiction the inquiry is carried on may issue an order requiring him to appear before the Commission, or to produce documentary evidence if so ordered, or to give evidence concerning the matter in question; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(b) The Commission may order testimony to be taken by deposition at any stage of a proceeding or investigation before it as a result of this chapter. Depositions may be taken before an individual designated by the Commission and having the power to administer oaths. Testimony shall be reduced to writing by the individual taking the deposition, or under his direction, and shall be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence before the Commission as provided by this section.

(c) A person may not be excused from attending and testifying or from producing documentary evidence or in obedience to a subpena on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify, or produce evidence, documentary or otherwise, before the Commission in obedience to a subpena issued by it. A person so testifying is not exempt from prosecution and punishment for perjury committed in so testifying.

§ 1508. Judicial review

A party aggrieved by a determination or order of the Civil Service Commission under section 1504, 1505, or 1506 of this title may, within 30 days after the mailing of notice of the determination or order, institute proceedings for review thereof by filing a petition in the United States District Court for the district in which the State or local officer or employee resides. The institution of the proceedings does not operate as a stay of the determination or order unless—

(1) the court specifically orders a stay; and

(2) the officer or employee is suspended from his office or employment while the proceedings are pending.

A copy of the petition shall immediately be served on the Commission, and thereupon the Commission shall certify and file in the court a transcript of the record on which the determination or order was made. The court shall review the entire record including questions of fact and questions of law. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that the additional evidence may materially affect the result of the proceedings and that there were reasonable grounds for failure to adduce this evidence in the hearing before the Commission, the
court may direct that the additional evidence be taken before the Commission in the manner and on the terms and conditions fixed by the court. The Commission may modify its findings of fact or its determination or order in view of the additional evidence and shall file with the court the modified findings, determination, or order; and the modified findings of fact, if supported by substantial evidence, are conclusive. The court shall affirm the determination or order, or the modified determination or order, if the court determines that it is in accordance with law. If the court determines that the determination or order, or the modified determination or order, is not in accordance with law, the court shall remand the proceeding to the Commission with directions either to make a determination or order determined by the court to be lawful or to take such further proceedings as, in the opinion of the court, the law requires. The judgment and decree of the court are final, subject to review by the appropriate United States Court of Appeals as in other cases, and the judgment and decree of the court of appeals are final, subject to review by the Supreme Court of the United States on certiorari or certification as provided by section 1254 of title 28. If a provision of this section is held to be invalid as applied to a party by a determination or order of the Commission, the determination or order becomes final and effective as to that party as if the provision had not been enacted.

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CHAPTER 21—DEFINITIONS

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§ 2101. Civil service; armed forces; uniformed services
For the purpose of this title—
(1) the "civil service" consists of all appointive positions in the executive, judicial, and legislative branches of the Government of the United States, except positions in the uniformed services;
(2) "armed forces" means the Army, Navy, Air Force, Marine Corps, and Coast Guard; and
(3) "uniformed services" means the armed forces, the commissioned corps of the Public Health Service, and the commissioned corps of the Coast and Geodetic Survey.

§ 2102. The competitive service
(a) The "competitive service" consists of—
(1) all civil service positions in the executive branch, except—
(A) positions which are specifically excepted from the competitive service by or under statute; and
(B) positions to which appointments are made by nomination for confirmation by the Senate, unless the Senate otherwise directs;
(2) civil service positions not in the executive branch which are specifically included in the competitive service by statute; and
(3) positions in the government of the District of Columbia which are specifically included in the competitive service by statute.
(b) Notwithstanding subsection (a) (1) (B) of this section, the "competitive service" includes positions to which appointments are made by nomination for confirmation by the Senate when specifically included therein by statute.
(c) As used in other Acts of Congress, "classified civil service" or "classified service" means the "competitive service".

§ 2103. The excepted service
(a) For the purpose of this title, the "excepted service" consists of those civil service positions which are not in the competitive service.
(b) As used in other Acts of Congress, "unclassified civil service" or "unclassified service" means the "excepted service".

§ 2104. Officer
For the purpose of this title, "officer", except when specifically modified, means a justice or judge of the United States and an individual who is—
(1) required by law to be appointed in the civil service by one of the following acting in an official capacity—
(A) the President;
(B) a court of the United States;
(C) the head of an Executive agency; or
(D) the Secretary of a military department;
(2) engaged in the performance of a Federal function under authority of law or an Executive act; and
(3) subject to the supervision of an authority named by paragraph (1) of this section, or the Judicial Conference of the United States, while engaged in the performance of the duties of his office.

§ 2105. Employee
(a) For the purpose of this title, “employee”, except as otherwise provided by this section or when specifically modified, means an officer and an individual who is—
(1) appointed in the civil service by one of the following acting in an official capacity—
(A) the President;
(B) a Member or Members of Congress, or the Congress;
(C) a member of a uniformed service;
(D) an individual who is an employee under this section; or
(E) the head of a Government controlled corporation;
(2) engaged in the performance of a Federal function under authority of law or an Executive act; and
(3) subject to the supervision of an individual named by paragraph (1) of this subsection while engaged in the performance of the duties of his position.
(b) An individual employed at the United States Naval Academy in the midshipmen’s laundry, the midshipmen’s tailor shop, the midshipmen’s cobbler and barber shops, and the midshipmen’s store, except an individual employed by the Academy dairy, is deemed an employee.
(c) An employee paid from nonappropriated funds of the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Ship’s Stores Ashore, Navy exchanges, Marine Corps exchanges, Coast Guard exchanges, and other instrumentalities of the United States under the jurisdiction of the armed forces conducted for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the armed forces is deemed not an employee for the purpose of—
(1) laws administered by the Civil Service Commission; or
(2) subchapter I of chapter 81 and section 7902 of this title.
This subsection does not affect the status of these nonappropriated fund activities as Federal instrumentalities.
(d) A Reserve of the armed forces who is not on active duty or who is on active duty for training is deemed not an employee or an individual holding an office of trust or profit or discharging an official function under or in connection with the United States because of his appointment, oath, or status, or any duties or functions performed or pay or allowances received in that capacity.

§ 2106. Member of Congress
For the purpose of this title, “Member of Congress” means the Vice President, a member of the Senate or the House of Representatives, and the Resident Commissioner from Puerto Rico.

§ 2107. Congressional employee
For the purpose of this title, “Congressional employee” means—
(1) an employee of either House of Congress, of a committee of either House, or of a joint committee of the two Houses;
(2) an elected officer of either House who is not a Member of Congress;
(3) the Legislative Counsel of either House and an employee of his office;
(4) a member of the Capitol Police;
(5) an employee of a Member of Congress if the pay of the employee is paid by the Secretary of the Senate or the Clerk of the House of Representatives;
(6) an Official Reporter of Debates of the Senate, and an individual employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties; and
(7) the Architect of the Capitol and an employee of the Architect of the Capitol.

§ 2108. Veteran; disabled veteran; preference eligible

For the purpose of this title—

(1) "veteran" means an individual who served on active duty in the armed forces during a war, in a campaign or expedition for which a campaign badge has been authorized, or during the period beginning April 28, 1952, and ending July 1, 1955, and has been separated therefrom under honorable conditions;
(2) "disabled veteran" means an individual who has served on active duty in the armed forces, has been separated therefrom under honorable conditions, and has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the Veterans' Administration or a military department; and
(3) "preference eligible" means—
   (A) a veteran;
   (B) a disabled veteran;
   (C) the unmarried widow of a veteran;
   (D) the wife of a service-connected disabled veteran if the veteran has been unable to qualify for any appointment in the civil service or in the government of the District of Columbia;
   (E) the mother of an individual who lost his life under honorable conditions while serving in the armed forces during a period named by paragraph (1) of this section, if—
      (i) her husband is totally and permanently disabled;
      (ii) she is widowed, divorced, or separated from the father and has not remarried; or
      (iii) she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed; and
   (F) the mother of a service-connected permanently and totally disabled veteran, if—
      (i) her husband is totally and permanently disabled;
      (ii) she is widowed, divorced, or separated from the father and has not remarried; or
      (iii) she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed.
CHAPTER 29—COMMISSIONS, OATHS, RECORDS, AND REPORTS

SUBCHAPTER I—COMMISSIONS, OATHS, AND RECORDS

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SUBCHAPTER I—COMMISSIONS, OATHS, AND RECORDS

§ 2901. Commission of an officer

The President may make out and deliver, after adjournment of the Senate, the commission of an officer whose appointment has been confirmed by the Senate.

§ 2902. Commission; where recorded

(a) Except as provided by subsections (b) and (c) of this section, the Secretary of State shall make out and record, and affix the seal of the United States to, the commission of an officer appointed by the President. The seal of the United States may not be affixed to the commission before the commission has been signed by the President.

(b) The commission of an officer in the civil service or uniformed services under the control of the Postmaster General, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of a military department, the Secretary of the Interior, or the Secretary of the Treasury shall be made out and recorded in the department in which he is to serve under the seal of that department. The departmental seal may not be affixed to the commission before the commission has been signed by the President.

(c) The commissions of judicial officers and United States attorneys and marshals, appointed by the President, by and with the advice and consent of the Senate, and other commissions which before August 8, 1888, were prepared at the Department of State on the requisition of the Attorney General, shall be made out and recorded in the Department of Justice under the seal of that department and countersigned by the Attorney General. The departmental seal may not be affixed to the commission before the commission has been signed by the President.

§ 2903. Oath; authority to administer

(a) The oath of office required by section 3331 of this title may be administered by an individual authorized by the laws of the United States or local law to administer oaths in the State, District, or territory or possession of the United States where the oath is administered.
(b) An employee of an Executive agency designated in writing by the head of the Executive agency, or the Secretary of a military department with respect to an employee of his department, may administer—

(1) the oath of office required by section 3331 of this title, incident to entrance into the executive branch; or

(2) any other oath required by law in connection with employment in the executive branch.

c) An oath authorized or required under the laws of the United States may be administered by—

(1) the Vice President; or

(2) an individual authorized by local law to administer oaths in the State, District, or territory or possession of the United States where the oath is administered.

§ 2904. Oath; administered without fees

An employee of an Executive agency who is authorized to administer the oath of office required by section 3331 of this title, or any other oath required by law in connection with employment in the executive branch, may not charge or receive a fee or pay for administering the oath.

§ 2905. Oath; renewal

(a) An employee of an Executive agency or an individual employed by the government of the District of Columbia who, on original appointment, subscribed to the oath of office required by section 3331 of this title is not required to renew the oath because of a change in status so long as his service is continuous in the agency in which he is employed, unless, in the opinion of the head of the Executive agency, the Secretary of a military department with respect to an employee of his department, or the Commissioners of the District of Columbia, the public interest so requires.

(b) An individual who, on appointment as an employee of a House of Congress, subscribed to the oath of office required by section 3331 of this title is not required to renew the oath so long as his service as an employee of that House of Congress is continuous.

§ 2906. Oath; custody

The oath of office taken by an individual under section 3331 of this title shall be delivered by him to, and preserved by, the House of Congress, agency, or court to which the office pertains.

SUBCHAPTER II—REPORTS

§ 2951. Reports to the Civil Service Commission

The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that—

(1) the appointing authority notify the Civil Service Commission in writing of the following actions and their dates as to each individual selected for appointment in the competitive service from among those who have been examined—

(A) appointment and residence of appointee;

(B) separation during probation;

(C) transfer;

(D) resignation; and

(E) removal; and

(2) the Commission keep records of these actions.
§ 2952. Time of making annual reports

Except when a different time is specifically prescribed by statute, the head of each Executive department or military department shall make the annual reports, required to be submitted to Congress, at the beginning of each regular session of Congress. The reports shall cover the transactions of the preceding year.

§ 2953. Reports to Congress on additional employee requirements

(a) Each report, recommendation, or other communication, of an official nature, of an Executive agency which—

(1) relates to pending or proposed legislation which, if enacted, will entail an estimated annual expenditure of appropriated funds in excess of $1,000,000;

(2) is submitted or transmitted to Congress or a committee thereof in compliance with law or on the initiative of the appropriate authority of the executive branch; and

(3) officially proposes or recommends the creation or expansion, either by action of Congress or by administrative action, of a function, activity, or authority of the Executive agency to be in addition to those functions, activities, and authorities thereof existing when the report, recommendation, or other communication is so submitted or transmitted;

shall contain a statement, concerning the Executive agency, for each of the first 5 fiscal years during which each additional or expanded function, activity, or authority so proposed or recommended is to be in effect, setting forth the following information—

(A) the estimated maximum additional—

(i) man-years of civilian employment, by general categories of positions;

(ii) expenditures for personal services; and

(iii) expenditures for all purposes other than personal services;

which are attributable to the function, activity, or authority and which will be required to be effected by the Executive agency in connection with the performance thereof; and

(B) such other statement, discussion, explanation, or other information as is considered advisable by the appropriate authority of the executive branch or that is required by Congress or a committee thereof.

(b) Subsection (a) of this section does not apply to—

(1) the Central Intelligence Agency;

(2) a Government controlled corporation; or

(3) the General Accounting Office.

§ 2954. Information to committees of Congress on request

An Executive agency, on request of the Committee on Government Operations of the House of Representatives, or of any seven members thereof, or on request of the Committee on Government Operations of the Senate, or any five members thereof, shall submit any information requested of it relating to any matter within the jurisdiction of the committee.
Subpart B—Employment and Retention

CHAPTER 31—AUTHORITY FOR EMPLOYMENT

§ 3101. General authority to employ

Each Executive agency, military department, and the government of the District of Columbia may employ such number of employees of the various classes recognized by chapter 51 of this title as Congress may appropriate for from year to year.

§ 3102. Employment of readers for blind employees

(a) For the purpose of this section—

(1) “agency” means—

(A) an Executive agency;

(B) the Library of Congress; and

(C) the government of the District of Columbia;

(2) “head of each agency” means the Board of Commissioners of the District of Columbia with respect to the government of the District of Columbia;

(3) “blind employee” means an individual employed by an agency who establishes, to the satisfaction of the appropriate authority of the agency concerned and under regulations of the head of that agency, that he has an impairment of sight, either permanent or temporary, which is so severe or disabling that the employment of a reading assistant or assistants for that individual is necessary or desirable to enable him properly to perform his work; and

(4) “nonprofit organization” means an organization determined by the Secretary of the Treasury to be an organization described by section 501(c) of title 26 which is exempt from taxation under section 501(a) of title 26.

(b) The head of each agency may employ a reading assistant or assistants for a blind employee of his agency, to serve without pay from the agency, without regard to—

(1) the provisions of this title governing appointment in the competitive service; and

(2) chapter 51 and subchapter III of chapter 53 of this title.

A reading assistant so employed may be paid and receive pay for his services as reading assistant by and from the blind employee or a nonprofit organization, without regard to section 209 of title 18.

(c) This section may not be held or considered to prevent or limit in any way the assignment to a blind employee by an agency of clerical or secretarial assistance, at the expense of the agency and under statutes and regulations currently applicable at the time, if that assistance normally is provided, or authorized to be provided, in that manner under currently applicable statutes and regulations.
§ 3103. Employment at seat of Government only for services rendered

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. An individual who violates this section shall be removed from the service.

§ 3104. Employment of specially qualified scientific and professional personnel

(a) The head of an agency named below may establish scientific or professional positions to carry out the research and development functions of his agency which require the services of specially qualified personnel within the following limits:

(1) Department of the Interior—not more than 8.
(2) Department of Agriculture—not more than 20.
(4) Department of Commerce—not more than 30, of which at least 5 are for the United States Patent Office in its examining and related activities.
(5) Post Office Department—not more than 3.
(6) United States Arms Control and Disarmament Agency—not more than 14.
(7) Library of Congress—not more than 8.

(b) When a general appropriation statute authorizes an agency named by this section to establish and fix the pay of scientific or professional positions similar to those authorized by this section, the number of positions authorized by this section is reduced by the number of positions authorized by the appropriation statute, unless otherwise specifically provided.

(c) The head of each agency authorized to establish and fix the pay of positions under this section and section 5361 of this title shall submit to Congress, not later than December 31 of each year, a report setting forth—

(1) the number of these positions established in his agency during that calendar year; and
(2) the name, rate of pay, and description of the qualifications of each incumbent, together with a statement of the functions performed by each.

When the head of such an agency considers full public report on these items detrimental to the national security, he may omit the items from his annual report and, instead, present the information in executive session of such committee of a House of Congress as the presiding officer thereof may designate.

§ 3105. Appointment of hearing examiners

Each agency shall appoint as many hearings examiners as are necessary for proceedings required to be conducted in accordance with sections 556 and 557 of this title. Hearing examiners shall be assigned to cases in rotation so far as practicable, and may not perform duties inconsistent with their duties and responsibilities as hearing examiners.

§ 3106. Employment of attorneys; restrictions

Except as otherwise authorized by law, the head of an Executive department or military department may not employ an attorney or
counsel for the conduct of litigation in which the United States, an agency, or employee thereof is a party, or is interested, or for the securing of evidence therefor, but shall refer the matter to the Department of Justice. This section does not apply to the employment and payment of counsel under section 1037 of title 10.

§ 3107. Employment of publicity experts; restrictions

Appropriated funds may not be used to pay a publicity expert unless specifically appropriated for that purpose.

§ 3108. Employment of detective agencies; restrictions

An individual employed by the Pinkerton Detective Agency, or similar organization, may not be employed by the Government of the United States or the government of the District of Columbia.

§ 3109. Employment of experts and consultants; temporary or intermittent

(a) For the purpose of this section—

(1) "agency" has the meaning given it by section 5721 of this title; and

(2) "appropriation" includes funds made available by statute under section 849 of title 31.

(b) When authorized by an appropriation or other statute, the head of an agency may procure by contract the temporary (not in excess of 1 year) or intermittent services of experts or consultants or an organization thereof, including stenographic reporting services. Services procured under this section are without regard to—

(1) the provisions of this title governing appointment in the competitive service;

(2) chapter 51 and subchapter III of chapter 53 of this title; and

(3) section 5 of title 41, except in the case of stenographic reporting services by an organization.

However, an agency subject to chapter 51 and subchapter III of chapter 53 of this title may pay a rate for services under this section in excess of the daily equivalent of the highest rate payable under section 5332 of this title only when specifically authorized by the appropriation or other statute authorizing the procurement of the services.

CHAPTER 33—EXAMINATION, SELECTION, AND PLACEMENT

SUBCHAPTER I—EXAMINATION, CERTIFICATION, AND APPOINTMENT

Sec.

3301. Civil service; generally.

3302. Competitive service; rules.

3303. Competitive service; recommendations of Senators or Representatives.

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3305. Competitive service; examinations; when held.

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§ 3301. Civil service; generally  
The President may—  
(1) prescribe such regulations for the admission of individuals into the civil service in the executive branch as will best promote the efficiency of that service;  
(2) ascertain the fitness of applicants as to age, health, character, knowledge, and ability for the employment sought; and  
(3) appoint and prescribe the duties of individuals to make inquiries for the purpose of this section.

§ 3302. Competitive service; rules  
The President may prescribe rules governing the competitive service. The rules shall provide, as nearly as conditions of good administration warrant, for—  
(1) necessary exceptions of positions from the competitive service; and
(2) necessary exceptions from the provisions of sections 2951, 3304(a), 3306(a)(1), 3321, 7152, 7153, 7322, and 7322 of this title. Each officer and individual employed in an agency to which the rules apply shall aid in carrying out the rules.

§ 3303. Competitive service; recommendations of Senators or Representatives

An individual concerned in examining an applicant for or appointing him in the competitive service may not receive or consider a recommendation of the applicant by a Senator or Representative, except as to the character or residence of the applicant.

§ 3304. Competitive service; examinations

(a) The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, for—

(1) open, competitive examinations for testing applicants for appointment in the competitive service which are practical in character and as far as possible relate to matters that fairly test the relative capacity and fitness of the applicants for the appointment sought; and

(2) noncompetitive examinations when competent applicants do not compete after notice has been given of the existence of the vacancy.

(b) An individual may be appointed in the competitive service only if he has passed an examination or is specifically excepted from examination under section 3302 of this title. This subsection does not take from the President any authority conferred by section 3301 of this title that is consistent with the provisions of this title governing the competitive service.

(c) Notwithstanding a contrary provision of this title or of the rules and regulations prescribed under this title for the administration of the competitive service, an individual who served—

(1) for at least 3 years in the legislative branch in a position in which he was paid by the Secretary of the Senate or the Clerk of the House of Representatives; or

(2) for at least 4 years as a secretary or law clerk, or both, to a justice or judge of the United States;

acquires a competitive status for transfer to the competitive service if he is involuntarily separated without prejudice from the legislative or judicial branch, passes a suitable noncompetitive examination, and transfers to the competitive service within 1 year of the separation from the legislative or judicial branch. For the purpose of this subsection, an individual who has served for at least 2 years in a position in the legislative branch described by paragraph (1) of this subsection and who is separated from that position to enter the armed forces is deemed to have held that position during his service in the armed forces.

(d) Employees at any place outside the District of Columbia where the President or a Civil Service Commission board of examiners directs that examinations be held shall allow the reasonable use of public buildings for, and in all proper ways facilitate, holding the examinations.

§ 3305. Competitive service; examinations; when held

(a) The Civil Service Commission shall hold examinations for the competitive service at least twice a year in each State and territory or possession of the United States where there are individuals to be examined.
§ 3306. Competitive service; departmental service; apportionment

(a) (1) The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that appointments in the departmental service in the District of Columbia be apportioned among the States, territories and possessions of the United States, and the District of Columbia on the basis of population as ascertained at the last census.

(2) Paragraph (1) of this subsection does not apply to a preference eligible, but he may be required to furnish evidence of residence and domicile.

(b) An application for examination for appointment in the departmental service in the District of Columbia shall be accompanied by—

(1) a certificate under the seal of an official of the county and State of which the applicant claims to be a resident, that the applicant was a legal or voting resident of the State when he made the application and had been for at least 1 year before making the application; or

(2) a statement of the applicant under oath setting forth his legal or voting residence for 1 year before making the application, accompanied by letters from three reputable citizens of the State in which residence is claimed corroborating the statement.

This subsection does not apply to an employee serving in the competitive service with competitive status who seeks promotion or appointment to another position.

§ 3307. Competitive service; maximum-age requirement; restriction on use of appropriated funds

Appropriated funds may not be used to pay an employee who establishes a maximum-age requirement for entrance into the competitive service.

§ 3308. Competitive service; examinations; educational requirements prohibited; exceptions

The Civil Service Commission or other examining agency may not prescribe a minimum educational requirement for an examination for the competitive service except when the Commission decides that the duties of a scientific, technical, or professional position cannot be performed by an individual who does not have a prescribed minimum education. The Commission shall make the reasons for its decision under this section a part of its public records.

§ 3309. Preference eligibles; examinations; additional points for

A preference eligible who receives a passing grade in an examination for entrance into the competitive service is entitled to additional points above his earned rating, as follows—

(1) a preference eligible under section 2108(3)(B)–(F) of this title—10 points; and

(2) a preference eligible under section 2108(3)(A) of this title—5 points.
§ 3310. Preference eligibles; examinations; guards, elevator operators, messengers, and custodians
In examinations for positions of guards, elevator operators, messengers, and custodians in the competitive service, competition is restricted to preference eligibles as long as preference eligibles are available.

§ 3311. Preference eligibles; examinations; crediting experience
In examinations for the competitive service in which experience is an element of qualification, a preference eligible is entitled to credit—
(1) for service in the armed forces when his employment in a similar vocation to that for which examined was interrupted by the service; and
(2) for all experience material to the position for which examined, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether he received pay therefor.

§ 3312. Preference eligibles; physical qualifications; waiver
In determining qualifications of a preference eligible for examination for, appointment in, or reinstatement in the competitive service, the Civil Service Commission or other examining agency shall waive—
(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and
(2) physical requirements if, in the opinion of the Commission or other examining agency, after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position.

§ 3313. Competitive service; registers of eligibles
The names of applicants who have qualified in examinations for the competitive service shall be entered on appropriate registers or lists of eligibles in the following order—
(1) for scientific and professional positions in GS-9 or higher, in the order of their ratings, including points added under section 3309 of this title; and
(2) for all other positions—
(A) disabled veterans who have a compensable service-connected disability of 10 percent or more, in order of their ratings, including points added under section 3309 of this title; and
(B) remaining applicants, in the order of their ratings, including points added under section 3309 of this title.
The names of preference eligibles shall be entered ahead of others having the same rating.

§ 3314. Registers; preference eligibles who resigned
A preference eligible who resigns, on request to the Civil Service Commission, is entitled to have his name placed again on all registers for which he may have been qualified, in the order named by section 3313 of this title.

§ 3315. Registers; preference eligibles furloughed or separated
(a) A preference eligible who has been separated or furloughed without delinquency or misconduct, on request, is entitled to have his name placed on appropriate registers and employment lists for every position for which his qualifications have been established, in the order named by section 3313 of this title. This subsection applies to regis-
ters and employment lists maintained by the Civil Service Commission, an Executive agency, or the government of the District of Columbia.

(b) The Commission may declare a preference eligible who has been separated or furloughed without pay under section 7512 of this title to be entitled to the benefits of subsection (a) of this section.

§ 3316. Preference eligibles; reinstatement

On request of an appointing authority, a preference eligible who has resigned or who has been dismissed or furloughed may be certified for, and appointed to, a position for which he is eligible in the competitive service, an Executive agency, or the government of the District of Columbia.

§ 3317. Competitive service; certification from registers

(a) The Civil Service Commission shall certify enough names from the top of the appropriate register to permit a nominating or appointing authority who has requested a certificate of eligibles to consider at least three names for appointment to each vacancy in the competitive service.

(b) When an appointing authority, for reasons considered sufficient by the Commission, has three times considered and passed over a preference eligible who was certified from a register, certification of the preference eligible for appointment may be discontinued. However, the preference eligible is entitled to advance notice of discontinuance of certification.

§ 3318. Competitive service; selection from certificates

(a) The nominating or appointing authority shall select for appointment to each vacancy from the highest three eligibles available for appointment on the certificate furnished under section 3317(a) of this title, unless objection to one or more of the individuals certified is made to, and sustained by, the Civil Service Commission for proper and adequate reason under regulations prescribed by the Commission.

(b) An appointing authority who passes over a preference eligible on a certificate and selects an individual who is not a preference eligible shall file written reasons with the Commission for passing over the preference eligible. The Commission shall make these reasons a part of the record of the preference eligible. The Commission may require the submission of more detailed information in support of the passing over of the preference eligible. The Commission shall determine the sufficiency or insufficiency of the reasons submitted and shall send its findings to the appointing authority. The appointing authority shall comply with the findings of the Commission. The preference eligible or his representative, on request, is entitled to a copy of—

(1) the reasons submitted by the appointing authority; and

(2) the findings of the Commission.

(c) When three or more names of preference eligibles are on a reemployment list appropriate for the position to be filled, a nominating or appointing authority may appoint from a register of eligibles established after examination only an individual who qualifies as a preference eligible under section 2108(3)(B)–(F) of this title.

§ 3319. Competitive service; selection; members of family restriction

(a) When two or more members of a family are employed in the competitive service, another member of the same family is not eligible for appointment in the competitive service.
(b) Subsection (a) of this section does not apply to a preference eligible.

§ 3320. Excepted service; government of the District of Columbia; selection

The nominating or appointing authority shall select for appointment to each vacancy in the excepted service in the executive branch and in the government of the District of Columbia from the qualified applicants in the same manner and under the same conditions required for the competitive service by sections 3308-3318 of this title. This section does not apply to an appointment required by Congress to be confirmed by, or made with the advice and consent of, the Senate.

§ 3321. Competitive service; probation; period of

The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that there shall be a period of probation before an appointment in the competitive service becomes absolute.

§ 3322. Competitive service; temporary appointments after age 70

An individual who has reached his 70th birthday may be appointed to a position in the competitive service only on a temporary basis.

§ 3323. Automatic separations; reappointment; reemployment of annuitants

(a) An individual who reaches the retirement age prescribed for automatic separation applicable to him may not be continued in the civil service or in the government of the District of Columbia. An individual separated on account of age under a statute or regulation providing for retirement on account of age is not eligible for appointment in the civil service or in the government of the District of Columbia. The President, when in his judgment the public interest so requires, may except an individual from this subsection by Executive order. This subsection does not apply to an individual named by a statute providing for the continuance of the individual in the civil service or in the government of the District of Columbia.

(b) Notwithstanding other statutes, an annuitant as defined by section 8331 of this title receiving annuity from the Civil Service Retirement and Disability Fund is not barred by reason of his retired status from employment in an appointive position for which he is qualified. An annuitant so reemployed serves at the will of the appointing authority.

(c) Notwithstanding subsection (a) of this section, a Foreign Service officer retired under section 1001 or 1002 of title 22 or a Foreign Service staff officer or employee retired under section 1063 of title 22 is not barred by reason of his retired status from employment in a position in the civil service for which he is qualified. An annuitant so reemployed serves at the will of the appointing authority.

(d) Notwithstanding subsection (a) of this section, the Chief of Engineers of the Army, under section 569a of title 33, may employ a retired employee whose expert assistance is needed in connection with river and harbor or flood control works. There shall be deducted from the pay of an employee so reemployed an amount equal to the annuity or retired pay allocable to the period of actual employment.

§ 3324. Appointments at GS-16, 17, and 18

(a) An appointment to a position in GS-16, 17, or 18 may be made only on approval of the qualifications of the proposed appointee by
the Civil Service Commission. This section does not apply to a position—

(1) provided for in section 5108(c)(2) of this title;
(2) to which appointment is made by the President;
(3) to which appointment is made by the Librarian of Congress; or
(4) the incumbent of which is paid from—


(B) funds appropriated to the President under the heading "Emergency Fund for the President" by the Treasury, Post Office, and Executive Office Appropriation Act, 1966, or a later statute making appropriations for the same purpose.

(b) The Commission may prescribe regulations necessary for the administration of this section.

§ 3325. Appointments to scientific and professional positions

(a) Positions established under section 3104 of this title are in the competitive service. However, appointments to the positions are made without competitive examination on approval of the qualifications of the proposed appointee by the Civil Service Commission or its designee for this purpose.

(b) This section does not apply to positions established under section 3104(a)(7) of this title.

§ 3326. Appointments of retired members of the armed forces to positions in the Department of Defense

(a) For the purpose of this section, "member" and "Secretary concerned" have the meanings given them by section 101 of title 37.

(b) A retired member of the armed forces may be appointed to a position in the civil service in or under the Department of Defense (including a nonappropriated fund instrumentality under the jurisdiction of the armed forces) during the period of 180 days immediately after his retirement only if—

(1) the proposed appointment is authorized by the Secretary concerned or his designee for the purpose, and, if the position is in the competitive service, after approval by the Civil Service Commission;

(2) the minimum rate of basic pay for the position has been increased under section 5303 of this title; or

(3) a state of national emergency exists.

(c) A request by appropriate authority for the authorization, or the authorization and approval, as the case may be, required by subsection (b)(1) of this section shall be accompanied by a statement which shows the actions taken to assure that—

(1) full consideration, in accordance with placement and promotion procedures of the department concerned, was given to eligible career employees;

(2) when selection is by other than certification from an established civil service register, the vacancy has been publicized to give interested candidates an opportunity to apply;

(3) qualification requirements for the position have not been written in a manner designed to give advantage to the retired member; and

(4) the position has not been held open pending the retirement of the retired member.
§ 3327. Postmasters; standards for determination of qualifications

In evaluating the qualifications of applicants for positions of postmaster, the Civil Service Commission shall give, with respect to each applicant, due and appropriate consideration to experience in the postal field service, including seniority, length of service, level of difficulty and responsibility of work, attendance, awards and commendations, and performance rating.

SUBCHAPTER II—OATH OF OFFICE

§ 3331. Oath of office

An individual, except the President, elected or appointed to an office of honor or profit in the civil service or uniformed services, shall take the following oath: "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God." This section does not affect other oaths required by law.

§ 3332. Officer affidavit; no consideration paid for appointment

An officer, within 30 days after the effective date of his appointment, shall file with the oath of office required by section 3331 of this title an affidavit that neither he nor anyone acting in his behalf has given, transferred, promised, or paid any consideration for or in the expectation or hope of receiving assistance in securing the appointment.

§ 3333. Employee affidavit; loyalty and striking against the Government

(a) Except as provided by subsection (b) of this section, an individual who accepts office or employment in the Government of the United States or in the government of the District of Columbia shall execute an affidavit within 60 days after accepting the office or employment that his acceptance and holding of the office or employment does not or will not violate section 7311 of this title. The affidavit is prima facie evidence that the acceptance and holding of office or employment by the affiant does not or will not violate section 7311 of this title.

(b) An affidavit is not required from an individual employed by the Government of the United States or the government of the District of Columbia for less than 60 days for sudden emergency work involving the loss of human life or the destruction of property. This subsection does not relieve an individual from liability for violation of section 7311 of this title.

SUBCHAPTER III—DETAILS

§ 3341. Details; within Executive or military departments

(a) The head of an Executive department or military department may detail employees among the bureaus and offices of his department, except employees who are required by law to be exclusively engaged on some specific work.

(b) Details under subsection (a) of this section may be made only by written order of the head of the department, and may be for not
more than 120 days. These details may be renewed by written order of the head of the department, in each particular case, for periods not exceeding 120 days.

§ 3342. Details; field to departmental service prohibited

An employee in the field service may not be detailed for duty in an Executive department in the District of Columbia. This section does not prohibit—

1. temporary details for duty connected with the position of the employee detailed;
2. details specially provided by law; or
3. the detail of one employee of the Bureau of Customs for duty in the Department of the Treasury in the District of Columbia.

§ 3343. Details; to international organizations

(a) For the purpose of this section—

1. “agency”, “employee”, and “international organization” have the meanings given them by section 3581 of this title; and
2. “detail” means the assignment or loan of an employee to an international organization without a change of position from the agency by which he is employed to an international organization.

(b) The head of an agency may detail, for a period of not more than 3 years, an employee of his agency to an international organization which requests services.

(c) An employee detailed under subsection (b) of this section is deemed, for the purpose of preserving his allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed, and he is entitled to pay, allowances, and benefits from funds available to that agency. The authorization and payment of these allowances and other benefits from appropriations available therefor is deemed to comply with section 5536 of this title.

(d) Details may be made under subsection (b) of this section—

1. without reimbursement to the United States by the international organization; or
2. with agreement by the international organization to reimburse the United States for all or part of the pay, travel expenses, and allowances payable during the detail, and the reimbursement shall be credited to the appropriation, fund, or account used for paying the amounts reimbursed.

(e) An employee detailed under subsection (b) of this section may be paid or reimbursed by an international organization for allowances or expenses incurred in the performance of duties required by the detail, without regard to section 209 of title 18.

§ 3344. Details; hearing examiners

An agency as defined by section 551 of this title which occasionally or temporarily is insufficiently staffed with hearing examiners appointed under section 3105 of this title may use hearing examiners selected by the Civil Service Commission from and with the consent of other agencies.

§ 3345. Details; to office of head of Executive or military department

When the head of an Executive department or military department dies, resigns, or is sick or absent, his first assistant, unless otherwise directed by the President under section 3347 of this title, shall perform the duties of the office until a successor is appointed or the absence or sickness stops.
§ 3346. Details; to subordinate offices
When an officer of a bureau of an Executive department or military department, whose appointment is not vested in the head of the department, dies, resigns, or is sick or absent, his first assistant, unless otherwise directed by the President under section 3347 of this title, shall perform the duties of the office until a successor is appointed or the absence or sickness stops.

§ 3347. Details; Presidential authority
Instead of a detail under section 3345 or 3346 of this title, the President may direct the head of another Executive department or military department or another officer of an Executive department or military department, whose appointment is vested in the President, by and with the advice and consent of the Senate, to perform the duties of the office until a successor is appointed or the absence or sickness stops. This section does not apply to a vacancy in the office of Attorney General.

§ 3348. Details; limited in time
A vacancy caused by death or resignation may be filled temporarily under section 3345, 3346, or 3347 of this title for not more than 30 days.

§ 3349. Details; to fill vacancies; restrictions
A temporary appointment, designation, or assignment of one officer to perform the duties of another under section 3345 or 3346 of this title may not be made otherwise than as provided by those sections, except to fill a vacancy occurring during a recess of the Senate.

SUBCHAPTER IV—TRANSFERS

§ 3351. Preference eligibles; transfer; physical qualifications; waiver
In determining qualifications of a preference eligible for transfer to another position in the competitive service, an Executive agency, or the government of the District of Columbia, the Civil Service Commission or other examining agency shall waive—

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the Commission or other examining agency, after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position.

This section does not apply to an appointment required by Congress to be confirmed by, or made with the advice and consent of, the Senate, except an appointment made under section 3311 of title 39.

SUBCHAPTER V—PROMOTION

§ 3361. Promotion; competitive service; examination
An individual may be promoted in the competitive service only if he has passed an examination or is specifically excepted from examination under section 3302 of this title. This section does not take from the President any authority conferred by section 3301 of this title that is consistent with the provisions of this title governing the competitive service.

§ 3362. Promotion; effect of incentive award
An agency, in qualifying and selecting an employee for promotion, shall give due weight to an incentive award under chapter 45 of this
title. For the purpose of this section, "agency" and "employee" have the meanings given them by section 4501 of this title.

§ 3363. Preference eligibles; promotion; physical qualifications; waiver

In determining qualifications of a preference eligible for promotion to another position in the competitive service, an Executive agency, or the government of the District of Columbia, the Civil Service Commission or other examining agency shall waive—

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the Commission or other examining agency, after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position.

This section does not apply to an appointment required by Congress to be confirmed by, or made with the advice and consent of, the Senate, except an appointment made under section 3311 of title 39.

§ 3364. Promotion; substitute employees in the postal field service

When substitute employees in the postal field service are appointed on the same day, each is entitled to be promoted to the regular force in the order in which his name appeared on the register from which he was originally appointed, if of the required sex, eligible, and willing to accept, unless the vacancy on the regular force is filled by transfer or reinstatement.

CHAPTER 35—RETENTION PREFERENCE, RESTORATION, AND REEMPLOYMENT

SUBCHAPTER I—RETENTION PREFERENCE

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SUBCHAPTER IV—REEMPLOYMENT AFTER SERVICE WITH AN INTERNATIONAL ORGANIZATION

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3581. Definitions.
3582. Rights of transferring employees.
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3584. Regulations.
§ 3501. Definitions; application

(a) For the purpose of this subchapter, except section 3504—
(1) "active service" has the meaning given it by section 101 of title 37;
(2) "a retired member of a uniformed service" means a member or former member of a uniformed service who is entitled, under statute, to retired, retirement, or retainer pay on account of his service as such a member; and
(3) a preference eligible employee who is a retired member of a uniformed service is considered a preference eligible only if—
   (A) his retirement was based on disability—
      (i) resulting from injury or disease received in line of duty as a direct result of armed conflict; or
      (ii) caused by an instrumentality of war and incurred in the line of duty during a period of war as defined by sections 101 and 301 of title 38;
   (B) his service does not include twenty or more years of full-time active service, regardless of when performed but not including periods of active duty for training; or
   (C) on November 30, 1964, he was employed in a position to which this subchapter applies and thereafter he continued to be so employed without a break in service of more than 30 days.

(b) Except as otherwise provided by this subsection and section 3504 of this title, this subchapter applies to each employee in or under an Executive agency. This subchapter does not apply to an employee whose appointment is required by Congress to be confirmed by, or made with the advice and consent of, the Senate, except an employee whose appointment is made under section 3311 of title 39.

§ 3502. Order of retention

(a) The Civil Service Commission shall prescribe regulations for the release of competing employees in a reduction in force which give due effect to—
(1) tenure of employment;
(2) military preference, subject to section 3501(a)(3) of this title;
(3) length of service; and
(4) efficiency or performance ratings.

In computing length of service, a competing employee—
(A) who is not a retired member of a uniformed service is entitled to credit for the total length of time in active service in the armed forces; and
(B) who is a retired member of a uniformed service is entitled to credit for—
   (i) the length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or
   (ii) the total length of time in active service in the armed forces if he is included under section 3501(a)(3)(A), (B), or (C) of this title.

(b) A preference eligible employee whose efficiency or performance rating is "good" or "satisfactory" or better than "good" or "satisfactory" is entitled to be retained in preference to other competing employees. A preference eligible employee whose efficiency or per-
formance rating is below "good" or "satisfactory" is entitled to be retained in preference to competing nonpreference employees who have equal or lower efficiency or performance ratings.

§ 3503. Transfer of functions

(a) When a function is transferred from one agency to another, each preference eligible employed in the function shall be transferred to the receiving agency for employment in a position for which he is qualified before the receiving agency may make an appointment from another source to that position.

(b) When one agency is replaced by another, each preference eligible employed in the agency to be replaced shall be transferred to the replacing agency for employment in a position for which he is qualified before the replacing agency may make an appointment from another source to that position.

§ 3504. Preference eligibles; retention; physical qualifications; waiver

In determining qualifications of a preference eligible for retention in a position in the competitive service, an Executive agency, or the government of the District of Columbia, the Civil Service Commission or other examining agency shall waive—

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the Commission or other examining agency, after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position.

SUBCHAPTER II—RESTORATION AFTER ACTIVE DUTY OR TRAINING DUTY

§ 3551. Restoration; Reserves and National Guardsmen

An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who is ordered to active duty or to duty under sections 502-505 of title 32 as a Reserve of the armed forces or member of the National Guard is entitled, on release from duty, to be restored to the position held when ordered to duty.

SUBCHAPTER III—REINSTATEMENT OR RESTORATION AFTER SUSPENSION OR REMOVAL FOR NATIONAL SECURITY

§ 3571. Reinstatement or restoration; individuals suspended or removed for national security

An individual suspended or removed under section 7532 of this title may be restored to duty in the discretion of the head of the agency concerned.

SUBCHAPTER IV—REEMPLOYMENT AFTER SERVICE WITH AN INTERNATIONAL ORGANIZATION

§ 3581. Definitions

For the purpose of this subchapter—

(1) "agency" means—

(A) an Executive agency;

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(B) a military department; and
(C) an employing authority in the legislative branch;
(2) "employee" means an employee in or under an agency;
(3) "international organization" means a public international organization or international-organization preparatory commission in which the Government of the United States participates;
(4) "transfer" means the change of position by an employee from an agency to an international organization; and
(5) "reemployment" means—
(A) the reemployment of an employee under section 3582 (a) of this title; or
(B) the reemployment of a Congressional employee within 90 days from his separation from an international organization;

following a term of employment not extending beyond the period named by the head of the agency at the time of consent to transfer or, in the absence of a named period, not extending beyond the first 3 consecutive years after entering the employ of the international organization.

§ 3582. Rights of transferring employees
(a) An employee serving under an appointment not limited to 1 year or less who transfers to an international organization with the consent of the head of his agency is entitled—
(1) to retain coverage, rights, and benefits under any system established by law for the retirement of employees, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the international organization are currently deposited in the system's fund or depository; and the period during which coverage, rights, and benefits are retained under this paragraph is deemed creditable service under the system;
(2) to retain coverage, rights, and benefits under chapter 87 of this title, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the international organization are currently deposited in the Employees' Life Insurance Fund; and the period during which coverage, rights, and benefits are retained under this paragraph is deemed service as an employee under chapter 87 of this title;
(3) to retain coverage, rights, and benefits under subchapter I of chapter 81 of this title, and for this purpose his employment with the international organization is deemed employment by the United States, but if he or his dependents receive from the international organization a payment, allowance, gratuity, payment under an insurance policy for which the premium is wholly paid by the international organization, or other benefit of any kind on account of the same injury or death, the amount thereof is credited against disability or death compensation, as the case may be, payable under subchapter I of chapter 81 of this title; and
(4) to elect to retain to his credit all accumulated and current accrued annual leave to which entitled at the time of transfer which would otherwise be liquidated by a lump-sum payment. On his request at any time before reemployment, he shall be paid for the annual leave retained. If he receives a lump-sum payment and is reemployed within 6 months after transfer, he shall
refund to the agency the amount of the lump-sum payment. This paragraph does not operate to cause a forfeiture of retained annual leave following reemployment or to deprive an employee of a lump-sum payment to which he would otherwise be entitled.

(b) An employee entitled to the benefits of subsection (a) of this section, except a Congressional employee, is entitled to be reemployed within 30 days of his application for reemployment in his former position or a position of like seniority, status, and pay in the agency from which he transferred, if—

(1) he is separated from the international organization within 3 years after entering on duty with the international organization or within such shorter period as may be named by the head of the agency at the time of consent to transfer; and

(2) he applies for reemployment not later than 90 days after the separation.

On reemployment, he is entitled to the rate of basic pay to which he would be entitled had he remained in the civil service. On reemployment, the agency shall restore his sick leave account, by credit or charge, to its status at the time of transfer. The period of separation caused by his employment with the international organization and the period necessary to effect reemployment are deemed creditable service for all appropriate civil service employment purposes.

(c) This section applies only with respect to so much of a period of employment with an international organization as does not exceed 3 years or such shorter period named by the head of the agency at the time of consent to transfer, except that for retirement and insurance purposes this section continues to apply during the period after separation from the international organization in which—

(1) an employee, except a Congressional employee, is properly exercising or could exercise the reemployment right established by subsection (b) of this section; or

(2) a Congressional employee is effecting or could effect a reemployment.

During that reemployment period, the employee is deemed on leave without pay for retirement and insurance purposes.

(d) During the employee's period of service with the international organization, the agency contribution for retirement and insurance purposes may be made from the appropriations or funds of the agency from which the employee transferred.

§ 3583. Computations

A computation under this subchapter before reemployment is made in the same manner as if the employee had received basic pay, or basic pay plus additional pay in the case of a Congressional employee, at the rate at which it would have been payable had the employee continued in the position in which he was serving at the time of transfer.

§ 3584. Regulations

The President may prescribe regulations necessary to carry out this subchapter and section 3343 of this title and to protect and assure the retirement, insurance, leave, and reemployment rights and such other similar civil service employment rights as he finds appropriate. The regulations may provide for the exclusion of employees from the application of this subchapter and section 3343 of this title on the basis of the nature and type of employment including excepted appointments of a confidential or policy-determining character, or conditions pertaining to the employment including short-term appointments, seasonal or intermittent employment, and part-time employment.